Operational Instruction Ref. OI.PG.2021.02
Vendor Sanctions

Authority:

This Operational Instruction (OI) is promulgated by the Executive Chief Procurement Officer under Organizational Directive Ref. OD.PG.2021.01 – Procurement Framework of 22 June 2021.

Purpose:

The purpose of this OI is to establish the framework and procedures by which UNOPS shall impose sanctions to Vendors that have engaged or attempted to engage in Proscribed Practices, as described herein.

This OI is based on the Model Policy Framework (MPF) for Agencies of the UN System (Agencies) adopted by the High Level Committee on Management Procurement Network, a framework which enables UNOPS to cooperate with Agencies in order to ensure consistent treatment of Vendors and reciprocity within the UN System.

The actions contemplated herein are without prejudice to any investigations or other actions that may be launched by UNOPS Internal Audit and Investigation Group (IAIG), possible referrals by UNOPS to governmental authorities, other Agencies, international organization or other third parties, and/or arbitral proceedings, or any civil or criminal or administrative proceedings that may be ongoing or otherwise result from such referrals.

The framework and procedures by which UNOPS suspends a vendor other than in connection with alleged Proscribed Practices are set out in OI Procurement Procedures.

Effective Date:

This OI shall become effective **on 1 July 2021.**

Promulgation Date:

22 Jun 2021

Consequential changes:

This OI shall abolish and supersede OI.PG.2017.02: Vendor Sanctions of 16 May 2017. The purpose of the revision is to transfer the responsibilities under this policy from the ECPO to the Director, IPS.

[signature redacted]

Jim Provenzano
General Counsel
Executive Chief Procurement Officer

1. Introduction

1.1 As a public organization that is managing public resources, UNOPS aims to meet the highest standards of integrity and competency, and requires the same from those who work with or for it.

1.2 In this regard, this OI sets out the framework and procedures to sanction Vendors that are found to have engaged or attempted to engage in any Proscribed Practices, as described herein.

2. Definitions

For the purpose of this OI the following terms should have the meaning provided herewith:

2.1 *Agency(ies):* the United Nations, its subsidiary entities, Funds and Programmes, as well as the Specialized Agencies of the UN System.

2.2 *Day:* Day should mean a work day at UNOPS' Headquarters.

2.3 *Eligibility:* The quality or state of a vendor being eligible as per the conditions defined in the UNOPS Procurement Procedures, which includes but is not limited to not being in the current Ineligibility List hosted by UNGM as defined in 2.4 below. Eligibility is separate and distinct from "qualified" (or "responsible") and from "responsive" in the context of the evaluation of an offer in response to a solicitation.

2.4 *Ineligibility List:* A list that records sanctions decided against Vendors by UNOPS and other Agencies, hosted by the UN Global Marketplace (UNGM), updated by an Ineligibility List Administrator, and accessible to designated personnel at UNOPS and other participating Agencies. The Ineligibility List specifies the name, location, grounds for the sanctions imposed against each Vendor, including the start and expiration dates for Vendors that have lost their Eligible Vendor status. The Ineligibility List is separate and distinct from other specialized UN System approved lists, including but not limited to the Consolidated United Nations Security Council Sanctions List.

2.5 *Proscribed Practices:* They shall consist of any of the following practices within the context of a UNOPS procurement, UNOPS grant or UNOPS partnership arrangement:

2.5.1. *A corrupt practice* is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;

2.5.2. *A fraudulent practice* is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

2.5.3. *A 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;

2.5.4. *A collusive practice* is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;

2.5.5. *An unethical practice*: Conduct or behavior that is contrary to the conflict of interest, gifts and hospitality, post-employment provisions or other published requirements of doing business with UNOPS;

2.5.6. *Obstruction:* Acts or omissions by a Vendor that prevent or hinder UNOPS from investigating instances of possible Proscribed Practices.

2.6. *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 removed from the Ineligibility List upon request by the Agency that has decided the sanction to the Ineligibility List Administrator.

2.7. *Respondent:* A Vendor subject to Sanctions Procedures and named in a Notice of Administrative Action as set forth in this OI.

2.8. *Sanction:* An administrative determination, including any necessary measures or rehabilitative requirements, determined and applied by UNOPS or an Agency as a result of a Vendor engaging in Proscribed Practices. Sanctions are intended to ensure compliance with the rules, regulations and policies of UNOPS and the Agencies.

2.9. *Vendor(s):* An offeror or a prospective, registered or actual supplier, contractor or provider, whether or not for remuneration, of goods, services and/or works to UNOPS or an Agency. Vendors include individuals, private or public companies, whether parent, holding, subsidiary, affiliate, consortium members, or partnership, a government agency or a non- governmental organization. Employees, officers, advisers or representatives of the Vendor will be considered agents for which the Vendor is responsible under these procedures. For purposes of this OD, Vendor(s) shall also include those entities identified above that may also participate in non-procurement UNOPS activities, including but not limited to grants or partnerships.

3. Vendor Review Committee

VRC Mandate

3.1. The Vendor Review Committee (VRC) is an internal administrative body tasked with, inter alia, making recommendations to the Director, Implementation Practices and Standards (Director IPS) regarding possible Sanctions against Vendors that have been found to have engaged or attempted to engage in a Proscribed Practices, as set forth in this OI.

3.2. If necessary, e.g. if the volume of cases is expected to be significant in a given UNOPS project or region, the Director, IPS may appoint more than one VRC and corresponding Chairperson to make recommendations to him/her on possible Sanctions against Vendors that have been found to have engaged or attempted to engage in a Proscribed Practices, as set forth in this OI. The membership of any such specialised VRC shall be in accordance with sections 3.4 to 3.8 below save that (i) the number of members in addition to the Chairperson may be less than 5 if deemed appropriate by the Director, IPS.

3.3. The Director, IPS, has also appointed a VRC to make recommendations to him/her on potential suspensions for reasons other than Proscribed Practices, as set forth in the OI Procurement Procedures.

VRC Membership

3.4. The VRC shall include a Chairperson five additional members.

3.5. VRC members shall have a good knowledge and understanding in UNOPS rules and practices, in particular in procurement, grant and partnership, and shall have no conflict of interests in respect of the case(s) being analyzed by the VRC. In this regard, each member of the VRC shall sign a declaration of impartiality for each case being reviewed. These declarations shall form part of the VRC record.

3.6. UNOPS personnel appointed as VRC members by the Director, IPS shall serve as VRC members, as needed, concurrently with their existing functions.. Each member shall be appointed by the Director IPS for a term of 2 years, with the possibility of one 2 year reappointment, for a cumulative maximum of 4 years, or until the member's earlier resignation, reassignment or separation from UNOPS.

3.7. The Chairperson of the VRC may request the presence of officer(s) from IAIG, as needed. Their presence shall be in an advisory capacity within the scope of their areas of expertise. These officers shall not be considered as members of the VRC and therefore shall not vote on matters before the VRC.

VRC Responsibilities

3.8. The VRC's responsibilities shall include:

a) Reviewing all information and documentation available to the VRC, including any evidence that the Vendor(s) has engaged or attempted to engage in a Proscribed Practice ;

b) Based on all information available to the VRC, recommending to the Director IPS whether to impose any Sanctions against the Vendor(s) or not. In the former case, this should include recommendations of specific sanctions or other corrective and rehabilitative measures;

c) Analyzing and recommending to the Director IPS the rejection or acceptance of settlement offers presented by the Vendor(s);

d) Requesting any additional information or advice it may deem necessary in order to make its recommendations to the Director IPS;

e) Analyzing and recommending to the Director IPS the rejection or acceptance of Rehabilitation requests;

f) Analyzing and recommending to the Director IPS if it would be in the best interests of UNOPS, in a specific procurement action, to make an exception and suspend the effects of sanctions imposed by other Agencies;

g) Recommending to the Director IPS the referral of matters on a strictly confidential basis to other Agencies, international organizations, national authorities or other interested third party;

h) Reporting on its activities to the Director IPS, at least once a year; and

i) Any other duties, consistent with its mandate, or as may be requested by the Director IPS.

Responsibilities of the Chairperson of the VRC

3.9. The Director, IPS, shall appoint a UNOPS personnel to act as the Chairperson of the VRC. In his/her capacity as Chairperson, he/she shall be responsible for:

a) Submitting all VRC recommendations to the Director IPS;

b) Advising the Director IPS regarding recusals of members of the VRC or other parties involved with the proceedings;

c) Convening and presiding VRC meetings, where he or she shall vote as a member with no casting vote;

d) Deciding whether to recommend to the Director, IPS the interim suspension of Vendors;

e) Liaising with the Heads of other UNOPS offices and Groups, including LG, IAIG and the Ethics Office at any stage in the proceedings;

f) If decided by the Director IPS based on the recommendation of the VRC, referring matters on a strictly confidential basis to IAIG, the Ethics Office, LG or other Agencies for information or actions. Referral to other International Organizations outside the UN System, national authorities and other interested third parties shall be done in consultation with and through the General Counsel;

g) Instructing the Secretary of the VRC to inform the Ineligibility List Administrator of the Director IPS's decisions to impose new or to amend sanctions against Vendors in order for such decisions to be entered to the Ineligibility List.

Appointment and Responsibilities of the Secretary of the VRC

3.10. The Director IPS shall appoint a UNOPS personnel, not already appointed as a VRC member, to act as the Secretary of the VRC. The Secretary shall report directly to the Chairperson of the VRC and shall ensure that UNOPS Vendor Sanctions procedures are followed. The Secretary of the VRC shall be responsible for:

a) Reviewing all submissions to the VRC;

b) At the request of the VRC, requesting additional information on any and all submissions to the VRC;

c) Channeling all communications among all concerned parties, draft all Notices and minutes and ensure that the submissions of other parties relevant to the matter are distributed to the Vendor(s), the members of the VRC, and any advisors;

d) Preparing and keeping records of all VRC proceedings and meetings;

e) Presenting any requests for interim suspension, re-opening, exigency, exceptions, reinstatement, or settlement to the VRC;

f) Channeling all communications and requests between the VRC and the Ineligibility List Administrator;

g) Keeping track of any and all updates to the Ineligibility List and ensure that PG is monitoring UNOPS' compliance with the Ineligibility List;

h) Keeping the minutes of VRC meetings and submitting such minutes to the VRC Chairperson; notify the Chairperson of the VRC of any conflict of interest that VRC Members may have disclosed regarding specific proceedings.;

i) Addressing any queries to the VRC that other UNOPS Offices and Groups may have on Vendor Sanctions procedures;

j) Ensuring that the data provided by Vendors, as well as information generated pursuant to the functions of the VRC, is fully and adequately protected, pursuant to UNOPS' data protection policies and procedures;

k) Performing other functions as may be requested by the Chairperson or the Director IPS;

l) Ensuring communications of the Director IPS's decisions to impose or to amend sanctions against Vendors to the Ineligibility List Administrator in accordance with this OI.

4. VRC Proceedings

Intake of cases

4.1. Notification of Possible Proscribed Practices. UNOPS personnel shall notify the Chairperson or Secretary of the VRC of any instance where there are allegations or concerns regarding the possible involvement of a Vendor in any Proscribed Practices. Upon receipt of such notification, the Chairperson or Secretary shall submit the allegations to IAIG for a preliminary assessment. UNOPS personnel may also refer the matter directly to IAIG through its intake mechanisms, such as the IAIG Fraud Hotline or the SpeakUP platform.

4.2. Preliminary assessment. Upon completion of the preliminary assessment, IAIG shall communicate to the Chairperson and the Secretary of the VRC its decision to dismiss the matter or launch a formal investigation.

4.3. Closure after preliminary assessment of Allegations. If IAIG finds that there is insufficient evidence to substantiate the matter or determines that the allegations are not factually based, an internal closure memorandum shall be issued by the Secretary of the VRC and the matter shall be closed.

4.4. Investigation Report. If IAIG decides to launch a full investigation, upon completion of its investigation, IAIG shall submit the Investigation Report together with accompanying exhibits to the Chairperson and the Secretary of the VRC.

Notice of Administrative Action

4.5. Where IAIG has concluded that in its view a Vendor has engaged in a Proscribed Practices, the VRC Chairperson shall instruct the Secretary of the VRC to draft a Notice of Administrative Action (the NAA) to be sent to the Respondent(s). The NAA shall:

a) Identify each individual or entity that may be subject to sanctions;

b) Identify the Proscribed Practices in which IAIG found the Respondent(s) was involved;

c) Summarize relevant facts that form the basis of the investigation findings and other relevant information;

d) State that the Respondent has an opportunity to respond to the NAA in writing within thirty (30) days from its receipt and that failure to do so shall result in the VRC considering that the NAA has been admitted in full;

e) State that the VRC may recommend to the Director IPS to impose sanctions against the Respondent(s);

f) Inform the Respondent(s) of the possible sanctions and that UNOPS may request, after sanctions have been imposed, that the Vendor be included in the Ineligibility List;

g) Specify any other information that the Secretary of the VRC finds relevant to the allegations;

h) Attach any relevant supporting documentation, and

i) State that any information or data provided by UNOPS is confidential and only intended for the purposes of Sanctions Proceedings, that VRC work product is privileged, and that UNOPS is not required to provide further information or data as such is protected from disclosure and as part of UNOPS archives under its privileges.

4.6. *Approval and issuance of the NAA.* Upon approval of the NAA by the Chairperson of the VRC, the Secretary of the VRC shall send the NAA to the Respondent(s), delivered by email. The Secretary of the VRC shall record the delivery dates of the NAA on file.

Parties' Submissions

4.7. *Respondent(s)'s Response.* The Respondent(s) shall submit its written Response to the Secretary of the VRC within thirty (30) days following the receipt of the NAA. The Response shall present arguments and provide supporting documentation or information in response to NAA.

4.8. Upon receipt of the Respondent(s)'s Response, the Chairperson may instruct the Secretary of the VRC to submit a copy of the Respondent's Response to the Director of IAIG within five (5) days of receipt of the response and request their comments in writing for the VRC's consideration within fifteen (15) days. The Chairperson may also request that IAIG undertakes further investigation on facts raised by the Respondent, as needed.

4.9. *VRC's Reply. I*f the VRC considers that further information is needed from the Respondent(s), the VRC shall request such additional information from the Respondent within fifteen (15) days from the receipt of the Respondent(s)'s Responses or the comments of IAIG if requested under 4.8 above. The VRC may attach relevant documentation to its Reply. The Reply shall be limited to arguments and documents offered in rebuttal and will be submitted to the Secretary of the VRC, who will submit a copy to the Respondent(s).

4.10. *Respondent(s)'s Sur-reply.* The Respondent shall have fifteen (15) days after receipt of the VRC's Reply to submit a Sur-reply with the additional information to the VRC.

Miscellaneous

4.11. *Additional Documentation and Information.* If new information and documentation becomes available to either IAIG or the Respondent(s) after the submission of their respective written materials and before the Director IPS has made a final decision, they may submit such new evidence to the Secretary of the VRC. The submission shall include a brief explanation on the significance of the new documentation or information. The VRC shall consider the additional documentation and information if (i) it was not known to, or could not reasonably have been known to, or by reasonable due diligence could not have been discovered by at the time of its submissions; and (ii) if such information and documentation is relevant to the VRC's determination. The VRC may, at its discretion, request to respond to the additional materials, as needed.

4.12. *Language.* All submissions to and from the VRC shall be in English. Exhibits and attachments may be submitted in their original language but must be accompanied by a certified translation into English. Exceptionally, the VRC may translate the NAA or other communications to either French or Spanish if requested by the Respondent(s).

4.13. *Communications.* Communications related to the vendor review shall be sent by mail with delivery confirmation, or by electronic mail with confirmation of transmission. The Secretary of the VRC shall maintain records of all proceedings, including the date of receipt of notices and successive submissions. If a Respondent(s) refuses delivery of the NAA, the Secretary of the VRC shall determine the date of receipt. If a Respondent's address is unknown or fictitious, the VRC Secretary shall use his or her best efforts to cause the Respondent(s) to receive the NAA. If these efforts are unsuccessful, the VRC Secretary will inform the VRC Chairperson, who will determine if the Respondent(s) has received sufficient notice and whether additional efforts are required. When delivery could not be confirmed the VRC, at its sole discretion, may decide to deem the NAA was received by the Respondent(s) and proceed accordingly. Submissions of the Respondent shall be deemed to have been submitted upon actual receipt by the Secretary of the VRC. The submissions must include a certification, signed by an

individual Respondent or its authorized agent, that the information contained therein is truthful and correct to the best of the signer's knowledge.

4.14. *Extensions of Time.* If the Respondent(s) needs an extension of time, it may submit a request to the Secretary of the VRC, who will present the request to the VRC Chairperson. The VRC Chairperson 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.

4.15. *Failure to make a timely Submission.* If the Respondent fails to make a timely submission, the Respondent shall be considered to have waived its right to make such submission. In particular, if the Respondent fails to submit a timely Response to the NAA, the VRC shall consider that the Respondent has admitted the allegations set forth in the NAA when formulating its recommendations to the Director IPS.

4.16. *Admissions.* A Respondent may 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.

4.17. *Interim Suspension*. When it is deemed necessary to protect the interests of UNOPS based on the information available to the VRC, the Director IPS, upon request from the Chairperson of the VRC may decide, at any time during the proceedings, and in consultation with LG if necessary, that the Respondent(s) shall be 'suspended' for the duration of vendor review proceedings or as otherwise specified.

4.18. Interim suspension is separate and different from a formal suspension that may be imposed as a Sanction. Interim Suspension is not a formal Sanction. Unless provided otherwise, it shall not apply to contracts already awarded to the 'suspended' Vendor(s), but only to future contracts. This means that a Vendor that is subject to an interim suspension shall not be prevented from participating in new UNOPS activities automatically, but that UNOPS units considering working with the 'Vendor(s) suspended in the interim shall first seek the approval from the Director IPS before deciding to award a new contract to the Vendor(s) in question.

4.19. The interim suspension decision shall be communicated by the Secretary of the VRC in writing to the Vendor and to relevant UNOPS personnel for their information and action.

4.20. *Information and Documentation in UNOPS Possession*. Information and documentation in UNOPS's possession are privileged under the General Convention on the Privileges and Immunities of the United Nations, of which UNOPS is an integral part. As a result, the Respondent(s) shall not have a right to any other information or documentation in UNOPS' possession than the information and documentation provided by UNOPS voluntarily. In this regard, the VRC may decide to withhold any information or materials in UNOPS's possession because they are confidential, sensitive, or because their disclosure would be contrary to the interests of UNOPS.

4.21. *Exculpatory Materials.* When instructed by the Chairperson of the VRC, the Secretary of the VRC shall provide to the Respondent(s) with any materials in the Secretary's possession that may reasonably be considered as mitigating the Respondent(s)'s culpability or as being exculpatory.

4.22. *Withholding of Confidential or Sensitive Information or Materials.* The Chairperson of the VRC may instruct the Secretary of the VRC to withhold any particular information or documentation, pursuant to his/her determination that there is reasonable basis to conclude that providing said information or documentation may endanger the life, well-being, safety, health of any person or entity, or that is otherwise sensitive or confidential and/or that may compromise or otherwise interfere with other or ongoing investigations. In particular if a person who provided UNOPS with information that led to the findings against the Respondent(s) requested that his or her identity be kept confidential, the

Respondent(s) shall not have the right to know the individual's identity and this information shall be redacted by the Secretary of the VRC in any documentation provides to the Respondent in order to secure the informant's anonymity. The VRC may seek the assistance or advice of LG or IAIG in this regard, as needed.

4.23. *Attorney-Privileged Materials.* Attorney-client communications and attorney work product of any party need not be disclosed. The Chairperson of the VRC shall seek LG's consent before instructing the Secretary of the VRC to distribute any such materials to the Respondent(s). In this case, the Secretary shall make it clear that the submission of any such material shall not be deemed as a general waiver of UNOPS' attorney-privileged materials.

5. VRC's Recommendations

5.1. *Distribution of Submissions.* The Secretary of the VRC shall provide copies of all the submissions related to a particular matter to the VRC members and other UNOPS staff invited in an advisory capacity as the case might be.

5.2. *Written Report.* The VRC shall make recommendations to the Director IPS whether or not to impose a sanction to the Respondent(s) on the basis of the information and documentation available to the VRC. The VRC shall issue a written report to the Director IPS, setting out its recommendations and the rationale therefor.

5.3. *Settlement offers.* The Respondent(s) may, at any time before the Director IPS makes the final decision, submit an offer of settlement to the Secretary of the VRC, who shall submit it to the VRC. To be considered, a settlement offer shall include an admission of involvement in proscribed practices, as well as an action plan for mitigating and eradicating the actions or omissions that resulted in the allegations included in the NAA. The VRC shall have fifteen (15) days from the receipt of the settlement offer to make a recommendation to the Director IPS to accept or reject such settlement offer.

5.4. *Voting.* All recommendations of the VRC shall be made by majority vote of the VRC members. The minimum quorum for considering a case shall be three personnel: the Chairperson and two members.

5.5. *No Right to Oral Hearings*. The VRC shall make its recommendations based on the written information and documentation it has received. The Vendor(s) shall have no right to an oral hearing. However, the VRC may, at its discretion, hold oral hearings when it deems them necessary. In this case, the VRC shall determine their duration and form.

5.6. *Minutes.* The deliberations of the VRC shall be recorded in written minutes.

6. Possible Sanctions

6.1. The VRC may recommend, and the Director IPS may decide to impose any of the following sanctions or a combination of them against the Respondent(s):

6.1.1. *Censure*: A letter of reprimand of the Respondent(s)'s conduct. A censure does not affect the Respondent's eligibility, but its existence will be an aggravating factor for imposing sanctions in future proceedings;

6.1.2. *Ineligibility or Debarment:* A formal declaration that a Respondent(s) has become ineligible for a period of time to (a) be awarded and/or to partake in UNOPS contracts; (b) conduct new business with UNOPS as agent or representative of other Vendors; (c) partake in having discussions with UNOPS regarding new contracts. Exceptionally, the VRC may recommend that the Respondent(s)'s debarment to be permanent;

6.1.3. *Other Possible Sanctions:* The VRC may recommend other sanctions that it finds appropriate to the circumstances at hand, including subjecting future contracts to special conditions and/or the obligation for the Vendor to make financially compensation to UNOPS for the costs incurred by UNOPS as a result of the Vendor(s)'s involvement in a Proscribed Practice.

6.2. When recommending the duration and severity of sanctions, the VRC shall consider any possible mitigating and/or aggravating circumstances and be guided by the Suggested Implementation Tool for the Sanctions Board (October 2010)[1], developed by High-Level Committee on Management Procurement Network (HLCM) as part of the Model Policy Framework for Vendor Eligibility for Agencies of the UN System, as amended from time to time.

7. Director IPS Decisions

7.1. The Director IPS shall decide whether to impose sanctions or not against a Respondent, and whether to accept or reject any settlement offers, based on recommendations by the VRC.

7.2. The decisions of the Director IPS shall be final.

8. Disclosures

8.1. *Information of the Agencies.* If the Director IPS decides to impose a sanction on a Respondent, information on the identity of the sanctioned Respondent and the sanctions imposed shall be shared with the Agencies in accordance with this OI and subject to UNOPS' information disclosure policy.

8.2. *Referral to Governmental Authorities, other International Organizations and Interested Third Parties.* Subject to UNOPS procedures, the VRC may, in consultation with the UNOPS' General Counsel, recommend to the Director IPS to refer any matter, on a confidential basis, to appropriate governmental authorities, or other international organizations or interested third parties. . If decided by the Director IPS, such referral shall be done through the General Counsel.

9. Common Actions

9.1. *Ineligibility List.* The Director IPS's decisions to impose or to amend sections against shall be entered into the Ineligibility List. In addition, such decisions shall be included in UNOPS's own ineligibility list, which shall be published on UNOPS's corporate website.

1. https://www.ungm.org/UNUser/Workspace/Index/14

9.2. *Inclusion in the Ineligibility List.* After the Respondent has been notified of the Director IPS's final decision, the Secretary of the VRC shall submit a formal summary of the decision in writing to the Ineligibility List Administrator.

9.3. *Formal Summary.* The summary shall indicate, at a minimum, the name of UNOPS, the date of the Director IPS's decision, the name, nationality, address and contact information of the ineligible Vendor, the type and duration of the sanction or sanctions imposed, and the type of Proscribed Practice that resulted in the imposing of the sanction(s). The following additional information may also be made available, through a confidential inter- agency network, to designated representatives of other Agencies: the full description of the allegations made against the vendor, the process followed by the UNOPS VRC, the evidence considered, the findings of the VRC and the reasoning underlying such findings.

9.4. *Notice of Inclusion in the Ineligibility List.* The Ineligibility List Administrator will send a Notice of Inclusion in the Ineligibility List (the Notice) to the ineligible Vendor within five (5) days of its inclusion into the Ineligibility List and the specific information included in the List. The Notice will include instructions on how to formulate a request to correct errors in the List.

9.5. *Correction of Errors*. If upon receiving the Notice the ineligible Vendor believes that the information included in the Ineligibility List contains errors regarding its identity or the type or duration of the sanction, the ineligible Vendor shall inform the Secretary of the VRC in writing within ten (10) days from the receipt of the Notice, specifying the errors in the List and providing supporting documentation. If the ineligible Vendor mistakenly informs the Ineligibility List Administrator directly, the Ineligibility List Administrator shall transmit that request to the Secretary of the VRC, with a copy to the ineligible Vendor.

9.6. *No De Novo Review.* The ineligible Vendor may not present documentation or make arguments that could be construed as a de novo review of the merits of its case. The Secretary of the VRC shall confirm or amend the information provided to the Ineligibility List Administrator and shall notify the ineligible Vendor in writing within fifteen (15) days from the receipt for the ineligible Vendor's request

9.7. *Effects of Inclusion in the Ineligibility List.* Any Vendor included in the Ineligibility List shall be considered to have lost its eligibility status. The Ineligibility List Administrator will inform all Agencies, in accordance with UNGM procedures.

10. Monitoring

10.1. *Non-Participation of Ineligible Vendors.* The Procurement Group and IAIG will periodically verify that no new contracts have been awarded to ineligible Vendors by UNOPS, and that they are not actively participating in UNOPS activities. This may be done by cross-referencing the Ineligibility List with UNOPS notices of contract award or similar instruments.

10.2. *Corrective Measures.* When the Director IPS's decision or settlement agreement so requires, the Secretary of the VRC will request the ineligible Vendors or the Vendors with whom UNOPS has settled, to submit periodic reports on the status and implementation of any required corrective actions.

10.3. *Information to the VRC.* The Secretary of the VRC shall provide periodic information on monitoring activities to the VRC.

11. Waiver

11.1. *Request for a Waiver.* When a UNOPS unit considers that circumstances warrant the participation of an ineligible Vendor in a UNOPS activity, the Head of that unit shall request a waiver from the VRC to temporarily suspend the effects of the sanctions imposed by UNOPS or another Agency's VRC.

11.2. The request shall explain why the participation of this particular Vendor is required, and shall be presented in writing to the Secretary of the VRC, who will immediately present it to the VRC.

11.3. *VRC Recommendation and Director IPS Decision.* The VRC shall make a recommendation to the Director IPS to grant or reject the request. Recommendation to grant the request shall be made when the VRC considers that the 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, or other exceptional circumstances such as the ineligible Vendor being the sole provider of proprietary technology; the sole provider of life-saving medicine or treatment; or the existence of monopoly conditions in the country where the procurement action is to take place.

11.4. *Effects of the Waiver.* If the Director IPS grants the waiver, it shall make an ineligible Vendor eligible for an award of contract by UNOPS, exceptionally and only for the activity that justified the waiver. The Secretary of the VRC shall notify the requesting unit, the ineligible Vendor and the other Agency (if applicable) immediately after the Director IPS's decision.

12. Rehabilitation

12.1. *Sanction Expiration.* Upon expiration of a sanction, the Ineligibility List Administrator will reflect such expiration in the Ineligibility List. This amendment to the Ineligibility List will be promptly communicated, in accordance with UNGM procedures, to all Agencies. Note that the expiration of a sanction does not constitute, in and of itself, rehabilitation of the ineligible Vendor.

12.2. *Rehabilitation upon Expiration of a Sanction.* An ineligible Vendor wishing to restore its business relationship with the Agencies, may request to have its eligible status rehabilitated. Such request shall be made to the VRC of the Agency that sanctioned the vendor after the sanction(s) have expired and such expiration has been reflected in the Ineligibility List.

12.3. *Rehabilitation prior to Expiration of Sanctions.* Ineligible Vendors may also request rehabilitation when normally at least half of the sanction(s) term has expired, provided they can demonstrate that corrective measures have been put in place and have fully met or gone beyond the requirements of the corresponding Agency's decision.

12.4. *Grounds for Rehabilitation.* Any request for rehabilitation to the VRC shall be submitted in writing to the Secretary of the VRC. The ineligible Vendor(s) shall provide sufficient information regarding the medium to long-term effects of corrective and preventive measures, the deterrent effects resulting from the sanctions imposed, and shall show that rehabilitating the ineligible Vendor is in the interest of UNOPS.

12.5. *The Secretary of the VRC shall submit the request to the VRC as soon as possible from its receipt.* The VRC shall review the request and make recommendations to the Director IPS whether to grant or reject

the request. The Director IPS's shall make a decision and such decision shall be final. The VRC recommendations and the Director IPS decision shall be made within ninety (90) days from the receipt of the rehabilitation request.

12.6. *Effects of Rehabilitation.* If the Director IPS decides to grant the ineligible Vendor(s)'s request for rehabilitation, the Secretary of the VRC shall inform the ineligible Vendor in writing and shall also submit a summary of the Director IPS's decision to the Ineligibility List Administrator requesting a change of status in the Ineligibility List. If no more entries concerning the ineligible Vendor subsist in the Ineligibility List, then the ineligible Vendor shall regain its status as an eligible Vendor. In this case, the Ineligibility List Administrator will inform the ineligible Vendor and the Agencies.