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1. Purpose
2. UNDP has zero tolerance for Fraud and Corruption and other Proscribed Practices, in all aspects of its activities and operations. This applies not only to UNDP staff members and non-staff personnel, but also to vendors, implementing partners and responsible parties.
3. This policy[[1]](#footnote-1) establishes the framework and procedures for the administration of the Vendor Review Committee (VRC) The VRC is an internal administrative body whose purpose is to make recommendations to UNDP’s Chief Procurement Officer (CPO) concerning the imposition of Sanctions on Vendors who engaged in Proscribed Practices.
4. Definitions[[2]](#footnote-2)
5. **Agency:** The United Nations, any of its subsidiary entities, Funds and Programmes, as well as any of the Specialized Agencies of the UN System.
6. **Affected Agency**: An Agency for which the Vendor Review Committee (VRC) has determined that Proscribed Practices took place in respect of one or more of its procurement activities.
7. **Affiliate:** Any legal entity that is related by common ownership or common corporate control with the subject entity.

**Subsidiary:** Alegal entity over which the subject entity is able to exercise effective corporate control, including where the subject entity is a majority shareholder, or owns more than 50% of the entity.

1. **Chairperson of the VRC:** The individual who manages the VRC and its proceedings. The VRC Chairperson reports to the CPO and is responsible for the issuance of decisions taken by the CPO.
2. **Days/Deadlines**: Unless stated otherwise, means working days, which do not include weekends and/or holidays. A weekend is Saturday and Sunday. Holidays are those officially recognized by UNDP. If the last day of any period falls on a weekend or holiday, the term shall run until the end of the next day on which the Agency is officially open for business.
3. **Direct Review Process or DRP:** The process under which certain cases determined to be of a low complexity are reviewed by the VRC Secretariat, rather than under the Panel Review Process.
4. **Panel Review Process or PRP:** The process under which cases are reviewed by a panel composed of UNDP staff who determine the recommendation(s) to be made to the CPO.
5. **Ineligibility/debarment**: A formal declaration following the decision of the CPO that a Respondent is ineligible for a period of time to (a) be awarded and/or partake in contracts financed, administered or executed by UNDP, (b) conduct new business with UNDP as an agent or representative of other vendors, (c) partake in having discussions with UNDP regarding new contracts. Exceptionally, the ineligibility may be permanent.
6. **UNDP Ineligibility List**: The list of vendors that have been sanctioned by UNDP. This list specifies the name of each vendor that has lost its eligible status, as well as any censure issued against a Vendor. The list specifies the location of the Vendor, the grounds for the Sanction, and the start and expiration dates for each of the Sanctions imposed. This list only contains vendors sanctioned by UNDP and is separate and distinct from the UNGM Ineligibility List.
7. **UNGM Ineligibility List**:[[3]](#footnote-3) The UN Global Market (UNGM) hosts a list that aggregates information disclosed by UNDP and other Agencies, Funds or Programs of the UN System. Access is limited to approved staff of UNDP and other participating Agencies, Funds or Programs of the UN System. This list specifies the name of each vendor that has lost its eligible status, as well as any censure issued against a Vendor. The list specifies the location of the Vendor, the grounds for the Sanction, and the start and expiration dates for each of the Sanctions imposed. The UNGM Ineligibility List is separate and distinct from any other UN System approved lists, including but not limited to the 1267/1989 Lists.
8. **Ineligible Vendor:** A Vendor who has been debarred by UNDP, and either (1) is the subject of a current period of debarment; or (2) has not requested to be reinstated as an active Vendor via a request for rehabilitation.
9. **Interim Suspension**: A temporary suspension of a Vendor’s eligibility to participate in new procurement processes, as further described in paragraph 66 below. to protect UNDP’s interests pending the completion of either an investigation into Proscribed Practices or the VRC process. Interim suspensions are internal measures that are not reported on the UNGM.
10. **Lead Agency**: In instances of collaborative procurement, or when more than one Agency is involved in a specific procurement action which results in allegations that the vendor has been involved in Proscribed Practices, the relevant Agencies will choose a “Lead Agency” to represent them all in data gathering and analysis, investigation, and the sanctions proceedings against the vendor. The Agencies involved shall decide amongst themselves which is to act as the Lead Agency for the particular case. The Lead Agency will normally be the Agency (a) most directly impacted by the vendor’s activities and the Proscribed Practice(s); and/or (b) with the most resources at its disposal. All involved Agencies will collaborate with the Lead Agency. The Lead Agency will apply its own regulations, rules, policies and procedures to its activities in this regard.
11. **Notice of Administrative Action** or **NAA:** A Notice of Administrative Action, as further described in paragraph 51 below. An NAA may be issued by UNDP to the Respondent(s) only under the PRP.
12. **Offer of Settlement** or **OoS:** An Offer of Settlement, as further described in paragraphs 44 and 45 below. An OoS may be made by UNDP to the Respondent(s) under either the DRP and PRP.
13. **Proscribed Practices**: Shall consist of any of the following conduct or behaviour:
	1. **Corruption or corrupt practice** is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.
	2. **Coercion or coercive practice** is an act or omission that impairs or harms, or threatens to impair or harm, directly or indirectly, any party or the property of the party to improperly influence the actions of a party.
	3. **Collusion or collusive practice** is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.
	4. **Fraud or fraudulent practice** is any act or omission, including a misrepresentation, whereby a vendor knowingly misrepresents or conceals a fact (a) in order to obtain an undue benefit or advantage (not limited to financial) or to avoid an obligation for itself, or a third party, and/or (b) in such a way as to cause an individual or entity to act, or fail to act, to his, her or its detriment.
	5. **Forced Labour** refers to all work or service which is exacted by a vendor from any person under the menace of any penalty and for which the said person has not offered themself voluntarily.[[4]](#footnote-4)
	6. **Human Trafficking** refers to the recruitment, transportation, transfer, harbouring or receipt of persons by a vendor, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.[[5]](#footnote-5)
	7. **Obstruction or Obstructive Practice** is an act or omission by a vendor that prevents or hinders UNDP’s data gathering and analysis in a particular case.
	8. **Sexual Exploitation and Abuse (SEA)** refers to all forms of inappropriate conduct of a sexual nature committed by an employee, officer, adviser, or representative of a vendor, with the knowledge of that Vendor.[[6]](#footnote-6)
	9. **Sexual Harassment (SH)** refers to any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another person, that an employee, officer, adviser, or representative of a vendor engages in, with the knowledge of that Vendor.
	10. **Unethical practice:** Conduct or behavior by a vendor, or by an employee, officer, adviser, or representative of a vendor, with the knowledge of that vendor that is contrary to the rules governing: conflicts of interest (potential, perceived, real), gifts and hospitality, post-employment provisions or other published requirements of doing business with UNDP including, but not limited to, with the UN Supplier Code of Conduct.
14. **Rehabilitation**: The designated process in a particular case, through which a Vendor that has been Sanctioned regains its eligibility status and the particular entry related to a specific case is updated on UNDP and the UNGM Ineligibility Lists. This only affects Sanctions issued by UNDP, and not any sanction that may be issued at any given time by another Agency.
15. **Respondent:** A Vendor that the VRC is assessing because of allegations that it is, or has been, involved in a Proscribed Practice.
16. **Sanction**: An administrative determination, including any measures or rehabilitative requirements, as determined and applied by the CPO as a result of a Vendor being involved in Proscribed Practices. Potential sanctions include:
	1. **Censure:** A letter of reprimand based on the Respondent’s conduct. A censure does not affect the Respondent’s eligibility to participate in UNDP procurement processes, but it will be an aggravating factor in any future decisions to impose additional Sanctions.
	2. **Debarment[[7]](#footnote-7):** A formal declaration that a Respondent has become ineligible for a period of time to (a) be awarded and/or to partake in contracts financed, administered or executed by UNDP; (b) conduct new business with UNDP as an agent or representative of other vendors; (c) partake in discussions with UNDP regarding new contracts to be financed, administered or executed by UNDP. Exceptionally, the CPO may decide that the Respondent’s debarment shall be permanent.
	3. **Other possible Sanctions:** The VRC may recommend, and the CPO may decide to impose, other sanctions that it finds appropriate, including requiring that future contracts with the Vendor reflect special conditions, or that the vendor compensate UNDP for any loses and/or costs sustained or incurred by it as a result of the Vendor’s involvement in a Proscribed Practice.
17. **Secretariat of the VRC:** The administrative structure to support the work of the VRC, composed of the Chairperson of the VRC and the Secretary of the VRC.
18. **Secretary of the VRC:** The individual who supports and reports to the Chairperson of the VRC, and is responsible for the daily administrative proceedings of the VRC.
19. **UN Staff Regulations and Rules:** Provide guidance on the required standards of efficiency, competence and integrity of staff members in discharging their responsibilities as well as guidance on disciplinary procedures that may be instituted against a staff member who fails to comply with his or her obligations and the standards of conduct set out in the Staff Regulations and Rules, the Financial Regulations and Rules and all administrative instructions.
20. **UN Supplier Code of Conduct**: The document which sets forth the UN’s expectations for all suppliers that are registered with the UNDP or with whom it does business. These principles apply to suppliers and their employees, parent, subsidiary or affiliate entities, and subcontractors.
21. **Vendor:** An offeror, or a prospective, registered or actual supplier, contractor or provider of goods, services and/or works to UNDP. Vendors may include individuals, private or public entities, whether parent, holding, subsidiary, affiliate, and may be a consortium, partnership, a government agency or a non-governmental organization. Non-governmental organizations and civil society organizations acting as UNDP Implementing Partners, and Responsible Parties as well as grantees receiving grants or prize challenges or similar form, directly from UNDP, are also considered Vendors.
	1. The following are considered Vendors.
		1. Agents: Agents include Employees, officers, advisers, representatives, owners, shareholders or subcontractors of the Vendor for which the Vendor is responsible under this Policy.
	2. The following are not considered Vendors:
		1. Individuals or entities described as “vendors” solely for Atlas/Quantum purposes, where all payees are referred to as “vendors”. For any payee for whom a purchase order is to be raised or to whom a payment will be made, a vendor record has to be properly set up in Atlas. This includes international or national staff members, who are not “vendors” for the purposes of this Policy.
		2. Individuals or entities, other than Agents, that are, and with whom UNDP does not have a direct contractual or financial relation with UNDP, or where UNDP’s sole role is to issue a payment on behalf of a partner.
		3. Individuals or entities contracted by other agencies, funds and programmes that report into the UNGM.
		4. UNDP Service Contract, and PSA holders are not considered Vendors for the purposes of these procedures.
22. **VRC Members:** Those UNDP staff members selected to participate in a PRP, with the roles described in paragraph 36 below.
23. Vendor Review Committee
24. The VRC is an internal administrative body whose purpose is to make recommendations to UNDP’s Chief Procurement Officer (CPO) concerning the imposition of Sanctions on Vendors who engaged in Proscribed Practices. The VRC’s recommendations will be provided following the completion of either a Direct Review Process (DRP) or Panel Review Process (PRP). The CPO is responsible for the rendering of final decisions regarding vendor sanctions.[[8]](#footnote-8)
25. The VRC shall analyze information on alleged actions and omissions by Vendors that may potentially constitute Proscribed practices, as reported to it by UNDP’s Office of Audit and Investigations (OAI) following the conduct of an investigation.
26. Under exceptional circumstances, and in the interest of UNDP, the VRC may, at the request of the CPO, consider actions and omissions of entities or individuals that have been the subject of an OAI investigation and do not meet the definition of a Vendor if the actions or omissions involve UNDP personnel and/or have resulted in a financial loss to UNDP.

**Chairperson of the VRC:**

1. The VRC is led by its Chairperson with support from the VRC Secretary. In their capacity as Chairperson, the Chairperson of the VRC will be responsible for:
	1. Determining whether a case will be reviewed under the DRP or PRP;
	2. Submitting all VRC recommendations to the CPO;
	3. In consultation with the CPO, making decisions regarding recusal of members of the VRC or other parties involved with the proceedings;
	4. Convening and presiding over VRC proceedings and meetings;
	5. Liaising with other Agencies, UNDP offices, including BMS’ Office of Legal Services (BMS/OLS), OAI and the Ethics Office (EO) at any stage of the proceedings;
	6. In consultation with the CPO and in accordance with UNDP’s procedures, referring matters on strictly confidential basis to OAI, BMS/OLS, the EO, or another international organization;
	7. Pursuant to the CPO’s decision, issue the corresponding notices and decisions, including the issuance of Sanctions, to the Respondent(s);
	8. Instructing the Secretary of the VRC to update the UNDP Ineligibility List, and arrange for the UNGM Ineligibility List to be updated.

**Secretary of the VRC:**

1. The Secretary of the VRC will report to the Chairperson of the VRC and will ensure that the VRC procedures are adequately followed, and will interact with all interested parties at any stage of the proceedings. The Secretary of the VRC is responsible for:
2. Reviewing all submissions to the VRC;
3. Requesting additional information on any and all submissions to the VRC;
4. Channeling all communications among all concerned parties, draft all notices and minutes of meetings, and ensure that the submissions of other parties relevant to the matter are distributed to the Respondent(s) , the members of the VRC, and any advisors, as described in paragraph 36(e), below;
5. Preparing and keeping records of all VRC proceedings and meetings;
6. Presenting any requests for Interim Suspension, re-opening, exceptions, reinstatement, or settlement to the VRC;
7. Performing the functions of the administrator of the UNDP Ineligibility List;
8. Channeling all communications and requests between the VRC and the administrator of the UNGM Ineligibility Lists;
9. Working with BMS/OP which monitors UNDP’s adherence to the UNDP and the UNGM Ineligibility List;
10. Addressing requests for information from UNDP and UN Agencies concerning the procedures described in this Policy, and in relation to sanctioned vendors;
11. Notifying the Chairperson of the VRC of any conflict of interest that VRC Members may have regarding specific proceedings;
12. Ensuring that the data provided by Respondents, as well as the confidential information generated pursuant to the VRC functions, is fully and adequately protected, pursuant to UNDP Data Protection policies and procedures;
13. Performing other functions as may be approved by the Chairperson or the CPO.

**Direct Review Process:**

1. For purposes of DRP proceedings, the Chairperson of the VRC will determine which cases may be reviewed under the DRP, rather than under the PRP. The VRC Secretariat will review cases and determine the recommendation(s) to be made to the CPO. The use of the DRP is limited to cases where the Chairperson has determined the following:
2. The matter would not benefit from a deliberative process because the findings in the OAI Investigation Report are straightforward/not complex;
3. The alleged Proscribed Practices are primarily related to fraud, with a possible secondary component of collusion or unethical practices;
4. There is clear and sufficient evidence substantiating the Respondent’s involvement in the alleged Proscribed Practices;
5. OAI has assessed that there is no, or a low, financial loss to UNDP;
6. If any UNDP personnel has been involved in the alleged Proscribed Practices, BMS/OLS and/or OAI (in the case of staff) or the relevant business unit (in the case of non-staff personnel) have confirmed that the DRP may proceed prior to the conclusion of the personnel related proceedings; and
7. The risk to UNDP is low.
8. The Chairperson of the VRC may request input from representatives of BMS/OLS, OAI or EO, or other individuals who have a specialized knowledge concerning a matter under consideration by the VRC. Their presence will be in an advisory capacity only, within the scope of their areas of expertise. These advisors are not members of the VRC and cannot vote on matters before the VRC.

**Panel Review Process:**

1. All cases that are not reviewed under DRP will be reviewed under the PRP. For purposes of PRP proceedings, the VRC comprises the panel composed of UNDP staff as described below (the “VRC Members”). The VRC Members will review cases and determine the recommendation(s) to be made to the CPO.
	1. Each panel of VRC Members will be composed of at least 3 UNDP staff members. In addition, the panel will be attended by a representative of UNDP’s Procurement Office, Bureau for Management Services (BMS/OP) acting as an ex officio participant, but not as a VRC Member. The BMS/OP ex officio participant cannot vote on matters before the VRC. The VRC Secretariat supports the panel in an administrative and advisory capacity, but cannot vote on matters before the VRC.
	2. VRC Members will be selected by the CPO from a roster compiled and maintained by the VRC Secretary, and appointed as a VRC Member for 2 years, with the possibility of one reappointment for a cumulative maximum period of 4 years. VRC Members will serve concurrently with their existing functions. VRC Members will sign a declaration of impartiality prior to joining the VRC that will cover the entire period of their membership.
	3. In order to provide multiple perspectives from across the organization, the roster will include potential VRC Members nominated by the Directors of Regional Bureaus and Central Bureaus. Each Bureau may nominate two staff members for the CPO’s consideration. Given the nature of the matters that will be discussed, nominees should have a sound understanding of UNDP procurement and hold senior positions.
	4. Given their important advisory role in relation to matters reviewed by the VRC, BMS/OLS, OAI and the EO may not nominate potential panel members. In order to avoid potential conflicts of interest, staff members from oversight committees, chiefs of purchasing units, members of procurement review committees, or those directly involved in conducting procurement actions may not be included in the roster or appointed as VRC Members, other than the BMS/OP representative acting in an ex officio capacity.
	5. In addition to the VRC Members, the Chairperson of the VRC may request the presence of representatives from BMS/OLS, OAI or EO, or other Units who have a specialized knowledge concerning a matter under consideration by the VRC. Their presence will be in an advisory capacity only, within the scope of their areas of expertise. These advisors are not members of the VRC and therefore cannot vote on matters before the VRC.
2. VRC Proceedings

**Investigation**

1. UNDP personnel must notify OAI if and when they become aware of allegations or concerns of potential Vendor involvement in Proscribed Practices. Should a business unit notify the VRC or BMS/OP, the allegations and all relevant information will be shared with OAI for their analysis and potential investigation.
2. If OAI finds that there is insufficient evidence to substantiate the matter, or determines that the allegations are not factually based, a Closure Report will be issued by OAI and the matter will be closed.
3. If OAI decides to launch a full investigation, upon completion of its investigation, OAI will submit and issue the Investigation Report together with accompanying exhibits to the Secretariat of the VRC.
4. Upon receipt and acceptance of an OAI Investigation Report, the VRC Secretary will determine the completeness of the record.

**Review Processes**

1. The VRC will analyze the Investigation Report and any other pertinent internal and external information regarding actions or omissions by Vendors, for the purpose of determining if the Respondent was involved in Proscribed Practices in connection with a procurement action financed, administered and/or executed by UNDP, or a procurement action for which UNDP is acting as the Lead Agency, and to support a determination as to whether a case should be reviewed under the DRP or PRP.

**Direct Review Process (DRP)**

1. Following a DRP, the VRC will make recommendations to the CPO, based on the analysis of pertinent internal and external information regarding actions or omissions by Vendors that may have engaged in Proscribed Practices. To this end, the VRC primary responsibilities under a DRP are to:
	1. Recommend to the CPO the dismissal of a case, or the approval for submission to a Respondent an Offer of Settlement (OoS) which may propose Sanctions or other remedies;
	2. Analyze requests for Interim Suspension, and recommend to the CPO the rejection or acceptance of a request for Interim Suspension of a Respondent;
	3. Analyze requests from Ineligible Vendors for Rehabilitation, and recommend to the CPO the rejection or acceptance of a request for Rehabilitation of a Respondent in a case that was initially considered under the DRP.
	4. When evidence and other information is deemed sufficient, recommend specific Sanctions, or other corrective and rehabilitative measures, to the CPO for their consideration.

**Panel Review Process: (PRP)**:

1. Following a PRP, the VRC will make recommendations to the CPO, based on the analysis of pertinent internal and external information regarding actions or omissions by Vendors that may have engaged in Proscribed Practices. To this end, the VRC under a PRP may:
	* + - 1. Recommend to the CPO the dismissal of a case, or approval for submission to the Respondents of Offers of Settlement (OoS), or issuance to the Respondents of Notices of Administrative Action (NAA). The issuance of an OoS instead of an NAA is exceptional and will depend on the specificities of the case.
				2. Reviewing the response from the Respondent to the NAA to make a final recommendation to the CPO.
				3. Recommend to the CPO the rejection or acceptance of a request for Interim Suspension of a Respondent;
				4. Recommend to the CPO the rejection or acceptance of settlement offers presented by the Respondent in a matter reviewed under PRP.
				5. When evidence and other information is deemed sufficient, recommend specific Sanctions, or other corrective and rehabilitative measures, to the CPO for their consideration.
				6. Recommend to the CPO the rejection or acceptance of Rehabilitation requests received from Ineligible Vendors.
				7. Analyze requests from Ineligible Vendors for Rehabilitation, and recommend to the CPO the rejection or acceptance of a request for Rehabilitation of a Respondent in a case that was initially considered under the PRP.
				8. Undertake any other duties, consistent with its mandate, or as may be requested by the CPO.

**Offers of Settlement (OoS)**

1. When recommending an OoS to the CPO, the VRC will include the proposed terms of settlement to be transmitted to the Respondent(s), with supporting exhibits, if any. The OoS will identify each Respondent that may be subject to Sanctions; the alleged Proscribed Practices; and all relevant facts and materials that form the basis for allegations based on the Investigation Report and other relevant information.
2. If the CPO approves the terms of settlement, the Chairperson issue an OoS. The OoS will explicitly put forward the terms of the settlement to the Respondent(s), and provide the Respondent(s) with the opportunity to accept the offer in full or reject it. The OoS will note that if no response is received within 7 calendar days, the offer will be considered as having been accepted.
3. If the OoS is accepted the case will be closed via the issuance of the agreed decision. The Chairperson of the VRC will issue a notice of decision to the Respondent(s) and implement the terms of the settlement, as appropriate. The Secretary of the VRC will then update the UNDP Ineligibility List, and the UNGM Ineligibility List.
4. If the OoS is rejected, the Respondent(s) will be informed that the case will be considered under the PRP where each proscribed practice could be sanctioned by up to 7-years debarment (see Annex 1).
5. The Respondent may, at any time before the VRC reaches a final determination on its recommendation to the CPO, submit its own offer of settlement to the Secretary of the VRC, who will submit it to the VRC for its consideration within seven (7) Business Days. The settlement offer must include an admission of involvement in the Proscribed Practices, as well as an action plan for mitigating and eradicating the actions or omissions underlying the Proscribed Practices. The VRC will make a recommendation to the CPO, who will approve or reject the settlement offer in their sole discretion.
6. Following the execution of an OoS, the VRC will provide OAI, BMS/OLS and the concerned business unit with a copy of the notice of decision and the terms of the settlement. In case of financial loss, the VRC will also complete the Financial Loss Recovery form and transmit it to BMS/OLS.

**Notice of Administrative Action.**

1. Where an OAI Investigation Report substantiates credible evidence of the Vendor’s involvement in the alleged Proscribed Practices, the Secretary of the VRC will draft a Notice of Administrative Action (NAA) and present its content to the VRC panel for its consideration.
2. The NAA will identify each Respondent that may have been involved in the alleged Proscribed Practices. The NAA will identify all relevant facts that form the basis of the allegations based on OAI’s Investigation Report and other relevant information. The NAA will be supported by all relevant materials in the VRC’s possession, subject to Section IX, and provide the following:
	1. The Respondent has an opportunity to respond to the NAA in writing within thirty (30) calendar days. Any response may be supported by information or documentation necessary or relevant to the response;
	2. The Respondent’s failure to submit a response may result in the VRC considering that the facts have been admitted in full;
	3. The VRC may recommend that the CPO impose Sanctions;
	4. If a Sanction is imposed, the Respondent(s) will be included on the UNDP and the UNGM Ineligibility Lists;
	5. Any information or data provided by UNDP is confidential and only intended for the purposes of the proceedings;
	6. VRC work product is confidential, and that UNDP is not required to provide further information or data to the Respondent .
	7. any other information that the Secretary of the VRC finds relevant to the allegations;
3. The VRC Members will review and clear the draft NAA, before submitting the draft to the CPO. In making its recommendations to the CPO, the VRC will consider a written record consisting of all submissions, records of vendor review proceedings relating to the same Respondent, and any facts that have been filed or recorded by local, state, federal or other government agencies in the Respondent’s home country or country of incorporation, as well as the country where the procurement action took place, including but not limited to vital records, immigration records, real estate records, and criminal records. If the CPO does not approve the NAA, the case will return to the VRC for further review.
4. Upon approval of the NAA by the CPO, the Secretary of the VRC will issue the NAA, signed by the Chairperson of the VRC on behalf of the CPO. The Secretary of the VRC will provide a copy of the NAA, with supporting exhibits, if any. The copies may be delivered by email or by any other means that provide evidence of delivery. The Secretary of the VRC will record the delivery dates of the NAA on file.
5. A Respondent may reject or admit to all or part of any allegation included in the NAA without prejudice to its right to present information, documentation or arguments regarding mitigating circumstances. As part of their response, Respondent(s) may present documentation and arguments regarding mitigating circumstances for consideration by the VRC. Such information and documentation must be submitted in accordance with the deadlines set forth above.
6. A Respondent may, for good cause shown, request an extension of time to the Secretary of the VRC who will present the request to the VRC. The VRC may, at its sole discretion and when it considers that the request is not a delaying tactic or an abuse of process, grant reasonable extensions of any deadlines.
7. In order to formulate a recommendation to the CPO, the VRC will determine whether or not the information submitted during the course of the proceedings is sufficient to support a finding that a Vendor has engaged in any Proscribed Practices. Following the issuance of a decision pursuant to an NAA, the VRC will provide OAI, BMS/OLS and the concerned business unit with a copy of the notice of decision. In case of financial loss, the VRC will also complete the Financial Loss Recovery form and transmit it to BMS/OLS.
8. VRC Administration

**Determinations**

1. The VRC will make its recommendations to the CPO based on its determinations and the applicable guidelines. The decision of the CPO will be final.
2. If the VRC determines, after its review of the record, that there is sufficient basis to find that the Respondent was involved in actions or omissions that constitute Proscribed Practices, the VRC will issue a written report/memorandum summarizing its determination and making its recommendation. The Chairperson will submit the report/memorandum to the CPO for their consideration in making a final decision.
3. If the VRC determines, after its review of the record, that there is insufficient basis to find that the Respondent was involved in actions or omissions that constitute Proscribed Practices, the Chairperson will recommend to the CPO that the case be closed. If the CPO accepts the recommendation, the Secretary of the VRC will make a record of the VRC’s determination and CPO’s approval, and promptly inform the Respondent and relevant UNDP offices. A matter may only be re-opened if the CPO approves the VRC’s request based on new information available.

**Information and documentation**

1. In making its recommendation, the VRC will have discretion to determine the relevance, materiality, weight and sufficiency of all information and documentation, including witness statements, submitted in support of arguments. The VRC will also consider all information and documentation presented concerning mitigating and aggravating circumstances.
2. All information and documentation, as well as any VRC work product, requests for additional information, and other information and documentation related to the process, will be considered confidential under UNDP’s Information Disclosure Policy, and will form part of the archives of UNDP for the purposes of its privileges and immunities.

**Hearings**

1. The VRC will make its recommendation based on the information and documentation provided. Vendors will have no right to a hearing. The VRC may, at its discretion, hold hearings when it deems them necessary, in which case it will determine their duration and form.
2. Whether or not a hearing is held,VRC proceedings and deliberations are private.

**Voting and Records**

1. All determinations and recommendations of the VRC will be made based on a majority vote of the panel members.
2. The Secretary of the VRC will maintain records of all proceedings, including the date of receipt of Notices and successive submissions. The Secretary of the VRC will record all proceedings in writing, and the minutes will show the main points of deliberation stating the reasons for any decisions. The records of the proceedings will be private and confidential. The Secretary of the VRC will manage and archive the records, and will only, subject to Section XI, distribute the required pertinent information for notifications or referrals.
3. Interim Suspension
4. When it is deemed necessary and timely to protect the best interests of UNDP, the CPO may, during the OAI investigation, upon issuance of the NAA or at any other stage in the proceedings set forth herein, suspend a Vendor from participating in procurement actions pending the outcome of the proceedings.
5. The Respondent(s) and all interested parties will be notified of the Interim Suspension in writing by the Secretary of the VRC.
6. If the Respondent is already taking part in a procurement action, the Interim Suspension will specify whether or not the Respondent may continue to participate in the ongoing procurement actions. An Interim Suspension will not be grounds for automatic disqualification in ongoing procurement actions. Interim Suspension is separate and different from debarment, and is not considered to be a Sanction for the purposes of these procedures.
7. Change in Status and Rehabilitation

**Change in Status**

1. When an Ineligible Vendor sanctioned by UNDP completes the period of the Sanction imposed on it by UNDP, the Secretary of the VRC will note the change in status, in strict observance with UNGM data protection provisions, and will ensure that all UNGM entities are promptly informed via the UNGM automated notification system. A change of status does not constitute the Rehabilitation of the Vendor.

**Rehabilitation**

1. A debarred, or formerly debarred, Vendor wishing to become eligible to conduct business with UNDP again may request to have its eligible status restored by the CPO. Ineligible Vendors may request Rehabilitation when at least half of the term of the Sanction has elapsed.
2. An Ineligible Vendor’s request for Rehabilitation will demonstrate that corrective measures have been put in place and that the Ineligible Vendor has fully complied with the requirements of the CPO’s decision. These corrective measures will attest to the medium- to long-term impacts of the actions taken and the deterrent effects from the sanctions imposed.
3. A request for Rehabilitation must be submitted in writing to the Secretary of the VRC (secretary.vrc@undp.org), accompanied by supporting documentation. The Secretary will assess the request and either request additional information from the Ineligible Vendor or, if sufficient information has been provided, share it with the VRC. The VRC will review the request for Rehabilitation and recommend that the CPO accept or reject the request.
4. The Secretariat of the VRC will inform the Ineligible Vendor of the outcome of the request. If the VRC and the CPO determine that the Ineligible Vendor’s request for Rehabilitation should be approved, the Secretary of the VRC will inform the formerly Ineligible Vendor. As appropriate, the VRC will also submit a summary of the determination to the administrator of the UNDP and UNGM Ineligibility Lists requesting a change of status of the entry. If no more entries concerning the Vendor exist on the UNDP and UNGM Ineligibility Lists, the Vendor will regain status as an Eligible Vendor.
5. Exceptions
6. If the Director of BMS/OP considers that exceptional circumstances warrant the participation of an Ineligible Vendor in a UNDP procurement process, they may request the VRC to consider a waiver that temporarily suspends the effects of the Sanction imposed by UNDP or another Agency. Any such request will be in writing, summarize the reasons for the particular Vendor’s participation, and be submitted to the Chairperson of the VRC.
7. The VRC will review the request for an exception and recommend that the CPO approve or reject the request, taking into account all the circumstances, including whether the Ineligible Vendor is the sole provider of proprietary technology, life-saving medicine or treatment, or when monopoly conditions exist in the country where the procurement action is to take place.
8. The CPO may grant the requested waiver if circumstances warrant unusual or immediate action, such as a sudden and unforeseen crisis, or any urgent situation that requires extreme effort or attention that may only be provided by the Ineligible Vendor. A waiver by the CPO has the effect of making an Ineligible Vendor exceptionally eligible for the procurement process specified in the waiver. All waivers will be time-limited, and will not serve as precedent for the issuance of a future waiver.
9. Materials

**Language**

1. All written materials submitted to the VRC will be in English, French or Spanish. Exhibits and attachments may be submitted in their original language but must be accompanied by a true and accurate translation into English, French or Spanish.

**Distribution of submissions**

1. The Secretary of the VRC will provide copies of all the submissions relating to a particular matter to all relevant parties, promptly after these have been submitted to the VRC. Distribution is undertaken by the Secretary at the VRC’s direction, and any communication distributing the materials will clearly state that it does not constitute a waiver of the privileges and immunities of UNDP. The Respondent does not have the right to request the identity of any person that has provided information to UNDP. The Respondent may submit any information or documentation it feels necessary or relevant to its defense.

**Distribution of submissions to others**

1. The Chairperson of the VRC may direct the Secretary of the VRC to provide materials, in accordance with confidentiality principles set out in paragraph 81, to:
	1. Other Respondents in other sanctions proceedings involving related matters;
	2. Other units within UNDP, as appropriate;
	3. Other Affected Agencies; and
	4. Others deemed necessary or appropriate by the VRC.
2. In every case of distribution to a third party, as described above, the Secretary of the VRC will indicate that the information or data provided is confidential, describe the limited purposes for which it shared, and that UNDP will not be required to provide further information or data.

**Privileged, confidential and sensitive materials**

1. Attorney-client communications and attorney work product may not be shared with the Respondent(s) or any other third party. UNDP will not disclose information or documentation that may endanger the life, well-being, safety, health of any person or entity, or that is otherwise sensitive or confidential pursuant to UNDP’s policies and procedures on information disclosure. UNDP will not disclose the identity of any person who provided UNDP with information that led to the allegations and who requested that their identity be kept confidential. The Secretary of the VRC may redact any privileged or confidential information in order to secure the informant’s anonymity and/or protect any other privileged, confidential or sensitive information in accordance with the above. The VRC may seek the assistance of OAI, BMS/OLS and the EO, as needed, with respect to the foregoing.

**Confidentiality:**

1. When disseminating information pursuant to these procedures, any communication should be clearly marked “CONFIDENTIAL” with the following notice added: “Nothing herein shall be deemed as a waiver, express or implied, of any of the privileges and immunities of the United Nations, including UNDP.”
2. Ineligibility Lists
3. The UNDP Ineligibility List is a central roster, hosted and maintained by UNDP. This list will reflect all UNDP Vendors that, pursuant to this Policy and preceding versions, are the subject of active Sanctions that affect their eligibility. Following the end of an active Sanction, the Secretary of the VRC will revise the UNDP Ineligibility List to reflect whether the UNDP Vendor has been rehabilitated.
4. The UNGM Ineligibility List is a central roster, hosted and maintained confidentially by the UNGM as a protected electronic document that aggregates information provided by each participating entity, including UNDP. Vendors that are subject to Sanctions that affect their eligibility will be entered into the UNGM’s Ineligibility List for a term starting upon notification of the CPO’s decision and ending once they are deemed to be Rehabilitated. The UNGM Ineligibility List currently has restricted access, and is not currently published or otherwise distributed.
5. After the Respondent is notified of the imposition of a Sanction, the Secretary of the VRC will record the sanction on the UNDP Ineligibility List, and will reflect this information on the UNGM Ineligibility List.. The record will indicate the date of the CPO’s decision; the Vendor’s name, nationality, address and contact information; the type and duration of the Sanction(s); and the Proscribed Practice(s) that resulted in Sanction(s). The Secretary of the VRC will notify the Ineligible Vendor of its inclusion on the relevant Ineligibility List and provide information included in the entry.
6. If, upon receiving the notice, a UNDP Vendor believes, in good faith, that the entry contains errors regarding identity, type or duration of the Sanction, the Vendor must respond to the Secretary of the VRC in writing within five Business Days, specifying the errors and providing supporting documentation.
7. The Vendor may not present documentation or make arguments on the merits of the CPO’s determination of ineligibility. The Secretary of the VRC will confirm or amend the information in the UNDP Ineligibility List within five Business Days of receipt of the Vendor’s request, and will notify the Vendor in writing. The VRC Secretary will also update the UNGM Ineligibility List, if that list needs to be amended.
8. Any vendor included in either the UNDP or the UNGM Ineligibility Lists, other than those subject to a censure, will be considered to have lost their eligibility to participate in a UNDP procurement process. The Secretary of the VRC will inform the secretaries of all VRC’s or similar bodies in all Agencies of any inclusions or deletions from the UNDP Ineligibility List within two Business Days of the relevant change.
9. Disclosures
10. Information, including the identity of a sanctioned Respondent and the corresponding Sanction(s), will be shared through the UNDP Ineligibility List and the UNGM Ineligibility List. UNDP may, at its sole discretion, make the following information available through a confidential inter-agency network and to designated representatives of each Agency: a full description of the allegations against the Vendor, the process followed by the VRC, the evidence considered, the findings and the reasoning underlining VRC’s recommendations.
11. Interim decisions are confidential (link [here](https://undp.sharepoint.com/teams/BPC/SitePages/Vendor-Sanctions.aspx)). UNDP may also, at its discretion, share such information with other international organizations, host countries and any other parties deemed appropriate and in the interest of the Organization in accordance with UNDP applicable procedures.

**Intra-Agency Referral**:

1. If, in the course of UNDP proceedings, information comes to light regarding possible Proscribed Practices committed by the same Respondent(s) in connection with procurement activities of another Agency, or other international/regional organization, the VRC may recommend to the CPO that they share information and documentation, on a confidential basis, with such other Agency, or international or regional organization.

**Referral**

1. Subject to UNDP’s privileges and immunities, and relevant procedures, the VRC may, on the advice of BMS/OLS, recommend to the CPO that a matter be confidentially referred to appropriate governmental authorities in host countries for criminal investigation and prosecution in appropriate cases.
1. This Policy replaces Version #4 of the UNDP Vendor sanction policy dated 27 July 2016, and is aligned with the updated Model Policy Framework for Agencies of the UN System. The current Model Policy Framework was adopted on 9 March 2011 and is the in process of being updated. UNDP is a member of the MPF, and this updated policy reflects the latest discussions within the task force. [↑](#footnote-ref-1)
2. These definitions are based on the harmonized text adopted by the High-Level Committee on Management (HLCM) in the Conclusions of its twenty-first session, Paris, 9 March 2011, as amended in its conclusions of its thirty-third session, Budapest, 30-31 March 2017. [↑](#footnote-ref-2)
3. A dedicated area in UNGM called “Ineligible Vendor Lists” hosts three ineligibility lists: a) the UN Ineligibility List (described in paragraph 13; b) the Consolidated United Nations Security Council Sanctions List (CUNSCSL) and c) the World Bank’s Listing of Ineligible Firms & Individuals. These lists are distinct and separate from each other. [↑](#footnote-ref-3)
4. The [ILO Forced Labour Convention (No. 29)](https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.ilo.org%2Fdyn%2Fnormlex%2Fen%2Ff%3Fp%3D1000%3A12100%3A0%3A%3ANO%3A%3AP12100_ILO_CODE%3AC029&data=05%7C01%7Cthomas.jacob%40undp.org%7C303d3622a1684a2085af08daad2fa4ab%7Cb3e5db5e2944483799f57488ace54319%7C0%7C0%7C638012718437103121%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=yAYE0hSmORB34F303Lp1ntCmfquxYjj2xvBbYgZ2bGI%3D&reserved=0). [↑](#footnote-ref-4)
5. The [United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime](https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftreaties.un.org%2Fpages%2Fviewdetails.aspx%3Fsrc%3Dind%26mtdsg_no%3Dxviii-12-a%26chapter%3D18&data=05%7C01%7Cthomas.jacob%40undp.org%7C303d3622a1684a2085af08daad2fa4ab%7Cb3e5db5e2944483799f57488ace54319%7C0%7C0%7C638012718437103121%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=tqnYB7rv3O6Fitz%2F479pnOROAfnEoNFf6y7vELtq3KQ%3D&reserved=0). [↑](#footnote-ref-5)
6. UNDP adheres to the Secretary-General Bulletin on sexual exploitation and abuse, ([ST/SGB/2003/13](https://digitallibrary.un.org/record/504355?ln=en)). Information on sexual exploitation and abuse is also included in the UNDP [Code of Ethics](https://undp.sharepoint.com/teams/Ethics/SitePages/Tools%20%26%20Resources/UNDP-Code-of-Ethics.aspx). [↑](#footnote-ref-6)
7. In some Agencies, Funds and Programmes this is also referred to as a “suspension”, distinct from the action that occurs as part of an ‘interim suspension’. [↑](#footnote-ref-7)
8. Where the VRC provides VRC services to another UN Agency, those services, will be guided by a Service Level Agreement or Memorandum of Understanding. Under those circumstances, references in the policy to internal mechanisms and units, for examples OAI, are to be read as referring to those of that UN Agency. [↑](#footnote-ref-8)