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We are pleased to introduce the Global Suspension & Debarment Directory, the first ever consultative resource on exclusion systems. This Directory is the product of the 2020 Global Suspension & Debarment Survey, a global survey launched in March 2020 that captured data and information on the exclusion systems of 23 different jurisdictions and institutions. Using the

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Exclusion System Summary Australia

I. Government -Wide Legal and Institutional Framework:

Government -Wide Exclusion Framework? No.

- x Australia does not have a government-wide exclusion framework at the Commonwealth level. Exclusions are generally rare, and any exclusions would be ad hoc depending on the agency involved.

Related Law and Regulations:

- x [Commonwealth Procurement Rules \(“CPRs”\)](#) (Dec. 14, 2020).

Decision -Maker: Individual Contracting Officer.

Qualification:

- x None.

Independence:

- x Not required.

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

General Provisions:

Type of Procedures Administrative.

Decision Deadline Not addressed.

Provisional Exclusions None.

Commencement of Proceedings : Ability to Initiate an Exclusion Proceeding.

- x Exclusion proceedings are ad hoc depending on the agency involved, which may (or may not) require a referral to initiate proceedings.
- x Non-governmental parties are able to submit complaints and/or evidence.

Notice Requirements & Opportunity to be Heard : Yes & Yes.

Notice:

- Suppliers receive notice when the decision-maker decides that grounds exist.
- Notice must contain the grounds for exclusion.

Opportunity to be Heard:

- Suppliers are entitled to procedural fairness and may present a defense to the decision-maker by:
 - Making a written submission to the decision-maker.
 - Requesting an in-person hearing with the decision-maker.

Appellate Review of Exclusion Decisions : Yes(Judicial Review of Government Decisions).

Nature and Forum of Review Any decision by a Commonwealth public official is subject to judicial review after exhausting the administrative process

Means Available to the Supplier As part of appellate review, suppliers may:

- Obtain the evidentiary record.
-

IV. Scope and Effect of Government- Wide Exclusion:

Types of Excluded Suppliers : Corporations only.

Scope of Exclusion:

Extension to other Government Agencies ~~No~~.

- Exclusions do not automatically extend to subnational governments.
- No known countries or international organizations that automatically recognize and apply exclusions from Australia.

Effect on Ongoing Contracts

- No automatic cancellation of ongoing contracts.
- Subsequent modifications to ongoing contracts are not affected by a supplier's exclusion.

Effect on Subcontracting

- An exclusion does not prevent the supplier from acting as a subcontractor.

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VI. Limited Scope Exclusion Systems:

Entity -Wide (e.g., Single-Agency) Exclusion? No.

Contract -By-Contract (e.g., Single-Tender) Exclusion?

- x Any exclusions would be ad hoc depending on the agency involved, which may include contract-by-contract exclusions

Subnational Exclusions:

- x Exclusion mechanisms may exist at the Provincial/State levels.
- x States also have their own independent anti-corruption commissions to which people can report allegations of serious corrupt conduct by public officials or the misuse of public funds .



- x Violations based on [Federal Law No. 8,443 of 1992](#) are decided by the Federal Budget Oversight Board, a centralized entity.
- x Violations based on [Federal Law No. 12,529 of 2011](#) are decided by the Administrative Tribunal of Economic Defense , a centralized entity.
- x Violations based on [Federal Law No. 14,133 of 2021](#), [Federal Law No. 8,666 of 1993](#) (during the two-year transition period), [Federal Law No. 10,520 of 2002](#)

- Make a written submission to the decision-maker.
- Request an in-person hearing with the decision-maker (Note: In administrative proceedings, actual hearings are rarely granted and seldom take place).
- Call witnesses to an in-person hearing to testify on the supplier's behalf.

Appellate Review of Exclusion Decisions : Yes

Nature and Forum of Review: Administrative and Judicial.

- x** Exclusions based on Federal Law No. 14,133 of 2021, No. 8,666 of 1993 (during the two-year transition period), No. 8,443 of 1992, No. 10,520 of 2002, No. 12,529 of 2011, No. 13,303 of 2016 or the Federal Decree No. 8,420 of 2015 are subject to an initial administrative review that must be exhausted before appealing to a judicial forum. The judicial review is limited to legal questions aimed at invalidating the administrative ruling.
- x** Proceedings based on Federal Law No. 8,429 of 1992 and No. 9,605 of 1998 are entirely judicial (including appeals).

Means Available to the Supplier: As part of appellate review, suppliers may:

- x** Obtain the evidentiary record.
- x** Make a written submission to the appellate body.

Duration of Appeal Process: One to six months for administrative review; greater than two years for judicial review.

Legal Representation : A supplier may be represented by counsel.

Subsequent Modification of Exclusion Decision : No.

- x** A supplier is not entitled to any opportunity to seek a modification or early termination of exclusion after it goes into effect.

III. Substantive Grounds for Government -Wide Exclusion:

Automatic Exclusion : Yes.

Effect on Ongoing Contracts

- x Ongoing contracts are not automatically cancelled, but they can be terminated on a case-by-case basis.
- x Subsequent modifications to ongoing contracts are not permitted ; ongoing contracts cannot be extended (extensions are considered to be new contracts).

Effect on Subcontracting

- x Excluded supplier can serve

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 supplier can be suspended for up to 18 months if charged with (or admits guilt of) a listed offense. The suspension can be extended pending final disposition of the charges. If the supplier is convicted, the Registrar will make a final determination of ineligibility.

Commencement of Proceedings : Ability to Initiate an Exclusion Proceeding.

- x The Registrar cannot initiate a proceeding without a referral from PSPC.
- x PSPC may make referrals upon its own initiative or upon receiving a request from a supplier or contracting authority.

Notice Requirements & Opportunity to be Heard : Yes & Yes.

Notice of Proceedings

- x Suppliers receive notice of proceedings when:
 - o The decision-maker (168 T11y3(o)- 23 (u)-1.2 (2012 4..10.90.652 0 n,)-2 4cbe re]TJ804e.0.pr

- x Exclusions do not automatically extend to subnational governments.
- x No known countries or international organizations that automatically recognize and apply exclusions from Canada.

Effect on Ongoing Contracts

- x Ongoing contracts are not automatically cancelled; the contracting authority has discretion to terminate ongoing contracts as a business decision.
- x Subsequent modifications to ongoing contracts are not affected by a supplier's exclusion.

Effect on Subcontracting

- x Excluded supplier cannot serve as a first tier subcontractor except to provide commercially available "off-the-shelf" goods.

Effect on Excluded Individuals:

- x Excluded individuals must not be employed by a corporate supplier as a senior manager or corporate director .
- x Exclusion may extend to companies controlled by the excluded individual.

Tailoring Exclusion

- x No option to tailor the exclusion to certain divisions, operating units, or business lines within a corporate supplier.

Effect on Affiliates :

Corporate Affiliates:

- x Exclusion may apply to affiliated companies (controlling, controlled, under common control) if it is determined that the affiliate directed, influenced, authorized, assented to, acquiesced in, or participated in the offense.
- x Affiliated companies must be given an opportunity to contest the action.

Extension to Affiliated Individuals:

- x

Exceptions/Waivers to Exclusions :

- Yes. A contract may still be awarded to an excluded supplier through a Public Interest Exception (PIE) related to emergencies, public safety, and national security.

Other Sanctions: Not addressed.

V. Government -Wide Transparency and Exclusion List:

Official List of Excluded Suppliers? Yes, and it is publicly available.

- The [Public list](#) foq ! j 5baHäÖ` obf`



Exclusion System Summary China

I. Government -Wide Legal and Institutional Framework:



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o Art.3, Art. 34, a 4<<2Tj 176 <.272 0 Tdu82068610w504gT928s03 Tc 0.601 T[(En3f)-2.8 (1.1 3)0.6 Spar

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

General Provisions:

Type of Procedures Administrative.

Decision Deadline Decision-maker must make a final determination within 30 days.

Provisional Exclusions Yes, but provisional exclusions may not exceed 30 days

Commencement of Proceedings :

III. Substantive Grounds for Government- Wide Exclusion:

Automatic Exclusion : Yes.

Bidding Law:

Based on an administrative finding that the supplier engaged in the following :

- Corruption;
- Fraud;
- Collusion and/or infringing competition.

Government Procurement Law

Based on a supplier's criminal, civil, or administrative judgement for the following grounds pursuant to Art. 77:

- Corruption;
- Fraud;
- Collusion and/or infringing competition;
- Coercion or intimidation;
- Refusing to sign public contracts after award without proper justification;
- Falsifying information and/or using illegally obtained information in filing a complaint against another supplier.

Based on a supplier's administrative or criminal judgment for the following grounds pursuant to Art. 22:

- Tax-related offenses; and
- Material malpractices and illegal acts, including but not limited to:
 - Obstructing an investigation;
 - Theft or embezzlement;
 - Money laundering;
 - Labor-related offenses;
 - Social harms;
 - Terrorist offenses or offenses linked to terrorism;
 - Commercial regulatory violations.

Discretionary Exclusion : Yes .

Duration of Exclusions :

Duration Specified in Legal Framework:

- Bidding Law: Between one and five years.
- Government Procurement Law: Between one and three years.

Duration Depends on Applicable Exclusion Ground?

- Bidding Law: Yes.
 - One to three years for corruption, fraud, and collusion.
 - Two to five years for poor performance or non-performance of a contract.
- Government Procurement Law: No, duration will depend on the circumstances of each case.

Discretion to Deviate?

- No, the decision-maker does not have discretion to deviate from the durations specified in the legal framework.

Exceptions/Waivers to Exclusions :

- No, there are no exceptions in which a contract could be awarded to an excluded supplier.

Other Sanctions : Imposition of fines.

V. Government -Wide Transparency and Exclusion List:

Official List of Excluded Suppliers? Yes, for exclusions under the Government Procurement Law only; the exclusion list is publicly available.

Regular Reporting Under the Government Procurement Law, decisions made by finance departments shall be published on the media designated by the finance department under the people's government above the provincial level.

Other Transparency Mechanisms None.

VI. Limited Scope Exclusion Systems:

Entity -Wide (e.g., Single-Agency) Exclusion? No.

Contract -By-Contract (e.g., Single-Tender) Exclusion? Yes per Art. 22 of the Government Procurement Law.

Subnational Exclusions:

x



Exclusion System Summary

Costa Rica

I. Government-Wide Legal and Institutional Framework:

Government-Wide Exclusion Framework? Yes.

- Exclusion decisions are generally made both as part of a procurement process and outside the procurement process as governed by national legislation or centralized regulations. Certain exclusions have government-wide effect while others apply only to the procuring entity that imposed the exclusion.

Governing Policy:

- Arts. 100 to 103 of [the Public Procurement Law](#) and Arts. 223 to 226 of [Regulation to the Public Procurement Law](#).

Primary Legal Foundation:

- Administrative/ttivat tf2ntaL

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

General Provisions:

Type of Procedures: Adminis-0.00150s-8-4-0.0015)0.9ivinrt

Exceptions/Waivers to Exclusions:

- x ~~Key Personnel: If a key person is excluded, the award must be made to one who can provide the goods or services needed; the award must be authorized by the Comptroller's office.~~

Other Sanctions:

- x Contractual termination; fines; execution of guarantees; warnings.

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Exclusion System Summary

El Salvador

I. Government -Wide Legal and Institutional Framework

Government -Wide Exclusion Framework? Yes

- x Exclusion decisions are made outside the procurement process and according to national legislation or centralized regulations. Exclusions have governmentwide effect.

Governing Policy

- x Arts. 25, 158, and 160 of the [Law of the Public Administration Procurement](#)/Ley de Adquisiciones y Contrataciones de la Administración Pública (“LACAP”).

Primary Legal Foundation

- x Administrative/Regulatory Law.

Related Law and Regulation:

- x [Statutory Provisions](#)/Reglamento de LACAP.
- x

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

General Provisions:

Type of Procedures: Administrative.

Decision Deadline: Decision-maker must make a final determination within nine months.

Provisional Exclusions: None.

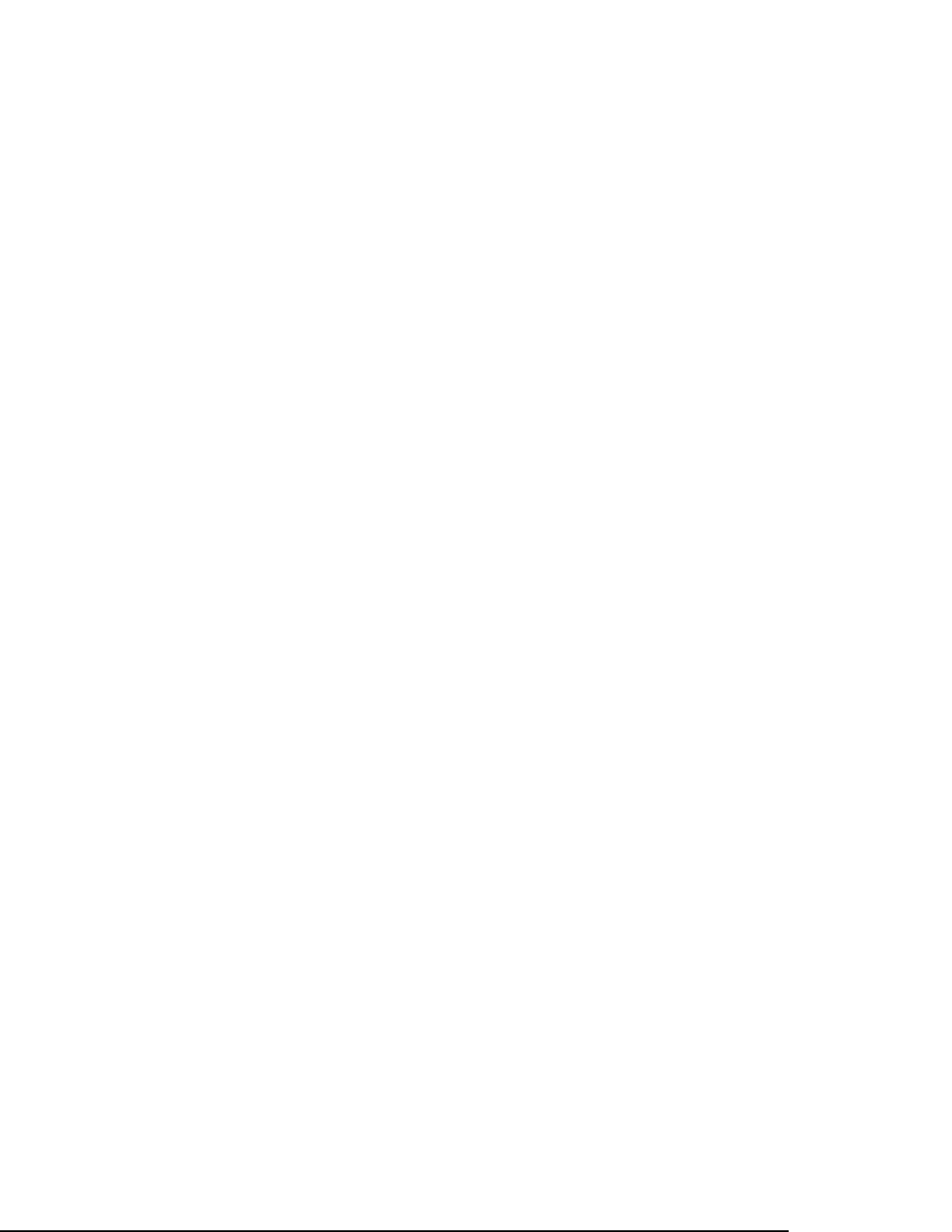
Commencement of Proceedings : Ability to Initiate an Exclusion Proceeding.

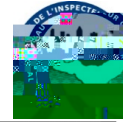
- x The decision-maker cannot initiate an exclusion proceeding without a prior referral.
- x Non-governmental parties can submit complaints and/or evidence to the decision-maker.
 - o Note: While LACAP does not explicitly authorize third parties to file complaints or submit evidence, there are also no provisions prohibiting such submissions.

Notice Requirements & Opportunity to be Heard : Yes & Yes.

Notice:

- x Suppliers receive notice when the decision-maker decides that grounds exist.
- x Notice must





Exclusion System Summary Estonia

I. Government -Wide Legal and Institutional Framework:

Government -Wide Exclusion Framework? Yes

- Exclusion decisions are made on a contract by -o&A asb ssn 6 sg-is0 &&đo& òfF sg1 -òn 6 •ik E#0cluf on

IV. Scope and Effect of Government -Wide Exclusion:

Types of Excluded Suppliers :

- x Individuals, Corporations, and Associations that are not legal persons.

Scope of Exclusion:

Extension to Other Agencies and Organizations

- x Exclusions do not prohibit the supplier from contracting with other federal agencies (exclusion decisions are contract-by-contract). However, the same facts could constitute an exclusion ground in every subsequent tender p(r)-0 ><1 (i)1.9 (o-0.9[2(r)92(r)92(rr24nF.(r)92(r)9579. <6dy <



Exclusion System Summary Germany



I. Government -Wide Legal and Institutional Framework:

Government -Wide Exclusion Framework? Yes

- x Exclusion decisions are made on a contract-by-contract basis as governed by national legislation or centralized regulations. Exclusions apply only to the procurement at issue.

Governing Policy

- x

Initial Procurement Decision : Grounds for exclusion are reviewed by the contracting authority as part of the procurement decision on a contract-by-contract basis.

- x Decision-maker can make an exclusion decision without a prior referral.
- x Non-governmental parties can submit complaints and/or evidence to the decision-maker.
 - o Contracting authorities may take third-party complaints into account, but there is no formal system for th

Legal Representation :

- x A supplier may be represented by counsel. If challenge is successful, the contracting authority may be required to pay the supplier's legal fees.
- x A supplier must be represented by counsel in any appeal to the Higher Regional Court.

Decision-maker may not exclude the supplier when there are:

- x Remedial measures (“selfcleaning”);
- x Settlement agreement.

Procurement Checks? Yes. Procuring entities will be required to check the Register, once implemented.

Reporting on Exclusions:

Number of Exclusions Figures unknown.

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. Each agency is free to establish its own standards on exclusion, which may include a provision for agency-wide exclusion.

Contract -By-Contract (e.g., Single-Tender) Exclusion? Yes. See above.

Subnational Exclusions:

- x Exclusion mechanisms exist at the Provincial/State and Municipal/Local levels (same exclusion rules apply to the federal government and subnational bodies).
- x Exclusion decisions of one subnational body are not automatically recognized, but they can be considered by other subnational bodies as part of their own decisions.

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

General Provisions:

Type of Procedures Criminal and Administrative.

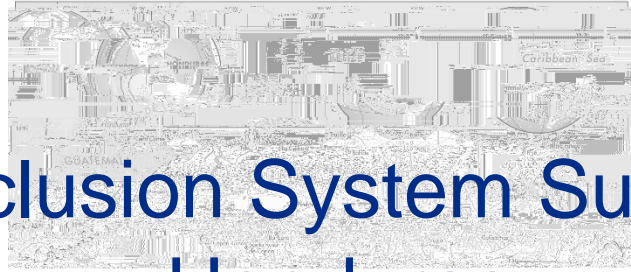
Decision Deadline No stated deadline for decision-maker to make a final determination .

Provisional Exclusions Yes, for example

- Pending payment of tax or social security obligations (full payment will terminate the exclusion); or
- Successful bidder'sf

III. Substantive Grounds for Government-Wide Exclusion:

Automatic Exclusion:



Exclusion System Summary Honduras

I. Government -Wide Legal and Institutional Framework:

Government -Wide Exclusion Framework? Yes

- x Exclusion decisions are made on a contract-by-contract basis as governed by national legislation or centralized regulations. Most exclusions apply only to the procurement at issue. Other exclusions result in the suspension of a supplier's contractor registration, which is required for most procurements.

Governing Policy

- x Arts. 15, 16, 132-141 of the Government Procurement Law (Ley de Contratación del Estado (revisada diciembre 2016), available at <http://www.oncae.gob.hn/biblioteca-virtual> under Normas de Contratación).

Primary Legal Foundation

- x Administrative/Regulatory Law.

Related Law and Regulation:

- x Arts. 28, 55 of the Government Procurement Regulations (Reglamento Ley de Contratación del Estado, available at <http://www.oncae.gob.hn/biblioteca-virtual> under Normas de Contratación).

Decision-Maker: Individual Contracting Officers; Not Functionally Independent from Senior Procurement Officials.

- x Individual contracting authorities make exclusion decisions within each procurement

III. Substantive Grounds for Government -Wide Exclusion:

Automatic Exclusion : Yes

Based on a criminal conviction, civil judgement, or administrative (i.e., non-judicial) finding that the supplier engaged in the following:

- Corruption;
- Fraud;
- Collusion and/or infringing competition;
- Coercion or intimidation;
- [REDACTED]
- Theft or embezzlement;
- Money laundering;
- Tax-related offenses;
- Terrorism;

V. Government -Wide Transparency and Exclusion List:

Official List of Excluded Suppliers? No.

- The Registry of Suppliers and Contractors does not disclose suspended suppliers or other



III. Substantive Grounds for Government- Wide Exclusion:

Automatic Exclusion : Yes

Based on a supplier's criminal or civil judgement for the following :

- x Corruption;
- x Fraud;
- x Collusion and/or infringing competition;
- x Coercion or intimidation;
- x Tax-related offenses;
- x Labor-related offenses;
- x Social harms;
- x Commercial regulatory violations;
- x Poor performance, non-performance, and/or failure to perform on public contracts;
- x Other illegal acts (e.g., obstruction of an investigation, theft, money laundering, terrorist offenses).

Exception According to Art. 76(2) of the Enforcement Decree, a supplier may avoid exclusion if it "has not neglected to pay reasonable attention to and exercise reasonable supervision over [its] agent, manager, or other employees to prevent them from" committing the underlying offense.

Discretionary Exclusion: No (except Cross-Debarment).

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

IV. Scope and Effect of Government- Wide Exclusion:

Types of Excluded Suppliers :

- x Limited to Corporate Suppliers and their Representatives.

Scope of Exclusion:

Extension to Other Agencies and Organizations

- x Exclusions prohibit the supplier from contracting with any government agency.
- x Exclusions extend to subnational governments.
- x No known countries or international organizations that automatically recognize and apply exclusions from Korea.

Effect on Ongoing Contracts Ongoing contracts are not automatically cancelled.

Effect on Excluded Individuals N/A.

Tailoring Exclusion No option to tailor the exclusion to certain divisions, operating units, or business lines within a corporate supplier.

Effect on Affiliates :

Corporate Affiliates:

Exclusion extends to the corporation's representative but not to any other affiliated entity .



IV. Scope and Effect of Government- Wide Exclusion:

Types of Excluded Suppliers :

- x Limited to Corporate Suppliers.

Scope of Exclusion:

Extension to Other Agencies and Organizations

- x Exclusions do not prohibit the supplier from contracting with any other agency (exclusion decisions are contract-by-contract). However, the same facts could constitute an exclusion ground in every subsequent tender process.
- x Exclusions do not automatically extend to subnational governments.
- x No known countries or international organizations that automatically recognize and apply exclusions from the Netherlands.

Effect on Ongoing Contracts

- x Ongoing contracts are not automatically cancelled.
- x Subsequent modifications to ongoing contracts are subject to the restrictions set forth in Arts. 2.163a of the Public Procurement Act and are not affected by a supplier's exclusion.

Effect on Subcontracting

- x Excluded suppliers can technically serve as subcontractors, but contracting authorities may have chosen in contract documents to evaluate, or may sometimes be required by the law to evaluate, whether any potential exclusion grounds apply to a bidder's proposed subcontractors (2d3((2d3m639 (be r)-0.9 (e)Tf -c)3.5 .3 (e Tc 0 Tw 13pl)1.9 (y)-6.2 (t)1 (o)-.9 (y)-6.2 f7 (c)-

V. Government -Wide Transparency and Exclusion List:

Official List of Excluded Suppliers? No.

Procurement Checks : No. Procuring entities are not required to check a list of excluded suppliers before awarding a contract.

Reporting on Exclusions:

Number of Exclusions Figures unknown.

Regular Reporting No requirement for regular reporting on exclusions.

Commencement of Proceedings: Ability to Initiate an Exclusion Proceeding.

x Decision-m

Effect on Ongoing Contracts

- x Ongoing contracts are not automatically cancelled.
- x Subsequent modifications to ongoing contracts are not affected by a supplier's exclusion.

Effect on Subcontracting

- x Excluded supplier cannot serve as a subcontractor.

Effect on Excluded Individuals:

- x Excluded individuals may be employed by a corporate supplier in any capacity (the legal framework does not expressly address this circumstance).
- x Exclusion may extend to companies controlled by the excluded individual .

Tailoring Exclusion

- x No option to tailor the exclusion to certain divisions, operating units, or business lines within a corporate supplier.

Effect on Affiliates :

Corporate Affiliates:

V. Government -Wide Transparency and Exclusion List:

Official List of Excluded Suppliers? Yes and it is publicly available.

- The General Directorate of State Procurement maintains a [Central Registry of Suppliers](#)
- Public list does not provide information on the grounds for each listed exclusion.

Procurement Checks :

- Yes. Procuring entities must check a list of excluded suppliers before awarding a contract.

Reporting on Exclusions:

Number of Exclusions Figures unknown (but discernable from public exclusion list).

~~Regular reporting to requirement for regular reporting on exclusions~~

Other Transparency Mechanisms None.

VI. Limited Scope Exclusion Systems:

Entity -Wide (e.g., Single-Agency) Exclusion? No.



Exclusion System Summary

Poland



I. Government -Wide Legal and Institutional Framework:

Government -Wide Exclusion Framework? Yes

- Exclusion decisions are made on a contract-by-contract basis as governed by national legislation or centralized regulations. Exclusions apply only to the procurement at issue.

Governing Policy

- Art. 108, 109, and 110 of the [Act of September 11, 2019](#) – Public Procurement Law (effective January 1, 2021), as amended, which transposes Art. 57 of Directive 2014/24/EU of the European Parliament.

Primary Legal Foundation

- Other.

Decision -Maker:

Initial Procurement Decision :

III. Substantive Grounds for Government- Wide Exclusion:

Note on discretionary exclusion grounds:

- x In Poland, the contracting authority must decide which discretionary exclusion grounds in Art. 109(1) of the Act of 2019 to consider before publishing the tender announcement, and those gror



Exclusion System Summary

State of Rajasthan, India

Note: This summary covers the exclusion framework in the State of Rajasthan in northern India. It does not address exclusion practices at the federal level (i.e., the “union” or “central” government).

I. Government -Wide Legal and Institutional Framework:

Government -Wide Exclusion Framework? Yes.

- x Exclusion decisions in the State of Rajasthan can be made both as part of a procurement process and outside the procurement process as governed by regional legislation and rules. Certain exclusions apply only to the procuring entity that imposed the exclusion, while others extend across the State government

Governing Policy

- x Secs. 7, 11, 25, and 46 of 2012 [Rajasthan Transparency in Public Procurement \(“RTPP”\) Act](#)
- x Rule 62 of the [2013 RTPP Rules](#)

Primary Legal Foundation Administrative/Regulatory Law.

Related Law and Regulation:

- x Goods: Standardized Code for Suppliers and Rule 72 App. 3 Part II of Rajasthan General Finance & Accounts Rules (“GF&AR”).
- x Works: Appendix XVI Part II/ Rule 334 Part I of Rajasthan Public Works Finance & Accounts Rules (“PWF&AR”).

Decision-Maker: Centralized, Agency Level, Judicial Authority and Individual Contracting Officers; Not Functionally Independent from Senior Procurement Officials.

- x State-wide debarments are assessed and imposed by the State Finance Department. (See RTPP Act, Sec. 46)
- x Agency-wide debarment authority is delegated to individual procuring entities (See RTPP Act, Sec. 25); individual administrative departments also have debarment authority pursuant to prior administrative practices.

Qualification: None stated in the legal framework. As a matter of practice, debarment decisions are often made by middle- or senior-ranked officials with sufficient procurement experience.

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 (only under prior administrative instructions).

- x The RTPP Act does not provide for temporary suspensions. But administrative departments sometimes rely on the GF&AR and PWF&AR to authorize a temporary suspension in individual cases

Commencement of Proceedings :

Ability to Initiate an Exclusion Proceeding

- x Decision-maker cannot initiate an exclusion proceeding without a prior referral.
- x Non-g

Subsequent Modification of Exclusion Decision : Yes (only under prior administrative instructions).

- x Prior administrative instructions technically allow for a modification or early termination of an exclusion after it goes into effect. But in practice, subsequent modifications are rarely, if ever, issued.

III. Substantive Grounds for Government -Wide Exclusion:

Automatic Exclusion : Yes

Based on a criminal conviction, civil judgement, or administrative (i.e., non-judicial) finding that

Means Available to the Supplier As part of appellate review, suppliers may:

- x Obtain the evidentiary record.
- x Make a written submission to the appellate body .
- x Request an in-person hearing with the appellate body .
- x Call witnesses to an in-person hearing to testify on the supplier's behalf.

Duration of Appeal Process Less than one month.

Legal Representation :

- x A supplier may be represented by counsel.

Subsequent Modification of Exclusion Decision : Yes ("Self-Cleaning").

Excluded from the Appeal Process: Suppliers may be able to file an appeal with the appellate body to seek modification of any decision to exclude it from a procurement process after it goes into-be r7r

Based on an administrative (.e., non-judicial) finding that the supplier engaged in:

- x Corruption;
- x Fraud;
- x Coercion or intimidation;
- x Obstruction of an investigation;
- x Theft or embezzlement;
- x Money laundering;
- x Tax-related offenses;
- x Labor-related offenses;
- x Social harms;
- x Other:
 - o Not registered with the competent authority;
 - o Conflict of interest;
 - o Attempting to improperly influencing the procuring entity.

Discretionary Exclusion : Yes

Based on an administrative (.e., non-judicial) decision or finding against the supplier for the following (Art. 112 of the Law on Public Procurement):

- x Fraud submitting false evidence related to exclusion grounds or failed to provide agreed - upon evidence of compliance (Art. 118 of the Law on Public Procurement);
- x Collusion and/or infringing competition;
- x Poor performance, non-performance, and/or failure to perform on public contracts;
- x Other:
 - o Serious professional misconduct (through final judgment or decision of another competent authority);
 - o Prior involvement in preparing the procurement procedure, unless the conflict can be eliminated through other means;
 - o Refused to sign a contract after being selected for award.

IV. Scope and Effect of Government- Wide Exclusion:

Types of Excluded Suppliers :

- x Individuals and Corporations.

Scope of Exclusion:

Extension to Other Agencies and Organizations

- x Exclusions do not prohibit the supplier from contracting with other federal agencies (exclusion decisions are contract-by-contract). However, the same facts could constitute an exclusion ground in every subsequent tender process.
- x All government agencies apply the Law on Public Procurement, including national, provincial, and municipal agencies.
- x No known countries or international organizations that automatically recognize and apply exclusions from Serbia.

Effect on Ongoing Contracts

- x Ongoing contracts are not automatically cancelled.
- x Subsequent modifications to ongoing contracts are not affected by a supplier's exclusion.

Effect on Subcontracting

- x Excluded supplier cannot serve as a subcontractor.

Effect on Excluded Individuals:

- x Excluded individuals must not be employed by a corporate supplier as a senior manager or corporate director, insofar as the individual is a legal representative of the supplier. (Art. 111(1) of the Law on Public Procurement)
- x Exclusion may extend to affiliates and companies controlled by the excluded individual.

Tailoring Exclusion

- x No option to tailor the exclusion to certain divisions, operating units, or business lines within a corporate supplier.

Effect on Affiliates :

Corporate Affiliates:

- x Exclusion must apply to affiliated companies (controlling, controlled, under common control).
- x Affiliated companies must be given an opportunity to contest the action.

Extension to Affiliated Individuals:

- x Exclusion of a corporate supplier may extend to individuals that own or control the supplier, executive officers and managers.
- x Affiliated individuals must be given an opportunity to contest the action.

Duration of Exclusions :

Duration Specified in Legal Framework

- x Between one and five years, up to ten years if imposed by court of law.

Duration Depends on Applicable Exclusion Ground Yes

- Five years maximum for automatic grounds (from the date of final conviction).
- Three years maximum for discretionary grounds (from the ground's occurrence).
- Ten years maximum for exclusions imposed by a court of law.

Discretion to Deviate?

- No. The decision-maker does not have discretion to consider any grounds that fall outside the above time limitations as a basis for exclusion.

Exceptions/Waivers to Exclusions : Yes

- A contract may still be awarded to an excluded supplier if:
 - Necessary to respond to disasters, accidents, or other emergency situations;
 - There are "predominant reasons related to the public interest;" or
 - The supplier has "self-cleaned" – i.e., presented evidence that it has taken measures to prove its reliability. (See Arts. 111 and 113 of the Law on Public Procurement)

Other Sanctions:

- None.

V. Government -Wide Transparency and Exclusion List:

Official List of Excluded Suppliers? No.

- However, Serbia does have a public register of qualified suppliers. To be registered, a supplier must, among other things, demonstrate that it is not subject the exclusion grounds listed in paras. 1 and 2 of Art. 111 of the Law on Public Procurement –relating to convictions for certain crimes and payment of taxes and social insurance. (Art. 128 of the Law on Public Procurement) The register can be found [here](#).

Reporting on Exclusions:

Number of Exclusions Figures unknown.

Regular Reporting No requirement for regular reporting on exclusions.

Other Transparency Mechanisms None.

VI



Exclusion System Summary

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Decision -Maker:

Criminal Law: Independent Judicial Authority (under the PCCA and BBBEEA).

Administrative Law: National Treasury (under the PPR) and Individual Accounting Officers (under the TR).

- x Qualification: None stated in the legal framework, but typically a senior employee with a financial or legal background at post-graduate level.
- x Independence: Not functionally independent from senior procurement officials .

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

General Provisions:

Type of Procedures: Criminal/Administrative .

Decision Deadline

- x Criminal Law: Subject to court deadlines and procedures.
- x Administrative Law: Governed by PAJA.

Provisional Exclusions: None yet; provisional exclusions permitted in Draft Public Procurement Bill.

Commencement of Proceedings : Ability to Initiate an Exclusion Proceeding.

x Criminal Law:

- o Subject to st <<J BT 0. 2.3 (r)<<J4 (ur)-0d4 (t)1.j4 (l)1.d4 (t)1.9 (i)1.8<63>tilroc s s [(D)-3d [(i)1.v.9 (1-6

Appellate Review of Exclusion Decisions : Yes in both Criminal/Administrative Law.

Nature and Forum of Review

- x Criminal Law: A supplier can appeal its criminal conviction and any exclusion order. (PCCA, art. 28(3)(b))
- x Administrative Law: PAJA provides for judicial review of administrative actions, including exclusions, after exhausting any administrative remedies. (PAJA, secs-6)

Means Available to the Supplier: As part of appellate review, suppliers may:

- x Obtain the evidentiary record.
- x Make a written submission to the appellate body.
- x Request an in-person hearing with the appellate body.
- x Call witnesses to an in-person hearing to testify on the supplier's behalf.

Duration of Appeal Process: Appellate review of both convictions and administrative actions are court processes that vary on a case-to-case basis

Legal Representation :

- x A supplier may be represented by counsel in both the criminal and administrative law systems.

Subsequent Modification of Exclusion Decision : Depends on the exclusion's underlying basis:

- x Criminal Law:
 - o The PCCA provides that the National Treasury "may at any time vary or rescind any restriction imposed" under this Act. (PCCA, sec. 28(4))
 - o The B-BBEEA provides for an automatic 10-year debarment with no possibility to debarment. ac, se

Duration of Exclusions :

Duration Specified in Legal Framework

- Criminal Law:
 - o PCCA: Between five and ten years.
 - o B-BBEEA: Ten years.
- Administrative Law:
 - o PPR Up to ten years.
 - o TR Contract-by-contract.

Duration Depends on Applicable Exclusion Ground Yes

Discretion to Deviate?

- No. The decision-makers do not have discretion to deviate from the limits specified in the legal framework.

Exceptions/Waivers to Exclusions :

- Criminal Law: No. There is not a legal mechanism whereby a contract might still be awarded to an excluded party.



Exclusion System Summary Sweden

I. Government -Wide Legal and Institutional Framework:

Government -Wide Exclusion Framework? Yes

- Exclusion decisions are made on a contract

Independence:

- Contract-by-contract exclusions are not functionally independent from senior procurement officials. Nevertheless, all contracting authorities must respect fundamental principles in public procurement, such as equal treatment and transparency.

II. I Æ

Trading Prohibitions – Opportunity to be Heard:

- x** Suppliers are entitled to present a defense to the court and may:
 - o Obtain the evidentiary record.
 - o Make a written submission.
 - o Request an in-person hearing.
 - o Call witnesses to an in-person hearing to testify on the supplier's behalf.

Appellate Review of Exclusion Decisions : Yes

Nature and Forum of Review Judicial.

- x** Contract-by-contract exclusions are reviewed by the relevant administrative court.
- x** Trading prohibitions are reviewed by the relevant Court of Appeal.

Means Available to the Supplier As part of appellate review, suppliers may:

- x** Obtain the evidentiary record.
- x** Make a written submission to the appellate body (proceedings in the administrative courts and Courts of Appeal are usually written).

Duration of Appeal Process:

Effect on Excluded Individuals:

- x Individuals subject to a trading prohibition cannot be a board member, work as an executive officer, or own more than 50 percent of a company. (Sec. 11 of Act on Trading Prohibitions)
- x

Reporting on Exclusions:

Number of Exclusions Figures unknown.

Regular Reporting



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 61 (he)11.1 (r)-07g4.76 480.0.376 r(id)-1 480.0.31.1 (ts6572 t)1 (he))TJ -0.003 Tc 0.001 T.

V. Government -Wide Transparency and Exclusion List:

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

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

Procurement Checks: Yes.

- x 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?

- x 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.

Opportunity to be Heard:

- x Suppliers are entitled to present a defense to the SDO and may
 - o Obtain the administrative record.
 - o Make a written submission contesting the exclusion to the SDO.
 - o Request an in-person hearing with the SDO.
 - o Call witnesses to an in-person hearing to testify on the supplier's behalf (subject to the SDO's discretion; also, in-person hearings have been suspended by regulation during the COVID-19 pandemic).
- x Suppliers are also entitled to a formal fact-finding hearing when the exclusion is not based on a conviction or civil judgment and there is a genuine dispute over material facts. (FAR 9.406-3(b)(2); 2 C.F.R. § 180.830)

Appellate Review of Exclusion Decisions : Yes

Nature and Forum of Review Administrative and Judicial.

- x All agencies allow excluded suppliers to request reconsideration. A few agencies (e.g. the Environmental Protection Agency) have procedures for administrative appeals above the SDO.
- x All exclusion decisions are subject to judicial review. Excluded parties are not required to pursue agency reconsideration before filing an action in federal court.

Means Available to the Supplier As part of appellate review, suppliers may:

- x Obtain the evidentiary record.
- x Make a written submission to the appellate body.
- x Request an in-person hearing with the appellate body.
- x Call witnesses to an in-person hearing to testify on the supplier's behalf.

Duration of Appeal Process Typically, one to six months. However, cases in federal courts may take longer, especially if appealed.

Legal Representation :

- x A supplier may be represented by counsel.

Subsequent Modification of Exclusion Decision : Yes

- x Both the FAR and the NCR give the SDO discretion to revisit a decision based on error or new evidence. (FAR 9.406-4(c); 2 C.F.R. §§ 180.876-180.880)

Tailoring Exclusion

Yes. Exclusions may

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 .

III. Substantive Grounds for Government- Wide Exclusion:

Automatic Exclusion : No.

Discretionary Exclusion : Yes

Any of the following grounds can be proven by a supplier's criminal conviction in a court of competent jurisdiction or an administrative finding by the SPADR:

- x Corruption;
- x Fraud;
- x Collusion and/or infringing competition;
- x Coercion or intimidation;
- x Obstruction of an investigation;
- x Theft or embezzlement;
- x Money laundering;
- x Tax-related offenses;
- x Labor-related offenses;
- x Social harms;
- x Terrorist offenses or offenses linked to terrorism;
- x Commercial regulatory violations;
- x Poor performance, non-performance, and/or failure to perform on public contracts.

Administrative Catch-all:

- x “[A]ny other action that in the sole discretion of the World Bank Group is so serious or compelling in nature that it (i) affects the present responsibility of the vendor, including but not limited to attempting to influence a World Bank Group institution procurement decision, or (ii) could result in harm to the World Bank Group’s reputation or image.” (Vendor Eligibility Policy, para. 3.1(k))
- x The SPADR may decide not to exclude the supplier when there are:
 - o Remedial measures;
 - o Settlement/ agreement;
 - o Organizational interest;
 - o Other sanction (finding of conditional responsibility).

Exclusion based on Bankruptcy and Cross -Debarment:

Bankruptcy: Bankruptcy is a discretionary exclusion ground under the Vendor Eligibility Policy.

Cross Debarment:

Depends on the cross-debarment’s source:

- x The Vendor Eligibility Policy automatically cross-debars vendors that have been debarred or suspended by the WBG’s Sanctions System in connection with operational activities. (Vendor Eligibility Policy, para. 3.1(h))
- x The Vendor Eligibility Policy automatically cross-debars vendors identified on any Anti-Money Laundering/Combating the Financing of Terrorists sanctions lists, including the United Nations 1267 sanctions list, the United States Executive Order 13224 sanctions list, and the United Kingdom terrorist sanctions list. (Vendor Eligibility Policy, para. 3.1(i))

Decision -Maker: Centralized; Functionally Independent.

The WBG Sanctions System is a two-tier adjudicative system.

- x First Tier:
 - o The Chief Suspension and Debarment Officer (the “SDO”) decides sanctions cases based on IBRD and IDA public sector operational lending activities (which make up the vast majority of sanctions cases).
 - o Institution -specific Evaluation and Suspension Officers (“EOs”) review sanctions cases related to the activities of IFC, MIGA, and the World Bank’s private sector activities.
- x Second Tier:
 - o The WBG Sanctions Board decides sanctions cases appealed by respondents from the first tier.

Qualification:

- x The SDO and the EOs are WBG staff members who are typically admitted to practice law in the jurisdiction of at least one WBG member government.
- x Members of the WBG Sanctions Board must be external to the WBG. Three members are appointed by the World Bank and must be familiar with procurement matters, law, dispute resolution.

Qualification:

Qualification:

Qualification:

Qualification:

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Qualification:

Qualification:

Commencement of Proceedings : Referral Required

- x Neither the SDO nor the EOs can initiate an exclusion proceeding without a prior referral from the WBG's Integrity Vice Presidency ("INT"), which investigates allegations that a firm or individual engaged in a sanctionable practice.
- x Parties that are not subject to the sanctions proceedings cannot submit complaints and/or evidence to the decision-maker. Third parties can, however, submit [online](#) complaints to INT.

Notice Requirements & Opportunity to be Heard : Yes & Yes

Notice of Proceedings

- x Suppliers receive a Notice of Sanctions Proceedings when the first-tier decision-maker determines that grounds for sanction exist. In practice, INT will generally send a Show Cause Letter to the alleged respondent before submitting the case to the first-tier decision-maker.
- x Notice of Sanctions Proceedings must contain the grounds for exclusion and supporting evidence.
- x The decision-makers must make their reasoning available to the supplier and the public. The first-tier decision-makers publish [notices](#) for all cases not appealed to the Sanctions Board. The Sanctions Board publishes its [decisions](#).

Opportunity to be Heard:

- x Suppliers are entitled to present a defense to the decision-maker and may:
 - o Obtain the evidentiary record.
 - o Make a written submission to the decision-makers.
 - o Request an in-

III. Substantive Grounds for Government-

Effect on Excluded Individuals:

- x Excluded individuals may be employed by a corporate supplier as long as the individual does not directly or indirectly control the corporate entity.
- x Exclusion must extend to companies controlled by the excluded individual .

Tailoring Exclusion:

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

Effect on Affiliates :

Corporate Affiliates:

- x Exclusion may apply to affiliates of the supplier (controlling, controlled, under common control). Exclusions are presumed to extend to all controlled affiliates and may extend to controlling affiliates and affiliates under common control if the decision -maker finds the affiliate culpable or responsible for the misconduct.
- x Controlling affiliates and affiliates under common control must be given an opportunity to contest the action.

Extension to Affiliated Individuals:

- x Exclusion of a corporate supplier may extend to individuals that own or control the supplier if the decision-maker finds the individual culpable or responsible for the misconduct.

Duration of Exclusions :

Duration Specified in Legal Framework

- x The baseline sanction is three-year debarment with conditional release. However, depending on the total number of substantiated counts and the applicable aggravating and mitigating factors in each case, the duration of the debarment decision can vary

Duration Depends on Applicable Exclusion Ground

No.

Discretion to Deviate:

- x Yes. The decision maker has discretion to deviate from the baseline sanction after considering applicable aggravating and mitigating factors pursuant to the WBG Sanctioning Guidelines.

Exceptions/Waivers to Exclusions:

- x No. There is not a legal mechanism within the WBG sanctions framework whereby a contract might still be awarded to an excluded vendor during its period of exclusion .

Other Sanctions:

- x Conditional Non-Debarment, Public Letter of Reprimand, and Restitution.

V. Government -Wide Transparency and Exclusion List:

Official List of Excluded Suppliers? Yes, and it is publicly available

- x [World Bank Listing of Ineligible Firms and Individuals](#).
- x Public list provides limited information on the grounds for each listed exclusion (i.e., the type of



Exclusion System Summary

World Trade Organization's Agreement on Government Procurement 2012

WORLD TRADE ORGANIZATION
AGREEMENT ON GOVERNMENT PROCUREMENT
2012

This Agreement is the result of the negotiations between the Members of the World Trade Organization. The text of the Agreement is available in all the official languages of the WTO. The text of the Agreement is available in all the official languages of the WTO. The text of the Agreement is available in all the official languages of the WTO.

Scope of Exclusion:

Extension to Other Agencies and Organizations

- x The GPA 2012 does not require that exclusions extend to all covered procuring entities within a Party's jurisdiction, but neither does it prohibit such an extension.
- x Art. IX:2 does, however, encourage the minimization of differences in qualification procedures and registration systems across a Party's procuring entities.

Effect on Ongoing Contracts Not addressed by the GPA 2012.

Effect on Subcontracting Not addressed by the GPA 2012

Effect on Excluded Individuals Not addressed by the GPA 2012

Tailoring Exclusion Not addressed by the GPA 2012.

Effect on Affiliates :

- x Not addressed by the GPA 2012

Duration of Exclusions :

- x Not addressed by the GPA 2012

Exceptions/Waivers to Exclusions :

- x Not explicitly addressed, although the GPA 2012 does \