

**NEW JERSEY DEPARTMENT OF HEALTH
WIC PROGRAM**

STATE POLICY

Policy & Procedure Number: 1.38

Effective Date: April 24, 2024

Functional Area: I. VENDOR MANAGEMENT


Subject: Vendor Compliance Investigations

A. POLICY:

1. The SA must conduct compliance investigations of at least five percent of the number of high-risk vendors authorized by the SA as of October 1 of each fiscal year.
 - a. If more than five percent of the State agency's vendors are identified as high-risk, the SA must prioritize such vendors to perform compliance investigations of those determined to have the most significant potential for program non-compliance and/or loss of funds.
 - b. An investigation of a high-risk vendor conducted by a Federal, State, or local law enforcement agency may count toward this requirement.
 - c. A compliance investigation conducted by another WIC State agency may count toward this requirement, provided that the SA implements mandatory sanctions.
2. High-risk vendor means a vendor identified as having a high probability of committing a vendor violation through the application of the criteria established in §246.12(j)(3) and any additional criteria established by the State agency (SA). (see P&P 1.50 Vendor Risk Criteria).
3. At the State Agency's discretion, compliance investigations shall be accomplished by conducting undercover compliance buys or completing an inventory audit.
 - a. A compliance buy is defined as a covert, on-site investigation in which a representative of the Program poses as a participant, parent or caretaker of an infant or child participant, or proxy, transacts one or more food instruments or cash-value vouchers, and does not reveal during the visit that he or she is a program representative.
 - i. A *good buy* means a compliance buy with no program violation(s).
 - ii. A *bad buy* means a compliance buy that results in program violation(s).
 - b. An Inventory audit is defined as the examination of food invoices or other proofs of purchase to determine whether a vendor has purchased sufficient quantities of supplemental foods to provide participants the quantities specified on food instruments redeemed by the vendor during a given period of time.

4. A compliance investigation of a vendor may be considered complete when:
 - a. The SA determines that a sufficient number of compliance buys have been conducted to provide evidence of program non-compliance or
 - b. when two compliance buys have been conducted in which no program violations are found.
 - c. or when an Inventory Audit has been completed as per P&P 1.47 (Inventory Audits).

B. PROCEDURE:

1. Selection of Vendors for Compliance Investigations:
 - a. A vendor may receive a compliance investigation at any time; however, the SA shall determine the minimum number of vendors that will receive an Inventory Audit by October 1 of each fiscal year to meet the cumulative federal requirement of five percent between Compliance Investigations and Inventory Audits. The SA may investigate any vendor at is discretion throughout the fiscal year.
 - b. If more than five percent of the SA's vendors are identified as high-risk, the SA must prioritize such vendors so as to perform compliance investigations of those determined to have the greatest potential for program noncompliance and/or loss of funds.
2. The SA shall select high-risk vendors based on risk factors defined in P&P 1.50 Vendor Risk Criteria.
3. Compliance investigations may also be performed on randomly selected vendors not designated as high-risk. The SA shall select vendors at random from the following:
 - a. Vendor Database
 - b. Participant Comment(s)
 - c. Referrals
4. The Compliance Buy Investigator shall be thoroughly trained by the SA and produce evidence of training.
5. The SA investigator shall prepare a Compliance Investigation Report (see 1.38-A) and assign benefits to an eWIC card for each compliance buy.
6. 

7. [REDACTED]

8. [REDACTED]

9. When two (consecutive or nonconsecutive) compliance buys have been conducted in which no program violations are found, the investigation will be considered complete, all investigation details will be documented in the vendor’s file, and the SA will notify the vendor of the completed investigation in which no program violations were found.

10. When a compliance buy uncovers one or more program violations, the Vendor may be notified in writing (See 1.38-B, Compliance Investigation Training Letter) unless, in its discretion and on a case-by-case basis, the SA determines that notifying the vendor would compromise an investigation.

- a. Vendors receiving an inventory audit shall be notified in accordance with NJ P&P 1.47.
- b. Vendor retraining described in paragraph B 11 of this section will not be offered as part of an inventory audit.

11. Vendors that have received notice of a program violations resulting from a compliance buy may be required to attend a mandatory retraining covering the areas of non-compliance. A vendor’s failure to attend/complete the mandatory training shall be considered to be a program violation that is subject a sanction and/or termination of the vendor agreement.

Upon completion of the mandatory retraining, the vendor must submit a signed Training Agenda (see 1.38-C Mandatory Compliance Investigation Training Agenda) to the SA.

12. After completing the mandatory retraining, the Investigator will continue the compliance investigation until at least two good buys have occurred or until a pattern of violations (for the same violative incident) is established.

- a. For vendors not selected for retraining, the Investigator will continue the compliance investigation after the vendor has received notification of the initial program violation. The investigation will be considered completed once at least two

good buys have occurred or until a pattern of violations (for the same violative incident) is established.

13. Vendors deemed to have committed a pattern of violations of the same violative incident shall be sanctioned in accordance with the Vendor Sanction Schedule (see 1.31-H/I Vendor Agreement, Appendix A).

Attachment(s):

1.31H Vendor Agreement without Signature Page
1.31I Vendor Agreement with Signature Page
1.38A Compliance Investigation Report
1.38B Compliance Investigation Training Letter
1.38C Mandatory Compliance Investigation Training Agenda
P&P 1.47 Inventory Audits
P&P 1.50 Vendor Risk Criteria *DRAFT*