

Exclusion System Summary

United Nations High Commissioner for Refugees



Note: The United Nations High Commissioner for Refugees (“UNHCR”) is a United Nations agency dedicated to safeguarding the rights and well-being of people who have been forced to flee from their homes. UNHCR is governed by the UN General Assembly and the Economic and Social Council.

I. Government-Wide Legal and Institutional Framework:

Government-Wide Exclusion Framework? Yes.

- Exclusion decisions are made independent of the procurement process and according to centralized regulations. Exclusions generally extend to all UN agencies (exclusions based on poor performance, however, extend to UNHCR procurement activities only).

Governing Policy:

- [UN Supplier Code of Conduct](#). Any breach to this code may lead to the supplier’s exclusion from doing business with UNHCR.

Primary Legal Foundation:

- Administrative/Regulatory Law.

Related Law and Regulation:

- [UN Procurement Practitioner’s Handbook](#) (2020).
- UNHCR follows the Model Policy Framework (“MPF”) for Agencies of the UN System adopted by the High Level Committee on Management Procurement Network to ensure consistent treatment of vendors and reciprocity across UN agencies.

Decision-Maker: Centralized; Not Functionally Independent from Senior Procurement Officials.

- Exclusion decisions are made by the Vendor Ethics Committee (“VEC”), a five-member committee chaired by the Head of Supply Management Service.
- Performance-related issues and exclusions are decided by a separate Vendor Review Committee (“VRC”).

Qualification:

- The VEC is comprised of senior-level officials.

Independence:

- Not functionally independent from senior procurement officials.

II. Functioning and Enforcement of the Government-Wide Exclusion System:

General Provisions:

Type of Procedures: Administrative.

Decision Deadline: No stated deadline for decision-maker to make a final determination.

Provisional Exclusions: Yes. A precautionary suspension may be imposed upon request of the party who submitted the case or on the VEC's own initiative.

Commencement of Proceedings: Ability to Initiate an Exclusion Proceeding.

- The VEC cannot initiate an exclusion proceeding without a prior referral.
- Non-governmental parties can submit complaints and/or evidence to the UNHCR Office of Inspector General for assessment, investigation, and possible referral to the VEC.

Notice Requirements & Opportunity to be Heard: Yes & No.

Notice of Proceedings:

- Suppliers receive notice of proceedings when the exclusion, including any provisional exclusions or suspensions, becomes effective.
- Notice must contain the grounds for exclusion.
- Decision-maker must make reasoning available to the supplier (not to the public).

Opportunity to be Heard:

- No. Suppliers are not entitled to present a defense to the VEC before its decision. Suppliers may, however, submit a request to the VEC for reconsideration (see below).

Appellate Review of Exclusion Decisions: No.

Legal Representation:

- A supplier **may** be represented by counsel.

Subsequent Modification of Exclusion Decision: Yes.

- A supplier is entitled, through a request for reconsideration, to seek a modification or early termination of an exclusion after it goes into effect.
- Suppliers are informed of this option when notified of the VEC's exclusion decision, and a reconsideration request can be submitted to the VEC at any time.

III. Substantive Grounds for Government-Wide Exclusion:

Automatic Exclusion: None.

Discretionary Exclusion: Yes.

Based on the VEC's finding that the supplier breached the UN Supplier Code of Conduct or engaged in one of the following Proscribed Practices:

- Corruption;
- Fraud;
- Collusion and/or infringing competition;
- Coercion or intimidation;
- Obstruction of an investigation;
- Unethical practices.

A separate committee, the VRC, may suspend a supplier from UNHCR contracts for engaging in:

- Poor performance, non-performance, and/or failure to perform on public contracts.

The VEC may not exclude the supplier when there are:

- Remedial measures;
- Settlement/agreement;
- Government interest.

Exclusion based on Bankruptcy and Cross-Debarment: Discretionary & Automatic.

- UNHCR automatically follows exclusions imposed by other UN agencies and international organizations belonging to the UN system (e.g., the World Bank Group).
- Exclusions imposed by any UN agency, including UNHCR, are added to an Ineligibility List maintained on the UN Global Marketplace website ([UNGM.org](https://ungm.org)).

IV. Scope and Effect of Government-Wide Exclusion:

Types of Excluded Suppliers:

- Limited to corporate suppliers.

Scope of Exclusion:

Extension to Other Agencies and Organizations:

- Exclusions imposed by the VEC are added to the UNGM Ineligibility List and prohibit the supplier from contracting with any UN Agency.
- Suspensions imposed by the VRC for performance-related issues are **not** added to the UNGM Ineligibility List and apply only to UNHCR contracts.

Effect on Ongoing Contracts:

- Ongoing contracts are automatically cancelled. However, a contract manager can apply to the VEC for a derogation to allow completion of an ongoing contract.
- Subsequent modifications to ongoing contracts are **not permitted** unless a derogation is granted.

Effect on Subcontracting:

- An excluded supplier **cannot** serve as a subcontractor.

Tailoring Exclusion:

- Yes. Exclusion **may** be limited to certain divisions, operating units, or business lines within the company, if the VEC so decides.

Effect on Affiliates:

Corporate Affiliates:

- The VEC **may** extend an exclusion to a supplier's affiliated companies (controlling, controlled, under common control).
- Affiliated companies **must** be given an opportunity to contest the action.
- Exclusion of a corporate supplier **may** extend to other entities having the same link to a particular individual(s) (e.g., the same owner(s) who established another company to circumvent the exclusion). The VEC would have to review a separate case against the affiliated supplier.

Duration of Exclusions:

Duration Specified in Legal Framework:

- Exclusions imposed by the VRC for performance-related issues are between one month and three years (not added to the UNGM Ineligibility List).
- All other exclusions are between three and five years (added to the UNGM Ineligibility List).

Duration Depends on Applicable Exclusion Ground?

- No, although the VEC has discretion to impose a sanction based on the severity of the misconduct.

Discretion to Deviate?

- No. The decision-maker does not have discretion to deviate outside the minimum and maximum durations specified in the legal framework.

Exceptions/Waivers to Exclusions:

- No. There is not a legal mechanism whereby a contract might still be awarded to an excluded supplier during the period of exclusion.

Other Sanctions:

- In cases of poor performance only, early termination or suspension of one or more contracts is available.

V. Government-Wide Transparency and Exclusion List:

Official List of Excluded Suppliers? Yes, but it is not publicly available.

- Ineligibility List maintained at [UNGM.org](https://ungm.org).
- Ineligibility List provides limited information on the grounds for each exclusion.

Procurement Checks: Yes.

- UNHCR procurement officials must check the UNGM Ineligibility List before awarding a contract.

Reporting on Exclusions:

Number of Exclusions: Figures unknown generally. In 2019, the VEC did not exclude any suppliers from doing business with UNHCR.

Regular Reporting: No requirement for regular reporting on exclusions.

Other Transparency Mechanisms: None.

VI. Limited Scope Exclusion Systems:

Entity-Wide (e.g., Single-Agency) Exclusion?

- Yes. Exclusions imposed by the VRC for performance-related issues apply only to UNHRC, not other UN agencies.

Contract-By-Contract (e.g., Single-Tender) Exclusion? No.

Subnational Exclusions: N/A.