

**DEPARTMENT OF HEALTH
PUERTO RICO WIC PROGRAM
POLICIES AND PROCEDURES MANUAL**

**POLICY AND PROCEDURE: 6.17
EFFECTIVE DATE: MAY, 2017**

VENDOR MANAGEMENT

COMPLIANCE BUYS

POLICY:

In accordance with 7CFR 246.12(j)(4), the State agency must conduct compliance investigations of a minimum of five percent of the number of vendors authorized by the State agency as of October 1 of each fiscal year and classified as high risk. The PRWIC program will ensure integrity of its authorized vendor's and their operations, including proper redemptions of food instruments and/or cash value vouchers through the implementation of compliance buys activities in order to comply with WIC Federal regulations.

The PR WIC program will have available qualified personnel to ensure all compliance buys to be carried out are performed in accordance to applicable rules, regulations, and Federal, State and local policies. Every compliance buy will encompass a covert operation performed by a covered WIC representative, posing as a participant, parent/caretaker, or proxy in order to monitor the vendor's compliance with State and Federal vendor regulations.

The State agency will notify the vendor in writing when an investigation reveals an initial incident of a violation for which a pattern of incidence must be established in order to impose a sanction, before another such incidents is documented, unless the State agency determines, in its discretion, on a case-by case basis, that notifying the vendor will compromise an investigation.

PROCEDURE:

Vendors Referred to Compliance Buy Investigations

The PR WIC Program will determine the vendors who will be submitted to compliance buys, based on their High Risk Vendor classification and other criteria as established by the State agency. The Vendor Management Division (VMD) designated staff will identify high risk vendors according to policy and procedure 6.15-"Procedure to Identify High Risk Vendors". Compliance buys will be focused on uncovering and sanctioning Federal violations. The type of compliance buys should correspond to the reason the vendor is deemed as high risk.

The VMD designated staff will create a profile for the covered WIC representative including a name, relation to the participant, foods to be purchased, and type of transactions to be attempted. A designated person from the WIC Program's Central Office will prepare the food instruments and cash value vouchers created for this purpose to ensure they are identical to the ones distributed to WIC Program participants. In addition, the VMD Designated staff will establish the itinerary of vendor compliance buy visits to be performed.

The VMD Designated staff will ensure each case referred to the covert WIC representative will be identified with a reference number and registered with the date of referral. In addition, the VMD designated staff will ensure the submission of a final report, which includes all areas covered in the performed compliance buy, in accordance with the original request.

Covert WIC Representatives Training

The VMD staff will provide training related to the general overview of the WIC program, according to the annual training established in CFR 246.12(i)(2) before initiating the investigation process. The training for covert WIC representatives must include information regarding compliance buy procedures, its definition and purpose, the preparation needed before the procedure, the different methods to perform the compliance buy, the article/product record requirements, and the proper disposal of the products bought during the compliance buy procedures. Some general information as to the WIC Program purposes and procedures must be provided.

The VMD staff will provide training in themes such as participant certification, nutritional risks, food packages, authorized supplemental foods including fruits, vegetables, and authorized products, distribution and delivery procedures, food instruments and cash value vouchers, exchange procedure and WIC identification card. The VMD staff will also provide them information on how the participant exchange and audit systems operate. In addition, the VMD staff will provide them information regarding compliance with the "Split Tender Transactions". This means that when a fruit or vegetables purchase exceeds the value of the Cash-Value Voucher (CVV) the vendor can accept WIC participant, authorized representatives or proxy to pay the difference with Cash or NAP card to complete the payment.

The On-Site Investigation

The PRWIC Program will not notify vendors that a compliance buy investigation is scheduled. The Program will not disclose any information regarding the content or outcome of the compliance buy investigation until it is concluded. If a violation is detected during the visit, the program will determine if it is informed to the vendor (see WIC-CB-07 form: "Notification of initial incidence of violation") or if information is withheld during the initial violation to protect the integrity of the investigation (see WIC-CB-08 form: "Determination to Withhold Vendor Notification of Program Violations").

The PRWIC program will provide the covert WIC representative information and documents related to the identity to be assumed, in order to facilitate its undercover basis.

The PRWIC program will require the covert WIC representative to proceed with the transaction acting as any participant, parent/caretaker or proxy would, requesting the dispatch of the authorized supplemental foods detailed in the food instrument, and avoiding extended conversations with vendor or store employees. During the compliance buy procedure, the covert WIC representative must observe the physical characteristics of the person(s) involved in the transaction in order to describe and identify the person(s) later on the transaction report. The covert WIC representative will present the food instruments or cash value vouchers before payment, without using cash during the transaction. If the vendor or vendor employees request cash to complete the transaction, the covert WIC representative must reply that he/she only has food instruments. If the vendor offers cash to buy the food instrument or cash value voucher during the transaction, the covert WIC representative will accept it. The cash money received from such transaction will be given to the VMD Authorized Representative, who will be responsible of keeping it under lock and key. He will keep this money for evidence purposes until further action is taken. After case resolution, the VMD Authorized Representative will ensure the cash is deposited in a WIC bank account created for that purpose. The covert WIC representative will reject any drugs or fire arms offered during the transaction in lieu of any food instrument or cash value voucher, and will document the incident to be referred to the local law enforcement authority for the corresponding action(s).

The number of compliance buy visits to a vendor will depend on the type of violation suspected and the circumstances surrounding the transaction. A compliance investigation may be considered complete when the PR WIC Program determines that a sufficient number of compliance buys have been conducted to provide evidence of program noncompliance, when two compliance buys are conducted in which no program violations are found, or when an inventory audit has been completed.

The PRWIC Program will determine further compliance buy visits to be performed when additional violations are detected during any investigation. The Vendor Management Division may withhold notification of compliance buy results, and may withhold providing training or conducting further compliance investigations, when fraudulent activity by the WIC authorized store is detected during a compliance investigation.

Covert WIC Representative Purchase Transaction Report

After the conclusion of a compliance buy visit, the PRWIC program will require the covert WIC representative to register each purchased item during the compliance buy procedure on a Form WIC-CB-01 provided by the WIC Program for this purpose. The report must include types, brands, and quantities of eligible food items purchased, current shelf prices or prices charged to other customers, price charged for each item purchased, if available, and description of the cashier.

In accordance with §246.12 (j)(6)(i) & (ii), the completed form must include the date of the monitoring visit, inventory audit, or compliance buy; and the name and signature of the Covert WIC representative. This covert WIC representative must complete the WIC-CB-01 form by handwriting immediately after the time of the transaction, transcribe it, sign it and sent it to the PR WIC Executive Director within the next three days after the compliance buy is completed.

The transaction report will contain a summary of all transactions involving the performed compliance buy investigation, and will include supporting evidence related to the compliance buy procedure. Each purchase will be photographed separately and identified with the vendor's name, authorized vendor's number, and municipality where vendor is located and the transaction date (see WIC-CB-02 form).

After reviewing the compliance buy results, the VMD authorized representative will complete the WIC-CB-03 form to determine any applicable violation and sanction, in accordance to the established regulations.

The PR WIC program will document each vendor case under compliance buy investigation in a case file that will contain:

1. A summary of the investigation findings
2. A detailed description of the violations discovered and the resulting sanctions according to the Vendor Sanction System
3. The WIC Program Participant Identification badge used by the undercover agent
4. Photographs of the individual food items purchased during the compliance buy investigation identified with the compliance buy investigation number
5. Individual lists with a description of actions taken by the PRWIC Program to dispose items purchased in the compliance buy, such as donation, destruction or retention, or kept as evidence, or provided to other entities
6. Copy of the food instruments involved in the transaction
7. All written evidence compiled during the investigation

Once the investigation has concluded, the original case file will be forwarded to the office of the Puerto Rico WIC Executive Director for corresponding actions according to the program's norms and regulations. The original file will be kept in the Office of the Puerto Rico WIC Executive Director under lock and key.

At the end of each month the Vendor Management Division will draft a report on all compliance investigations performed during each month's time period, using it as a tracking tool to follow up on the status of each one.

Investigation Results

Pursuant to 246.12(l)(3), the Puerto Rico WIC Program must notify a vendor in writing when an investigation reveals an initial incidence of a violation for which a pattern of incidence must be established in order to impose a sanction. In a Compliance Buy, prior to imposing a sanction for a pattern of violation incidences, the PR WIC program can either provide such notice to the vendor (see form WIC-CB-07) or determine not to notify the vendor and document the reason(s) for determining that such notice would compromise an investigation in the vendor's file (see form WIC-CB-08).

If the vendor requests an administrative hearing to review the investigation findings, the covert WIC representative must be available, with consent of the Executive Director, to testify and present evidence during the administrative hearing. The Puerto Rico WIC Program at the time of the hearing will have full discretion when protecting the identity of the WIC covert representatives and will choose the appropriate protective method such as: testifying behind a protective screen to cover the representatives' faces, via telephone, internet teleconference with blurry voice and image or other devices that will meet the protective purposes of this measure.

Disposal of Acquired Products

The Vendor Management Division designated representative will determine the course of action for the disposition of articles acquired through compliance buy procedures. The determined action must be recorded in the investigation's file. Food articles can be retained by the WIC Program (using form WIC-CB-06), donated to charity (using form WIC-CB-04) or destroyed if not allowable for consumption (using form WIC-CB-05).

Food items obtained through the compliance buy will be stored in a safe manner and in accordance to their required storage.

WIC TRANSACTION REPORT

Section A: Compliance Buy Visit General Description

COMPLIANCE BUY DATE:	EXHIBIT (indicate): A. Checks B. Photo C. Cash received D. Others: _____
INVESTIGATED VENDOR:	CASE NUM.:
STORE ADDRESS:	

I, _____, covert WIC representative, freely and voluntarily make the following statement knowing that it can be used as evidence:

- I visited the above-mentioned store on the date of _____, 20_____.
- The visit was initiated at the following time: _____ am _____ pm.
- I used FI's or CVV's indicated in exhibit A with the following number(s):

- I selected the article(s) specified in section B of this report.
- The cashier, identified as _____, retailed me the article(s) indicated in Sections B2 and B3 and gave me a receipt (yes or no): _____.
- The cashier asked me for my identification card (yes or no): _____.
- All articles identified in the FI's had a shelf price (yes or no): _____.
- The vendor allowed me to pay the difference in cash or with the NAP card when the transaction exceeded the amount of the CVV: (yes or no): _____.
- Comment(s):

- As a result of the visit there were found:
 _____no apparent violation(s)
 _____fire arms or illegal drugs were offered (yes or no): _____
 If yes, explain: _____

_____the following potential violation(s) were observed during the transaction:

CASE NUMBER: _____

B1. Total Sales Price reflected in receipt: _____. (Mark N/A if there was no receipt provided)

B2. Ineligible Articles

Article and Unit	Brand	Amount	Price per Unit	Total Price per Article

B3. Eligible Articles

Article and Unit	Brand	Amount	Price per Unit	Total Price per Article

B4. Articles Offered in Addition to Cash Money to Buy a Food Instrument

Article and Unit	Brand	Amount	Price per Unit	Total Price per Article

CASE NO. _____

B5. Amount of Cash Money Received in Lieu of FI's and/or CVV's: \$ _____.
(Include the received cash money in Exhibit C)

B6. Description of Cashier

a. Name as identified during transaction: _____

b. Title/position/relation to owner: _____

c. Method of Identification: _____

Dependent physical remarks:

d. Sex	e. Race	f. Age	g. Height	h. Weight

i. Other identification information:

C. CERTIFICATION

I, _____ hereby certify that this statement, consisting of _____ page(s), is true and correct. I have signed and printed my initials on each page as the assigned Covert WIC Representative.

Signature of Covert WIC Representative

DATE

**DEPARTMENT OF HEALTH
WIC PROGRAM
COMPLIANCE BUY**

Photograph of Articles Purchased or Obtained During the Compliance Buy

Date of Compliance Buy: _____

Case Number: _____

Vendor's Name: _____

Total of articles purchased or obtained during compliance buy: _____

Photograph number	Description
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Total amount of photos submitted in this report and included in Exhibit B: _____

Covert WIC Representative Signature

**DEPARTMENT OF HEALTH
WIC PROGRAM
COMPLIANCE BUY VIOLATIONS AND SANCTIONS REPORT**

Case Number: _____

Municipality: _____

Region: _____

Vendor's name: _____

Authorization Number: _____

Referral Date: _____

Period of Investigation: _____

Start Date: _____

End Date: _____

Findings:

<u>Violation</u>	<u>Type</u>	<u>Sanction</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

VMD Authorized Representative

**DEPARTMENT OF HEALTH
WIC PROGRAM
COMPLIANCE BUY**

WIC ARTICLES DONATED TO OTHER AGENCIES

Date of donation: _____

Agency receiving donation: _____

Address: _____

Agency Director or Supervisor: _____

Person who received articles: _____

Position: _____

Article	Amount	Brand	Unit	Initials of Person who Received the Article

I certify that on date _____, ____ of 20____ I received all articles indicated above from the Puerto Rico WIC Program, in the specified amounts, brands and units.

Name and Signature of Authorized WIC
Employee Who Delivers

Signature of Receiver

Approved by: Vendor Management
Division Authorized Representative

**DEPARTMENT OF HEALTH
WIC PROGRAM
COMPLIANCE BUY**

DESTROYED ARTICLES

Date: _____

Name of person who destroyed articles: _____

Position: _____

Name of the Witness(es): _____

Article	Brand	Unit	Amount	Reason for Destruction	Initials

Approved by: _____

Signature of Person Destroying Articles:

Signature of Witness(es)

Date

**DEPARTMENT OF HEALTH
WIC PROGRAM
COMPLIANCE BUY**

ARTICLES ACQUIRED AT COMPLIANCE BUYS KEPT BY THE PROGRAM

Date of receipt: _____

Program Division that retained articles: _____

Person in charge of Division: _____

Reason to keep them: _____

Article	Brand	Unit	Amount	Date of CB Visit	Receiver Initials

Person Who delivered Articles

Person who Received Articles

Position

Position

Signature

Signature

**NOTIFICATION OF AN INITIAL INCIDENCE OF VIOLATION
(FIRST VISIT)**

Date: _____, _____, 20_____

Mr (s) _____

Address: _____

Ref. _____

Dear Mr(s):

Your business was subject to a compliance buy visit conducted in the following date:

_____, _____, 20_____.

During this visit, an initial incidence of violation(s) to the WIC Program regulations was detected. These results reflect your business incurred in non-compliance with the Contract agreement you signed with the WIC Program. These violations are:

Performed transaction(s):

Description of Violation(s) Incurred:

Violation Type(s): _____.

In accordance to Article XIII – Notification of Violations as established in the Puerto Rico WIC Authorized Vendor Regulation No. 8896, dated December 30, 2016, the WIC Program is informing you the compliance buy visit results described above constitute an initial incidence of violation found upon the investigation in your store.

Applicable Legal Disposition or Vendor Agreement Clause Violated infringement: Article _____, Section _____.

As a result of this determination, you are required to immediately cease the described practice upon this notification. In addition, these results may entitle the following applicable sanction(s):

As a vendor,

Should you have any questions regarding this communication, please contact the Vendor Management Division Authorized Representative, at (787) 766-2805.

Issued this _____ day of _____, 20_____.

Cordially,

**VENDOR MANAGEMENT DIVISION
AUTHORIZED REPRESENTATIVE**

DETERMINATION TO WITHHOLD VENDOR NOTIFICATION OF PROGRAM VIOLATION(S)

VENDOR NAME: _____
WIC IDENTIFICATION # _____

ADDRESS: _____
MUNICIPALITY/ZIP CODE: _____

In accordance with 7 CFR §246.12(l)(3) of the Code Federal Regulations and with the Article XIII, Section A of the the Puerto Rico WIC Authorized Vendor Regulation No. 8896, dated December 30, 2016, the Department must notify a vendor in writing when an investigation reveals an initial incidence of a violation for which a pattern of incidences must be established in order to impose a sanction, before another such incidence is documented in the vendor's file, unless the State agency determines, in its discretion, on a case-by-case basis, that notifying the vendor would compromise an investigation, in which case the Department may withhold notification.

The above-named vendor received a compliance investigation on _____. The State has reviewed the Compliance Buy Investigative Report Form submitted by the investigator, which notes the observed Program violations:

- The store overcharged for supplemental food items.
- The store received, transacted, or redeemed food instruments or cash value vouchers outside of authorized channels, including the use of an unauthorized vendor.
- The store charged for supplemental foods not received by the participant or authorized representative.
- The store provided credit in exchange for food instruments or cash value vouchers.
- The store charged for supplemental foods provided in excess of those listed on the food instrument.
- The store secured the signature of the participant or authorized representative prior to completing the Pay Exactly box in the WIC check or Cash Value Voucher.
- Vendor is being investigated by the Nutrition Assistance Program, the USDA Office of Inspector General, the State Police, or other authorities.
- Other: _____

VENDOR MANAGER: _____

DATE: _____