



Department of Health

RFP #20316

WIC Infant Cereal Rebate

Questions and Answers Posted December 4, 2023

Question #	Question	Answer
1.	Page 3, Section 2.1. – This section states the WIC program is a “federally and state-funded program.” How much state funding was provided for the NY WIC Program in the most recent calendar or fiscal year?	This information is not relevant to bidding on this IFB.
2.	Page 4, Section 2.1. – Does NY WIC authorize above 50% vendors? If yes, how many such vendors are authorized in NY? Is the State able to provide the percentage of dollar redemptions represented by these stores?	Yes, NY WIC does authorize A50 Vendors. As of 10/27/23, there are 25 A50 Vendors. The percentage of dollar redemptions represented by these stores is not available.
3.	Page 4, Section 2.1. – How many “children and women with qualifying medical conditions” were prescribed infant cereal in the most recent 3-4 months? Are specific types of infant cereal typically prescribed for these participants such as rice or oat, etc?	As of October 2023, approximately 250 women and children are currently prescribed infant cereal. These participants are not prescribed a specific type of infant cereal.
4.	Page 4, Section 2.1 – This section states the “average monthly number of 8-ounce units of infant cereal redeemed during April-September 2022 was 68,222.” Were infants issued the full 129,198 8-ounce units to which they were entitled? These numbers suggest a redemption rate for infant cereal of 53%. Can the state confirm this redemption rate.	The figure 129,198 is the number of cereals that could be provided based on the six (6) month average caseload shown in Table 1. It is the approximate redemption rate for infant cereal.
5.	Page 4, Section 2.1 – This redemption rate appears to represent a significant decline from the data provided in 2018 that showed a redemption rate of 78%. Is the State able to provide an explanation for why the redemption rate for infant cereal has declined?	This cannot be determined.

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6.	Page 4, Section 2.1 – How many participants do not redeem any of the infant cereal benefits issued to them?	This cannot be determined.
7.	Page 5, Section 2.1 – Is there a reason why the Capital and Central regions were combined for Table 2?	This is not relevant for bid submission.
8.	Page 5, Section 2.1 – Please provide the number of vendors broken out by peer group for each of the regions listed in Table 2. Please also provide the percentage of vendors by each peer group in each region.	This information is provided as a revision in Amendment #2 and posted as Attachment E.
9.	Page 5, Section 2.3 – Term of Agreement – Would the State consider revising the term of the Contract to a 3-year base term with two 1-year options to renew with mutual consent of the State and the contractor? Revising the term would make the resulting contract more appealing to potential bidders.	No, the contract awarded as a result of this Invitation for Bids will be for a five-year term.
10.	Page 7, Section 4.2.a. – Cereal Varieties – Please confirm the State will work with the contractor if market conditions require the contractor to alter the mix of varieties currently required under the contract. We do not have any plans to eliminate specific varieties. However, if conditions in the market lead to changes in the mix of varieties, we cannot produce a single product variety for one state. Please confirm NY WIC will amend the contract if a situation arises requiring the discontinuance certain varieties.	NYS would work with the contractor should that circumstance arise to ensure contract requirements can continue to be met. Any product changes must comply with federal regulatory requirements described in 7 CFR 246. All contract amendments are subject to approval by NYS Attorney General and Office of the New York State Comptroller.
11.	Page 7, Section 4.3.a. – Product or Service Requirement – Please confirm notification is not required for label or ingredient changes that are so minor that they would not be noticeable to a shopper or retailer.	This is not confirmed. Any changes to ingredients or labeling that in any way alter actual or perceived nutritional value must be preceded by notification, regardless of whether said changes are “not noticeable” in the opinion of the manufacturer.
12.	Page 8, Section 4.3.c. – What are the current minimum stocking requirements for infant cereal?	Minimum stock for grocery stores is six 8-ounce containers of infant cereal.
13.	Page 8, Section 4.3.e. – Please confirm that for all infant cereal distributed to WIC participants through the retail system, the State will only bill the manufacturer for rebates on containers of infant cereal lawfully purchased at authorized retail vendors by WIC participants.	This is confirmed.
14.	Page 9, Section 4.3.h. - We have the following questions related to this section: a. Please confirm the 30-day requirement is only for notification that the manufacturer disputes or believes that there may be an error in the invoice, and that full documentation of the contractor’s concerns are not required to be presented within 30 days.	a. This is confirmed. b. This is confirmed.

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	<p>b. Please further confirm the 30-day requirement does not apply if the state uncovers errors in billing resulting in under-or over-billing to the contractor. Please confirm the State agrees to refund or credit the manufacturer when the State, or other governmental entities confirm infant cereal redemptions were billed to the manufacturer as part of a fraudulent transaction (i.e., WIC trafficking, etc.).</p>	<p>c. This is confirmed only on the basis of final administrative or judicial findings by courts of competent jurisdiction that fraud has occurred.</p>
15.	<p>Page 9, Section 4.4.b. – Is the State able to estimate the number of participants who require kosher infant cereals? If unable to provide an estimate of infants receiving kosher infant cereals, please provide the number of infants aged 6-12 months receiving kosher infant formulas so bidders may estimate the number of infants requiring kosher infant cereals.</p>	<p>This information is not available.</p>
16.	<p>Page 12, Section 4.7 – We request the State agree to adjust the rebate amounts on the first day of the month following the effective date of the price increase. In the alternative, we request the State agree that rebate amounts will be adjusted only for food instruments issued on or after the date of the price increase. Otherwise, the State is receiving a higher rebate amount for products purchased while the lower wholesale price was still in effect.</p>	<p>This will not be amended.</p>
17.	<p>Page 12, Section 4.7 – Please confirm late payment interest fees will be prorated based on the number of days a payment is late in a given month. For example, if a payment is 15 days late, please confirm the late charge would be the amount due multiplied by the percent late charge, divided by two. If unable to confirm, please provide additional information, including examples for how the late charge would be calculated based on a typical invoice amount, with a payment made (1) one day late, (2) ten days late, and (3) 29 days late. We also request clarification of the interest rate specified in this provision. Is the State imposing a 4% per month fee – i.e., 48% annual rate for late payments? If yes, we believe this is excessive and urge the state to reduce this amount to an annual rate of 12-18% - i.e. 1% to 1.5% per month.</p>	<p>Please see Amendment #2 to this solicitation for this revision.</p>
18.	<p>Page 13, Section 4.10 – Please confirm Forms #1 and #2 in Attachment 5 are not required to be submitted with the bid.</p>	<p>This is confirmed.</p>
19.	<p>Page 15, Section 5.4, paragraph 15 – This section states, "Every offer made by a Bidder . . . shall be firm and not revocable for a period of 365 days from the bid opening, . . ." We urge the state to amend this provision to reduce the period to 120 days. We believe requiring offers to be open for one year is excessive and unreasonable. Bidders are</p>	<p>This provision will not be amended.</p>

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	providing bids based upon the business environment and circumstances at the time of the bid. Requiring bids to remain open for such a long period of time reduces the attractiveness of this bid.	
20.	Page 20, Section 7.0 – Bid Submission – Please clarify bidders are permitted to have two representatives attend the bid opening in person. Is there a limit on the number of representatives who may attend virtually?	The bid opening will be virtual only. Bidders are welcome to register up to two (2) representatives to witness the Bid Opening virtually. Bidders must pre-register their representatives for the Public Bid Opening by emailing BSFPFMS.Procure@health.ny.gov by the deadline for registering indicated in Section 1.0, (Calendar of Events) of this IFB.
21.	Attachment A – Bid Package Checklist – We appreciate the State including this Attachment; it is very helpful for completing the bid submission. Please confirm items not marked "MANDATORY" on the Checklist for Bidders (Attachments 1,3,4,11,12,5,6) are not required to be submitted with the bid and may be provided upon notice of intent to award.	Documents not marked "Mandatory" on the Checklist for Bidders (Attachments, 1, 3, 4, 11, 12, 5, 6) are not required to be submitted with the bid and can be provided upon notice of intent to award.
22.	Attachment F – M/WBE Forms – Please confirm Attachment F does not have to be completed and submitted with the bid. At what point in the process is the bidder required to submit this form?	Attachment 5 – MWBE Forms are not required to be submitted with a bid. They can be provided upon notice of intent to award.
23.	Attachments G, H, I, J, and M– Please confirm these attachments do not have to be completed and submitted with the bid. At what point in the process is the bidder required to submit these forms?	These attachment letters are not part of this IFB.
24.	Page 7, Section 4.2(a) – Will the NYSDOH consider bids from bidders that do not offer single-grain rice infant cereal given that, in recent years, public health authorities and organizations such as the U.S. Food and Drug Administration, U.S. Centers for Disease Control and Prevention, the New York State Children’s Environmental Health Centers, the American Academy of Pediatrics, and the Pediatric Environmental Health Specialty Units have recommended increasing the consumption of fortified infant cereals such as oat, barley, and multi-grain, and decreasing the consumption of infant rice cereal due to potential concerns around the naturally occurring inorganic arsenic content of rice? It is our understanding that infant rice cereal sales have declined by almost 40% over the last five years.	Please see Amendment #1 to this solicitation for this revision.
25.	Page 7, Section 4.2(a) – Is the NYSDOH aware that many baby food manufacturers no longer produce single-grain rice infant cereal, and that maintaining the requirement for bidders to provide a minimum of three varieties of cereal, including single-grain rice infant cereal: (i) would eliminate all potential bidders that are located in the state of New York,	Please see Amendment #1 to this solicitation for this revision.

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	<p>which is contrary to Section 6.2.7 and Attachment 6 of the IFB “Encouraging the Use of New York Businesses in Contract Performance”; and (ii) could potentially eliminate all potential bidders but one? To ensure competitive bidding, would the NYSDOH consider revising the bid to allow a minimum of two varieties of dry, plain infant cereal, and eliminate the requirement that one of the varieties be single-grain rice infant cereal? We note that in 2018, the NYSDOH amended its 2018 IFB #17794 WIC Infant Cereal Rebate in response to public questions to ensure more competitive bidding.</p>	
26.	Does New York WIC anticipate authorizing organic infant cereals during the term of this contract? If yes, would an organic oatmeal and non-organic oatmeal infant cereal satisfy the two-variety requirement?	Organic cereal will be allowed if it is part of the winning bid. Organic cereals of the same grain would not satisfy the requirement of at least two grain types.
27.	Would the State enter into a contract whereby only organic infant cereals are authorized for WIC participants?	Yes.
28.	If organic infant cereals will not be authorized during the term of this contract, would the State provide its rationale for not authorizing organic infant cereals?	Organic cereal will be allowed if it is part of the winning bid.
29.	Amendment 1 eliminated the requirement to supply a single grain rice infant cereal. Would the State provide an explanation for why this requirement was removed?	The IFB was amended to address the limited manufacturing availability of single-grain rice infant cereal in the current marketplace. Removing single-grain rice as one of the required varieties will promote greater competition for this procurement.
30.	Please confirm rice cereal will satisfy one of the two cereal varieties.	This is confirmed.
31.	What percentage of the infant cereals currently redeemed by NY WIC participants is single grain rice?	Rice infant cereal represents 36.35% of infant cereal redemptions between August 2023 and October 2023.
32.	Is the State concerned that removing single grain rice infant cereals may further reduce redemptions of infant cereal in general?	The IFB was amended to address the limited manufacturing availability of single-grain rice infant cereal in the current marketplace. Removing single-grain rice as one of the required varieties will promote greater competition for this procurement.

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33.	If a child needs a rice cereal for medical reasons, how will the state provide this product to its participants?	This is not relevant for the bid submission.
34.	Will the State provide an explanation for why corn cereal is not a WIC-eligible food item. We are not aware of any federal regulation making this product ineligible. Please clarify whether this is a NY WIC decision not to authorize this product, or the State believes this item does not satisfy federal regulations.	Corn infant cereal is allowable. Please see Amendment #2 to this solicitation for this revision.
35.	Are there other cereal grains NY WIC will not authorize if new infant cereal products are developed during the contract period?	Not at this time.
36.	Page 8 of the IFB, Section 4.3b. – This section states: “The contractor must guarantee availability of NYS WIC-approved contract cereal to all the program’s authorized vendors through currently used marketing channels or practices or make such distribution changes as needed to guarantee availability.” Are bidders expected to provide supporting documentation with the bid or otherwise certify the ability to supply throughout the State, including the metropolitan area? Is ACV or other data required to be submitted as part of a bidders guarantee of its ability to supply the State?	The Bidder must submit documentation that provides evidence of meeting the minimum qualifications to bid. This documentation may be in any format needed to demonstrate how they meet those minimum qualifications.
37.	Page 8, Section 4.3c. – What assurances must a bidder provide with the bid submission (or after contract award) to satisfy the requirement that the “contractor is responsible for ensuring that a purchasing system with prices at or near the contractor’s national wholesale prices is available to small-scale vendors who buy small amount of infant cereal. Note that these vendors may be in remote, rural areas of New York State.”	By completing and signing Attachment 7, the Bidder certifies that it can and will provide and make available, at a minimum, all services as described in the IFB if selected for award. This includes the requirements in Section 4.3c.
38.	Amendment 1, Page 2, Section 4.2(d) – Can the NYSDOH provide rationale for excluding Corn infant cereal from eligible cereal varieties? Corn cereal is nutritionally as-adequate as single-grain oatmeal, rice, and multigrain varieties, providing 60% DV Iron, 25% DV Zinc, and 20% DV Vitamin D. Beech-Nut’s Corn infant cereal is nutritionally superior to the leading brand’s rice and multigrain products, as outlined in the Table below, with daily values of critical vitamins and minerals exceeding competitive levels. Unlike competitive products, Beech-Nut Corn cereal also contains 20% DV Vitamin D; breastfed infants are at risk of deficiency as breast milk alone does not provide infants with an adequate amount of vitamin D. The Dietary Guidelines for Americans and American Academy of Pediatrics recommend that breastfed and partially breastfed infants be supplemented with vitamin D. Corn cereal, in contrast to Oat or Multigrain cereal, offers the same functionality as Rice cereal in how it thickens water or formula to help reduce gastroesophageal reflux in infants which is endorsed by the American	Corn infant cereal is allowable. Please see Amendment #2 to this solicitation for this revision

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	<p>Academy of Pediatrics as a remedy for this common issue in infants. Corn cereal also offers a “complete protein” that contains all 10 essential amino acids and is second only to Oat in the levels of these essential amino acids in cereal grains. Corn infant cereal is currently WIC approved in 14 states (Alaska, Florida, Idaho, Illinois, Indiana, Maine, Michigan, Missouri, Texas, Utah, Vermont, Wisconsin, West Virginia, and Wyoming) and is under review in other states for upcoming Spring WIC food list publications. Additionally, corn infant cereal is proven to index highly with Hispanic consumers who make up the largest percentage of participants on the WIC program.</p>	
39.	<p>Page 7, Section 4.2(b) – Would the NYSDOH consider revising the bid to allow flexibility in production timing. (Bidder) previously manufactured multigrain infant cereal under the (Bidder’s) brand name. We are currently producing multigrain infant cereal under a different brand name. (Bidder’s) Multigrain Cereal is listed on our price list and we have the ability to resume production immediately pending award of the bid.</p>	<p>The IFB will not be amended. The required infant cereal varieties must be in production and listed on the bidder’s national wholesale price list as of the date of the bid submission. Contracting for a subsidiary <i>brand</i> is acceptable if that brand is truly owned by the bidder and is clearly identified as such in the bid. The product cannot be produced by a subcontractor.</p>
40.	<p>What is the anticipated ‘first ship’ date to distributors, assuming contract start date of May 1, 2024, as outlined in the Schedule of Events?</p>	<p>Shipping should be arranged to ensure infant cereal is available for purchase by WIC participants on May 1, 2024.</p>