

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

ZAM ZAM INTERNATIONAL FOODS,	:	
Petitioner,	:	Docket No.: OSAH-PH-WICV-1414463-56-
	:	Woodard
v.	:	
	:	
GEORGIA DEPARTMENT OF PUBLIC	:	Agency Reference No.: 5155
HEALTH,	:	
Respondent.	:	
	:	

INITIAL DECISION

I. Introduction

Petitioner, Zam Zam International Foods, appealed the decision of the Department of Public Health (hereinafter “DPH” or “Respondent”) to disqualify it from the Georgia Special Supplemental Nutrition Program for Women, Infants and Children (hereinafter “Georgia WIC”) for three years and terminate its Vendor Agreement. The hearing on this matter was held before the undersigned Administrative Law Judge on February 21, 2014 at the Office of State Administrative Hearings in Atlanta, Georgia. A subsequent adjourned hearing was held at the same location on March 31, 2014. At both proceedings, Stephen Dubner, Esq., represented Petitioner and Miessha Stennis, Esq., represented DPH. For the reasons indicated herein, DPH’s action is **AFFIRMED**.

II. Findings of Fact

Overview of the WIC Program in Georgia

1. The Georgia Special Supplemental Nutrition Program for Women, Infants and Children (hereinafter “Georgia WIC”) is a fully-federally-funded special supplemental food program “intended to provide supplemental foods, nutrition education, and nutrition counseling” to eligible low-income women who are pregnant, post-partum, or breast-feeding and children up to five years of age. *Respondent Exhibit 16; Testimony of Velma Chambers.*

2. In Georgia, WIC is administered by the Department of Public Health. The supplemental food benefit aspect of Georgia WIC is provided by vendors who are authorized by Georgia WIC. Customers may purchase WIC-approved foods from these authorized vendors using WIC Vouchers (also called “food instruments”), which are processed in a manner very similar to checks. The authorized vendor may redeem the WIC Voucher and receive credit for the amount of the purchase by depositing it into an account specially designated for the deposit of WIC Vouchers at a private bank (the “bank of first deposit”). The bank of first deposit then clears the Voucher with WIC’s banking vendor, CSC, which examines the transaction for invalidities. If the Voucher clears, the money will be deposited into the authorized vendor’s account at the bank of first deposit. *Respondent Exhibit 16; Testimony of Hugh Warren.*

3. All authorized vendors enter into a contractual agreement with DPH, and are thereby subject to all federal and state rules and regulations as well as state program rules included in the Georgia WIC Program Vendor Handbook (hereinafter “Georgia WIC Handbook”). *Respondent Exhibits 4, 5, 6, and 16; Testimony of Velma Chambers.*

4. Federal regulations governing WIC provide that state agencies must routinely monitor its authorized vendors to ensure that they are compliant with the program rules. Pursuant to this requirement, DPH routinely conducts desk reviews, covert or overt investigations, or inventory audits of authorized vendors. *Respondent Exhibit 16; Testimony of Velma Chambers; Testimony of Jamilla Blount.*

Inventory Audits of Petitioner’s Store

5. DPH has contracted with Myers & Stauffer, L.C., an independent accounting firm, to conduct inventory audits of authorized vendors according to methodology approved by DPH. Inventory audits consist of two site visits: an initial visit to conduct a beginning inventory, followed by a second site visit thirty days later to conduct an “ending inventory.” *Respondent Exhibit 8; Testimony of Daniel Carman.*

6. During the initial site visit, a representative of Myers & Stauffer (hereinafter “the auditor”) will interview the authorized vendor’s contact at the store location. The interview consists of questions regarding “the procedures performed when conducting a sales transaction, how sales and purchase documentation is maintained, whether the vendor [has] any transacted WIC vouchers which [have] not yet been deposited, and other general questions.” The initial site visit also entails an inventory of the vendor’s WIC-approved products. The auditor will physically count the number of WIC-approved items that the Vendor has in stock and tally them on an Inventory Count Sheet (hereinafter the “Beginning Count”). This Inventory Count Sheet is printed out and reviewed with the vendor’s representative. If this representative agrees with the auditor’s count, he or she will sign the Inventory Count Sheet. *Respondent Exhibit 8; Testimony of Daniel Carman.*

7. Approximately thirty days after the initial site visit, the auditor returns to the site to conduct a second count (hereinafter the “End Count”) of the vendor’s WIC inventory in the same manner as the Beginning Count. The auditor then requests purchase documentation from the Vendor to account for any re-stocking of the inventory during the audit period. *Respondent Exhibit 8; Testimony of Daniel Carman.*

8. During the course of an Inventory Audit, Myers & Stauffer reviews the vendor’s account information from CSC. Based on this information, the auditors are able to determine the number of WIC vouchers the vendor redeemed during the audit period. *Respondent Exhibit 8; Testimony of Daniel Carman.*

9. Based upon the purchase documentation obtained from the Vendor and the information obtained during the Beginning and End Counts, the auditors establish the maximum number of WIC-approved items for which the Vendor could have redeemed WIC vouchers during the thirty-day audit period. If the number of vouchers the vendor redeemed exceeds the number of inventory the vendor had on hand, the auditors will conclude that the vendor was issued an

overpayment. After completing the inventory audit, the auditors prepare a detailed written report of their findings and submit it to DPH. *Respondent Exhibit 8; Testimony of Daniel Carman.*

Zam Zam International Foods

10. Zam Zam International Foods is an authorized WIC Vendor owned by Mr. Mohamed Al-Badri. Zam Zam International Foods is located at 5030 Memorial Drive, and operated at that location during the period relevant to this Decision. *Respondent Exhibits 1, 2, 3, 4, 5, and 6.*

11. Mr. Al-Badri first applied for his store to operate as an authorized WIC vendor on or about August 26, 2004. On his initial vendor authorization application, Mr. Al-Badri listed the square footage of his store as 2,700 square feet. *Respondent Exhibit 1.*

12. After submitting his application, Mr. Al-Badri was required to attend mandatory classroom trainings. These classroom trainings provided Mr. Al-Badri with instruction on the WIC program's procedures and policies. *Respondent Exhibit 4; Testimony of Velma Chambers.*

13. After Mr. Al-Badri successfully completed the mandatory training, DPH provided him with a three-year Vendor Agreement, which listed the specific requirements for authorized vendors and a description of the sanctions for their violation. The Agreement further provided that it was effective for the period beginning December 10, 2004 and ending September 30, 2007. Mr. Al-Badri signed this Vendor Agreement on or about October 20, 2004 and thereafter submitted it to DPH. Upon receiving the completed and signed Vendor Agreement, an authorized agent with DPH also signed the document. *Respondent Exhibit 4.*

14. Zam Zam International's continued participation in Georgia WIC as an authorized vendor was contingent upon its owner's continuing to meet all WIC program requirements, including his attendance of WIC trainings. These trainings apprised authorized vendors of changes in the program. After completing these trainings, vendors were required to complete checklists indicating their understanding of updates or changes in Georgia WIC. *Testimony of Velma Chambers; Respondent Exhibit 4.*

15. Mr. Al-Badri renewed his authorization to operate as a WIC vendor in 2007 and 2010. On both applications for reauthorization, Mr. Al-Badri listed the square footage of his store as 2,700 square feet. *Respondent Exhibits 2 and 3.*

16. After submitting his 2010 reauthorization application, Mr. Al-Badri again signed a Vendor Agreement and submitted it to DPH. Although DPH did not sign this Vendor Agreement, it continued to treat Petitioner as an authorized vendor throughout the period following Mr. Al-Badri's submission of the Vendor Agreement. Petitioner continued to accept and deposit WIC Vouchers, which DPH would then honor. *Respondent Exhibits 6, 8, 9, 10, 11, 12, 13, 14; Testimony of Velma Chambers.*

DPH's Updated Minimum Square Footage Criterion

17. In 2011, DPH notified authorized vendors that it would alter its minimum square footage criteria. Effective October 1, 2012, authorized vendors would be required to maintain a suitable store location with a minimum square footage of 3,000 square feet. DPH required that authorized vendors attend a mandatory training concerning the change in the minimum square

footage criteria during Fiscal Year 2011. Petitioner completed this mandatory training on November 28, 2011. Upon completion of this training, Mr. Al-Badri completed and signed a training checklist. He indicated that he understood the new square footage requirement, and pledged to comply. The updated square footage requirement was reflected in the Georgia WIC Handbook for Fiscal Year 2013, effective October 1, 2012. *Respondent Exhibits 16, 17, 19, and 20; Testimony of Velma Chambers.*

18. DPH required Petitioner to submit a Vendor Certification Form attesting to the square footage of Zam Zam International's store location. Mr. Al-Badri submitted a completed Vendor Certification Form to DPH on or about November 19, 2012. On this form, Mr. Al-Badri reported the square footage of his store location to be 3,000 square feet. *Respondent Exhibit 20; Testimony of Velma Chambers.*

DPH's Inventory Audit of Zam Zam International

19. On October 16, 2012, Mr. Daniel Carman, a CPA with Myers & Stauffer, arrived at Zam Zam International to conduct an inventory audit. Mr. Carman met Mr. Al-Badri and conducted an interview. During this interview, Mr. Al-Badri reported that he stored no inventory off-site. When Mr. Carman asked Mr. Al-Badri if Zam Zam International had any unredeemed WIC Vouchers, Mr. Al-Badri produced "two to three" WIC Vouchers, but gave no indication that he had yet to redeem other vouchers. Mr. Al-Badri told Mr. Carman that his store was 2,700 square feet in area. *Respondent Exhibits 8, 18; Testimony of Daniel Carman.*

20. After the interview, Mr. Carman and another auditor with Myers & Stauffer physically counted Zam Zam International's entire WIC inventory. After completing the physical count, Mr. Carman provided Mr. Al-Badri with an Inventory Count Sheet, which summarized the results of the inventory count. Mr. Al-Badri was also given an opportunity to verify the results of the inventory count. He then signed the Inventory Count Sheet. *Respondent Exhibits 8 and 9; Testimony of Daniel Carman.*

21. Thirty days after the initial site visit, Mr. Carman again visited Zam Zam International Foods for a follow-up visit. Mr. Al-Badri was not present during this follow-up visit. Instead, the auditors were met by an employee of Zam Zam who identified himself as "Raji". Mr. Carman conducted a second count of Petitioner's inventory. After completing the count, Mr. Carman provided an Inventory Count Sheet to the vendor representative and allowed him to verify the results. Petitioner's employee signed the Inventory Count Sheet. *Respondent Exhibits 8 and 10; Testimony of Daniel Carman.*

22. After concluding the follow-up inventory count, Myers & Stauffer submitted an authorization letter to Petitioner, requesting detailed purchase and sales documentation relevant to the thirty-day period between the first and second site visits. Authorized vendors are given a three-day time limit to produce this documentation, with extensions granted upon the vendor's request. Petitioner did not request an extension of time and neither DPH nor Myers & Stauffer received this purchase documentation within the three-day time limit. *Respondent Exhibit 8; Testimony of Daniel Carman.*

23. Myers & Stauffer analyzed the vendor's inventory based on the initial and follow-up on-site inventory counts and determined the maximum number of certain WIC eligible formulas that

Petitioner could have sold during the auditing period. Myers & Stauffer limited its review to certain brands of WIC-eligible baby formula products.¹ Because Petitioner initially failed to supply the requested purchase documentation, Petitioner's purchases of WIC-eligible formulas during the auditing period were not reflected in Myers & Stauffer's original Inventory Analysis. *Respondent Exhibits 8, 9, 10, 11, 12, 13, and 14; Testimony of Daniel Carman.*

24. As part of its inventory analysis, Myers & Stauffer obtained voucher redemption data from CSC. From this data, Myers & Stauffer was able to determine that Zam Zam International had redeemed 326 vouchers during the auditing period. Myers & Stauffer then compared the number of vouchers that Petitioner actually redeemed during the auditing period with the number of vouchers that Petitioner's inventory could support. Myers & Stauffer concluded in its Inventory Audit that 97% of Petitioner's WIC Voucher Redemptions were unsupported; meaning that Petitioner was reimbursed for the purported sale of an amount of a specific supplemental food item that exceeded the store's documented inventory. By Myers & Stauffer's initial calculations, this resulted in an overpayment of \$25,233.00. Myers & Stauffer submitted its findings and conclusions to DPH in a written report on January 7, 2013. *Respondent Exhibits 8, 9, 10, 11, 12, 13, and 14; Testimony of Daniel Carman.*

Notice of Disqualification/Termination

25. On February 1, 2013, DPH sent to Petitioner a Notice of Immediate Disqualification/Termination. DPH provided in this Notice that, based upon the violations discovered during the Inventory Audit, it would disqualify Petitioner as an authorized vendor and terminate its Vendor Agreement. DPH based its decision to disqualify Petitioner upon the following violations of federal regulations:

- **Category V, violation #5. A pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for specific period of time.** Infant formula vouchers that were redeemed and paid between October 16, 2012 and November 16, 2012 were in excess of the amount of documented inventory in the store during that specific period of time. Of the 326 vouchers that were redeemed between October 16, 2012 and November 16, 2012, 317 vouchers, or 97% of the vouchers, were either not supported or partially supported by the documented inventory of infant formula, resulting in an overpayment to the vendor of \$25,233.00.
- **Category V, violation #3. A pattern of vendor overcharges.** For the seven infant formula vouchers, redeemed between October 16, 2012 and November 16, 2012, that were supported by the amount of documented inventory, the total redemption amount exceeded the calculated shelf price redemption value of the quantity of infant formula on those vouchers, resulting in an overcharges [sp] totaling \$115.00.²

¹ Based on discussions with DPH, Myers & Stauffer limited the Inventory Analysis to the following types of formulas and vouchers: Gerber Good Start Gentle Milk Based, Gerber Good Start Soy Based, Pediasure, Similac Expert Care Alimentum, and Similac Expert Care Neosure. *Respondent Exhibit 8; Testimony of Daniel Carman.*

² DPH later retracted this violation. *Notice of Respondent's Intent to Retract Ground for Disqualification and Notice of Intent to Produce Additional Evidence at Evidentiary Hearing dated December 5, 2013.*

DPH further provided in the Notice that the termination of Petitioner's Vendor Agreement was based on the following violations:

- **Failure to meet the selection criteria in effect at the time of assessment at any time throughout the agreement period.** Vendor fails to meet the minimum square footage requirements for vendors in its Peer Group as outlined in the 2012 GA WIC Vendor Handbook (effective, October 1, 2012).
- **Failure to provide food instruments, inventory records, food sales, or tax information upon request.** During the follow up site visit on November 16, 2012, the WIC representative provided the vendor with a second authorization letter requesting detailed purchase and sales documentation for WIC-eligible foods that occurred between October 16, 2012 and November 16, 2012. The vendor failed to submit the requested documentation to the WIC representative.

26. On or about February 11, 2013, Petitioner appealed DPH's decision to impose a three-year disqualification and terminate its Vendor Agreement. In his written request for administrative review, Mr. Al-Badri claimed that he had unredeemed WIC Vouchers at the time the Inventory Audit was commenced, which accounted for the unsupported Voucher redemptions observed during the audit period. Mr. Al-Badri further contended that he had submitted the requested purchase documentation, which had been delivered on December 17, 2012 and January 8, 2013. *Petitioner's Request for Hearing dated February 11, 2013.*

27. Mr. Al-Badri attached a copy of his lease to his written hearing request. This lease reports the square footage of the premises located on 5030 Memorial Drive in Stone Mountain, Georgia to be "[a]pproximately 3000 sq. ft." Although the lease contains various descriptions of the subject property, it nowhere offers a definitive measurement of its square footage. A visual representation of the subject property included with the lease as an attachment describes the property as being 3,000 square feet in area, but qualifies this description with the notation: "All measurements estimated." *Petitioner Exhibit 5.*

28. Petitioner eventually sent purchase documentation to DPH on February 18, 2013, while its hearing was pending. This documentation was in the form of receipts from various suppliers that described purchases of WIC-approved baby formulas during the auditing period, including formulas that were the subject of the Inventory Audit. Based upon this documentation, Myers & Stauffer revised its calculations and concluded that 51 of the 326 vouchers Petitioner had redeemed during the auditing period were supported, leaving approximately 83% of Petitioner's WIC voucher redemptions unsupported. The total estimated overpayment on formula vouchers for redemptions in excess of documented inventory was \$20,811.00. *Respondent Exhibits 8, 9, 10, 11, 12, 13, and 14; Testimony of Daniel Carman.*

29. Petitioner also provided Myers & Stauffer with four additional invoices that auditors had not reviewed in the above-described Inventory Audit. However, these invoices did not sufficiently document purchases of eligible items because they did not show that Petitioner had purchased those items. Accordingly, auditors with Myers & Stauffer requested that Petitioner produce documentation that showed those invoices were actually paid. In response to this request, Petitioner submitted cash withdrawal slips from its bank. Auditors deemed this documentation insufficient to support Petitioner's contention that it had purchased the items

described in the invoices because the cash purchases deviated from Petitioner's ordinary business practice. Additionally, auditors noted that the withdrawal slips evidenced withdrawals of cash in amounts insufficient to cover the amount of the invoices. *Testimony of Daniel Carman.*

30. At the hearing of this matter, Petitioner, through the argument of counsel, submitted that DPH had failed to demonstrate that Petitioner committed the violations described in the February 1, 2013 Notice. Specifically, Petitioner contended that its WIC Voucher redemptions were supported by its purchase documentation, which should include the above-described invoices. Petitioner submitted that it had replenished its inventory throughout the auditing period. Moreover, Petitioner contended that auditors had failed to consider unredeemed WIC Voucher's in Petitioner's possession at the time the audit commenced.

31. Petitioner argued that, even assuming that its WIC Voucher redemptions were unsupported by its inventory during the audit period, this was insufficient to constitute a violation of federal regulations. According to Petitioner, the regulations require a "pattern" of violations, which is not established through evidence that Petitioner had unsupported WIC Voucher redemptions during one auditing period.

32. With regard to the Minimum Square Footage requirement, Petitioner contended its store was 3,000 square feet. Petitioner offered the descriptions of the square footage expressed in the Lease Agreement as definitive evidence of the measurements of its store. *Petitioner Exhibit 5.*³

33. At the subsequent adjourned hearing held on March 31, 2014, Mr. Al-Badri testified that all of his WIC Voucher redemptions were supported by his store's inventory during the audit period. According to Mr. Al-Badri, many of Zam Zam International's inventory purchases are accomplished through cash payments. Mr. Al-Badri further testified that some of his suppliers maintain a line of credit with his store, and are compensated after providing him with inventory. Mr. Al-Badri explained that these methods of compensation accounted for the absence of purchase documentation for the relevant period. *Testimony of Mohamed Al-Badri.*

34. Petitioner also tendered credit card statements into evidence in support of its contention that it had procured the inventory necessary to support the voucher redemptions. These statements show various credit card transactions, some of which took place during the auditing period. Although Petitioner contended that the statements established that it made inventory purchases during the auditing period, the statements do not describe the transactions beyond the date they occurred and the amount of payment involved. The statements offer no insight into what items were purchased in the transactions. *Petitioner Exhibits 1, 2, 3, and 4; Testimony of Mohamed Al-Badri; Testimony of Daniel Carman.*

35. Mr. Al-Badri repeated his contention that his store was 3,000 square feet, pointing to the approximations expressed in the Lease Agreement for the property. The increase in his store's

³ At the conclusion of the first day of the hearing, the administrative law judge denied Petitioner's Motion for Involuntary Dismissal of DPH's adverse action, and advised Petitioner that he could provide accurate measurements of his store when the hearing was reconvened. No such measurements were provided during the second hearing date.

square footage, he explained, was due to the fact that he had begun storing inventory elsewhere.
Testimony of Mohamed Al-Badri.

III. Conclusions of Law

Petitioner's Category V Violation

1. Federal regulations require that DPH disqualify a vendor for three years for “[a] pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item which exceeds the store’s documented inventory of that supplemental food item for a specific period of time.” 7 C.F.R. 246.12(l)(1)(iii). Upon disqualifying the vendor, DPH is required to terminate its Vendor Agreement with that vendor. 7 C.F.R. 246.12(l)(1)(9).
2. Federal regulations do not require, as Petitioner postulates, a showing of a pattern of *violations* committed by an authorized vendor. The word “pattern” as it is used in the relevant regulation refers to the action of the authorized vendor: claiming reimbursement for the sale of specific supplemental food items in excess of the store’s documented inventory. *See* 7 C.F.R. 246.12(l)(1)(iii). Therefore, where the authorized vendor submits one unsupported WIC voucher for reimbursement and then a second WIC voucher for reimbursement, this sufficiently demonstrates a “pattern” according to the most natural reading of the regulation.
3. In this case, DPH demonstrated by a preponderance of evidence that Petitioner engaged in a pattern of claiming reimbursement for unsupported WIC vouchers in violation of Federal regulations. DPH introduced extensive evidence of unsupported WIC voucher redemptions, which were uncovered during the course of an Inventory Audit. This audit determined that more than 80% of the WIC vouchers redeemed by Petitioner during the audit period were unsupported by Petitioner’s inventory. The conclusions of the Inventory Audit were based on the following (1) an initial count of Petitioner’s inventory, confirmed by Petitioner; (2) a follow-up count of Petitioner’s inventory, confirmed by Petitioner; (3) a verification of the number of WIC vouchers redeemed by Petitioner; and (4) a review of purchase documentation submitted by Petitioner. Petitioner disputes the Inventory Audit, contending that DPH failed to adequately consider its purchase documentation.
4. Petitioner contended that all of the voucher redemptions were supported by its inventory. Petitioner, as the custodian of its purchase documentation, was in the best position to show that its WIC voucher redemptions were supported by its inventory. However, it offered no credible evidence to support its contention, despite having been afforded ample opportunity to do so.
5. At the onset of the audit, Mr. Al-Badri indicated to auditors that he had only two to three unredeemed vouchers, and did not report that inventory was stored offsite. Petitioner submitted credit card statements, invoices, and undated receipts in support of its argument that the putative voucher redemptions were actually supported by its inventory. Such evidence, however, does not establish that Petitioner was actually in possession of the requisite inventory during the audit period.

6. The credit card statements tendered into evidence at the adjourned hearing offer no insight into Petitioner's inventory during the audit period. These statements provide no details as to what items were purchased and in what amounts. Accordingly, they are insufficient to establish that Petitioner made purchases of the relevant WIC-approved items during the auditing period.

7. Petitioner submitted four invoices to DPH, which it contended, evidenced the purchase of items that DPH should have counted as part of Zam Zam International's inventory in the audit. However, invoices, by themselves, are insufficient to demonstrate that the items therein described were actually available for Petitioner to sell without evidence that Petitioner paid for the items or took possession of those items. When auditors afforded Mr. Al-Badri an opportunity to produce documentation that he paid the invoices, Petitioner produced cash withdrawal slips. Cash withdrawal slips merely indicate that money was withdrawn from the account-holder's bank, not that the money was applied toward any particular purchases. Cash withdrawal slips are especially unreliable to demonstrate payment where, as here, they reflect withdrawals for amounts insufficient to cover the balances of the invoices. Accordingly, DPH was justified in disregarding the invoices in its Inventory Analysis.

8. Petitioner further argued that many of its suppliers extend to it a line of credit, which accounted for lack of evidence of payments during the auditing period. Although Petitioner's description of its method of payment may arguably account for a lack of purchase documentation during the auditing period, it falls short of explaining the lack of purchase documentation at any point thereafter. If, as Petitioner posits, it engaged in a practice whereby suppliers would deliver inventory to its store and receive payment therefor at a later date, Petitioner should be able to produce documentation that these vendors were eventually compensated. Petitioner produced no evidence that would suggest it made payments of this kind to its suppliers.

Minimum Square Footage Criterion

9. DPH is the State Agency responsible for publishing

the terms and conditions for vendor authorization and participation under the Georgia WIC State Plan of operation through the Georgia WIC Procedures Manual, the Vendor Agreement, and Georgia WIC Vendor Handbook . . . *Vendors are required to abide by the provisions of the current Vendor Handbook, as amended, including the sanction system outlined therein.* Vendors will be subject to the sanctions for program violations in accordance with the version of the handbook and all amendments in effect at the time the violation occurs.

GA. COMP. R. & REGS. 511-8-1-.04 (emphasis added).

10. The Georgia WIC Handbook provides as follows:

Suitable Store Location. Stores must contain at least 3,000 square feet of retail food sales space open to the public, including administrative and storage

space . . . Vendors already participating in the program as of December 1, 2011 will have until October 1, 2012 to comply with this requirement.

GEORGIA WIC HANDBOOK 5. The Georgia WIC Handbook further provides that an authorized vendor's failure to meet this criterion is cause for termination of the Vendor Agreement. GEORGIA WIC HANDBOOK 33-34.

11. DPH established that Petitioner failed to adhere to its minimum square footage requirements. Petitioner's assertion that its store is 3,000 square feet in area is not credible in light of its previous representations that its store was 2,700 square feet in area. Mr. Al-Badri consistently reported his store's square footage to be 2,700 square feet on applications in 2004, 2007, and 2010. Mr. Al-Badri told Mr. Carman that his store was 2,700 square feet in area in an interview that took place on October 16, 2012, after passage of the date on which the minimum square footage criteria became effective. Petitioner first indicated that its store was 3,000 square feet in area in a Vendor Certification Form submitted to DPH on November 19, 2012. Although Petitioner submitted its Lease Agreement as evidence of the square footage of its store, this document makes no definitive assertions of the building's area, but rather offers only estimations and approximations. Petitioner did not offer more definitive measurements of its store despite having been given an opportunity to do so.

Production of Purchase Documentation Criterion

12. The Georgia WIC Handbook provides that an authorized vendor's "failure to provide food instruments, inventory records, food sales or tax information upon request" is cause for termination of the Vendor Agreement. GEORGIA WIC HANDBOOK 33.

13. In this case, DPH established that Petitioner failed to produce the purchase documentation requested during the Inventory Audit. Petitioner did not refute DPH's evidence that it had failed to produce such documentation. DPH introduced credible evidence that auditors did not receive any purchase documentation from Petitioner until February 18, 2013. In Mr. Al-Badri's February 11, 2013 hearing request, he submitted that the documentation was delivered on December 17, 2012, well after the deadline for submitting the documentation had passed.

IV. Decision

IT IS HEREBY ORDERED that DPH's decision to impose a three-year disqualification against Petitioner and terminate its Vendor Agreement is **AFFIRMED**.

SO ORDERED, this ____th day of April 2014.

M. PATRICK WOODARD
Administrative Law Judge