

1) In light of the above, I recommend that the (applicant).org, immediately be given provisional ALS status by the ALAC.

2) I recommend that due to a lack of clarity in the rules concerning reconsideration, and unfairness in implementing them; that unless there is a substantive objection by the ALAC, the Board of Directors declare (applicant).org to be an ALS at its next scheduled Board meeting following submission of this report.

3) I recommend ALAC take steps to ensure that applications for certification be treated in a more expeditious fashion, both for the benefit of the applicant, and ALAC. I recommend that ALAC, in consultation with the ICANN At-Large staff member, monitor and report on the set of milestones previously implemented to deal with these applications in the noted three month time frame. Should these established milestones be exceeded the staff member should formally advise the ALAC of the default.

4) I recommend that any existing applications, exceeding three months past the application date, be dealt with in the shortest possible delay. As of January 25, 2007, there are a total of five applications exceeding the 90 time frame (including the (applicant).org application).

5) I recommend that the ALS certification review process, noted earlier in this report, be a priority item for evaluation and reform during the scheduled ALAC review. In light of expected exponential growth of ALS certification applications, I recommend that the review consider the streamlining or decentralizing of the process, and as much as possible to make certifications a product of administration rather than committee governance. I recommend that the reviewers give particular heed to suggestions of past and present ALAC staff members. I recommend that the review formalize administrative milestones and the requisite communications process.

6) I recommend that the ALAC develop policies and procedures which empower it to remedy errors and oversights without having to revert to formalized complaint processes.

7) I recommend that in communicating a rejection of certification, that ALAC communicate the reasons for the denial, consistent with the Code of Administrative Justice (2003) which states:  
Reasons are the basis for judgments. Formally, "reasons" provide the rationale behind and justification for decisions or actions. They provide a summary of analysis and are a means to facilitate understanding as well as a means to allow meaningful appeal of such decisions and actions.  
Adequate reasons will be those which are sufficient to allow an understanding of the issues considered and the decisions reached.

Appropriate reasons will be logically linked to the questions with which the decision-maker dealt.

**Principle: In assessing the adequacy and appropriateness or reasons, three major factors are important:**

- a) Whether the person's concerns are addressed directly and completely;**
- b) whether the reasons plainly state the rule upon which the decision proceeds and whether the rule as applied to the facts logically produces the decision reached; and**
- c) whether the reasons are comprehensible to the recipient.**

8) I recommend that the ALAC Chair and ALAC Board Liaison speak with the (applicant).org applicant and tender an apology on behalf of ALAC for delay in processing the application.

9) While this may be a matter best implemented following the ALAC review in 2007, I recommend that all members of ALAC be given an orientation on the impact of administrative fairness on those processes which they administer on behalf of ICANN.

10) I recommend that members of supporting organizations be provided with an orientation to the Office of the Ombudsman by their ICANN staff member with a view to ensure that they understand the powers of the Ombudsman, and their responsibilities in Ombudsman investigations. I also recommend that the staff member orient new and existing ALAC members to all of the relevant Bylaw and policy provisions which govern the committee's work and activities.

11) I recommend that Bylaw V be amended to state:  
ICANN employees, *committees*, *supporting organizations*, or Board members shall direct members of the ICANN community who voice problems, concerns, or complaints about ICANN to the Ombudsman, who shall advise complainants about the various options available for review of such problems, concerns, or complaints.

The Bylaw presently states:

ICANN employees and Board members shall direct members of the ICANN community who voice problems, concerns, or complaints about ICANN to the Ombudsman, who shall advise complainants about the various options available for review of such problems, concerns, or complaints.

12) I recommend that the Office of the General Counsel and ALAC examine and make recommendations concerning the continuation of the ALAC reconsideration policy. In my view this policy is redundant in consideration of the Board Reconsideration Committee (Bylaw IV).

1) That the Chief Financial Officer develop a policy for the timely submission of expenses by members of the ICANN community seeking reimbursement for

expenses incurred on behalf of ICANN, or while discharging duties as an officer of the organization or supporting organizations.

2) As ICANN is a not for profit organization whose members act in consideration of the public good, I recommend that ICANN develop a consistent code of expectation of conduct, duty or responsibility for officers of the supporting organizations, and generally for members of the community whose expenses are reimbursed by ICANN for the benefit of the member or the organization. I recommend that all officers be informed of this code upon appointment and at least annually thereafter. I further recommend that other ICANN reimbursed members be informed of the code upon the approval of travel.

3) I recommend that ICANN inform internal decision makers that to be administratively fair they should be diligent in accessing all pertinent facts before making a decision. Decision makers should also be sure to offer those persons who are affected by the decision the opportunity to provide facts or information which may not have been taken account when making the decision.

1) In light of the above, I recommend that the proposed bylaw change regarding ALAC voting be actioned by the Board of Directors in the shortest possible delay.

2) I recommend that AmericaAtLarge, Inc., Web405, and IPT Section of the Hawaii State Bar Association, be reconsidered as At-Large structures. It would be a greater unfairness, and would also impugn the credibility of the process, if the proponents were required to resubmit an application and wait another period of time for consideration for certification. I recommend that ALAC conduct a re-vote on all three applications at the Vancouver ICANN meeting in the forthcoming weeks.

3) I recommend ALAC take steps to ensure that applications for certification be treated in a more expeditious fashion, both for the benefit of the applicant, and ALAC. I recommend that ALAC, in consultation with the ICANN At-Large staff

member, develop a set of milestones to deal with these applications in the noted three month time frame.

4)I recommend that the proposed changes to the ALS certification process, noted earlier in this report, be expedited.

5)I recommend that the ALAC develop minimum participation standards for its members, and a procedure for replacing members who do not meet these minimum participation standards.

6)I recommend that all existing applications, exceeding three months past the application date, be dealt with in the shortest possible delay.

7)I recommend that in communicating a rejection of certification, that ALAC communicate the reasons for the denial, consistent with the Code of Administrative Justice (2003) which states:

Reasons are the basis for judgments. Formally, “reasons” provide the rationale behind and justification for decisions or actions. They provide a summary of analysis and are a means to facilitate understanding as well as a means to allow meaningful appeal of such decisions and actions.

Adequate reasons will be those which are sufficient to allow an understanding of the issues considered and the decisions reached.

Appropriate reasons will be logically linked to the questions with which the decision-maker dealt.

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The Office of the Ombudsman makes the following recommendations:

1. That the Board of Directors directs staff to conduct a "lessons learned" or best practices review of these incidents. The review should include the widest possible group of stakeholders including staff, members of the At Large, the ICANN security team, and the contracted agency assisting with the organization of the At Large Summit, and others as identified by staff. The purpose of this review is should be to develop an analysis of what occurred, and to consider a methodology for the disbursement of cash at future ICANN events.
2. That the Board of Directors should direct staff including finance and the security team, to consider options of cash disbursement which have the following as goals:
  - a. An ease of administrative process and minimization of costs;
  - b. Security of the organization and staff handling the cash;
  - c. Respecting the variances of banking systems and central bank foreign exchange policies;
  - d. Providing for diversity and a respectful environment in dealing with those receiving ICANN funds.The Office of the Ombudsman recommends that payment method options such as PayPal or prepaid debit cards be considered.
3. That the Board of Directors directs staff that the results of both exercises be communicated back to both the Board of Directors and the Office of the Ombudsman.

1. I recommend that ICANN engage with a university, or seek outside legal advice, to make a study of what other organizations in the voluntary sector use as benchmarks to determine when participant behaviour becomes so disruptive that the organization wishes to sever its relationship with an individual. The study should also consider the range of sanctions used by organizations, and the appeal functions available to protect the interests and reputations of those involved.

2) I recommend that the Board of Directors engage with a university to conduct a study regarding the effects of bullying and un-civil behaviour on participation in ICANN processes. I recommend that all other recommendations be implemented while this study is underway.

3) I recommend that ICANN provide training at least twice a year (once at an ICANN Meeting, and once at Marina Del Rey) on cross cultural issues, and on civility. The training should be open for the community, volunteers on supporting organizations, advisory committees, ad hoc work groups etc, board members, staff and contractors. I note that the ICANN Office of Human Resources and the Office of the Ombudsman have collaborated with experts to develop a one day seminar on cross cultural dialogue and dispute resolution. I recommend that this course be conducted by a facilitator twice yearly. This should be appended by a seminar on civility (see, for example, John Hopkins University<sup>2</sup>). <sup>2</sup> <http://krieger.jhu.edu/civility>

4) I recommend that the Board of Directors direct supporting organizations, advisory committees, ad hoc work groups etc, on at least an annual basis, to read the expected standards of behaviour into the minutes of the organization or unit.

5) I remind the Board of Directors of my recommendation in file 09-08 to develop a policy for maintaining a respectful workplace for staff, service providers, and volunteers. I recommend that this policy be developed and implemented forthwith.

6) I recommend that the Board of Directors direct staff to develop an administrative policy to deal with the removal of slanderous, libelous, uncivil or disrespectful posting to websites or lists under the ICANN aegis. This administrative policy would also consider “back door” transactions.

7) I recommend that ICANN consider the creation of a position of “Ethics Officer” to review the implementation and operationalization of the ICANN Transparency and Accountability Mechanism, and to review instances where there may have been breaches of the ICANN Expected Standards of Behaviour.

8) I recommend that the Board of Directors ratify the Statement on Respectful Online Communication as an ICANN policy document.<sup>3</sup> <http://www.icann.org/ombudsman/respectful-communication-en.htm>