

**WIC Infant Cereal Rebate System**  
**FAU # 1305280407**  
**Questions and Answers Document**

1. Page 5, Section B. - Background - This section states that WIC is state-funded. Is the state currently providing funding for the program? Please provide state funding amounts for the last three years.

**Answer: The Background section states that “WIC is a federally- and state-funded program carried out pursuant...” Food benefits provided to WIC participants are 100% Federally-funded. State funding augments Federal funding for Administrative and WIC local agency contract expenses. The amount of State funding utilized by the WIC Program over the past three years is as follows:**

- SFY 2011/12 – \$21,511,780
- SFY 2012/13 – \$20,886,313
- SFY 2013/14 - \$19,718,508

2. Page 5, Section B - in the third paragraph of this section it states that checks "may be issued for up to a three-month period, and may be issued up to 30 days before the first "not good before" date on the checks. Under what circumstances are checks issued 30 days before the first "not good before" date on the checks. Is this the typical issuance pattern? Are any/some participants issued checks with a "not good before" date that is the same day of the clinic visit?

**Answer: Checks can be issued up to 30 days in advance of the ‘not good before’ (NGB) due to scheduling issues. This is not typical. Checks can also be issued after the NGB date. Some participants are issued checks with NGB dates that are the same day as the clinic visit, particularly in the event of new certifications.**

3. Page 6, Section B - the second paragraph states the contract will be for a five-year period, with a final three-month extension at the sole discretion of New York State (see also page 22, Section E.7. - Term of Contract). We have the following questions:

- a. Would the state be willing to amend the contract term to provide for an initial 3-year term, with two one-year options to extend/renew? Amending the term would make this contract more attractive.

**Answer: The contract awarded as a result of this Invitation for Bids will be for a five-year term.**

- b. In order to attract the best possible bids in response to this IFB, we strongly encourage the state to require mutual consent for contract extensions. Please confirm this change will be made.

**Answer: The offer to extend the contract for a three month term at the end of the five-year contract will be made based on the needs of the state and at the**

**state's discretion. The contract cannot be extended without mutual consent as the contract must be endorsed by both parties.**

- c. What is the purpose of the final three-month extension?

**Answer: The intent of this language is to inform bidders of the potential that the Contractor will be offered a three (3) month extension of the contract. The extension will be offered at the sole discretion of New York State. The purpose of the additional three-month extension is to accommodate any unforeseen delays in the next procurement process. To date, the State has not needed to execute a three-month extension for a rebate contract for the WIC program.**

4. Page 6, Section B - the third paragraph discusses an eventual move to an EBT system. Is there an estimated date for piloting an EBT system? When would the state anticipate implementing its EBT system statewide?

**Answer: This project is in the very early stages. Project specifics such as this have yet to be determined.**

5. Page 9, Section C.3. - Bidder Qualifications/Certification - Manufacturing Capacity - Please describe examples of alternatives to a Dun & Bradstreet Business Information Report that may be submitted to satisfy the request in this section. Would an annual report satisfy the request in this section?

**Answer: An acceptable document or documents will show that the bidder has continually operated as an infant cereal manufacturer for at least three years, and is capable of producing the quantity, quality and variety of infant cereals required by the IFB. If an annual report identifies this information, then it would be acceptable.**

6. Page 10, Section C.4.a. - the second paragraph in this section requires 90 days notice to the Department of Health (DOH) prior to any changes in container size, container label, or product ingredient. Would the state consider amending this provision to require notice at the same time the contractor notifies its other customers? Please also confirm this provision does not apply to minor ingredient or label changes.

**Answer: This provision will not be changed. The timeframe of 90 days was selected because of advance issuance of WIC checks. Any timeframe shorter than 90 days will result in participants' receiving checks that may not be useable at the time of redemption. Short timeframes also prevent sufficient participant and cashier education regarding product changes, leading to confusion at the store check-out. Consistent, easily recognizable labels are critical for participants whose first language is not English. This provision does not apply to label or ingredient changes that are so minor that they would not be noticeable to a shopper or a cashier.**

7. Page 10, Section C.4.a - please replace "infant food" in the first sentence of the third paragraph with "infant cereal".

**Answer: Please see Amendment #2 to this solicitation for this revision.**

8. Page 11, Section 4.c. - Please amend this section by adding "WIC-eligible 8 oz" before "infant cereal" in the first sentence of this section.

**Answer: Please see Amendment #2 to this solicitation for this revision.**

9. Page 11, Section 4.d. - Similar to the request above, please amend this section by adding "WIC-eligible 8 oz." before "infant cereals" in the third line of the first paragraph of this section.

**Answer: Please see Amendment #2 to this solicitation for this revision.**

10. Page 11, Section 4.d.i. - calculation of rebate for new or existing products - please amend this section to clarify the discount percentage is established at the time of the bid. Please further amend this section to clarify the applicable wholesale price for newly added products is the wholesale price for those products on the date they are approved for issuance by DOH.

**Answer: With regard to the discount percentage question, the IFB will not be amended. This discount percentage to be used for a newly-approved product will be calculated based on the current percentage discount (as of the time of product approval) rather than the historical discount dating back to bid submission.**

**With regard to the applicable wholesale price question, please see Amendment #2 to this solicitation for revised language which addresses the applicable wholesale price for newly-approved products.**

11. Page 12, Section 4.g. - Please amend this section by clarifying in the first paragraph that the state will issue other WIC-authorized varieties of the contractor's products prior to issuing another manufacturer's products if there is a product shortage. Please also confirm DOH will work cooperatively with the contractor to ensure reasonable steps will be taken to ensure all WIC participant needs are met if there is a product shortage.

**Answer: The IFB addresses this concept already by indicating that the entire line of the contractor's approved infant cereals must be backordered before another company's products are considered for issuance. To date, this clause has never been invoked. In the event of a shortage, the state will work cooperatively with the contractor to meet participant needs. However, if participant needs cannot be met by the contractor, the state has the right to substitute another company's products and receive rebates from the contractor for the other company's products.**

12. Page 12-13, Section 4.h. - Please confirm late payment interest fees will be prorated based on the number of days a payment is late in a given month (see also pp. 21-22 Section E.6. - Payment). For example, if a payment is 15 days late, please confirm the late charge would be the amount due multiplied by the one 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.

**Answer: It is confirmed that the late payment interest amount due to the State will be prorated based on the number of days that a payment is late. For amounts less than 30 days late, the amount due is calculated as:**

$$\text{(Number of days late / 30 days) x 0.01 x Invoice Amount = Interest amount}$$

13. Can a manufacturer bid on the contract if they may have less than 4 WIC eligible cereal products at some point during the contract term?

**Answer: Per the IFB, the winning bidder must manufacture, throughout the duration of the contract, a minimum of four (4) types of dry, plain infant cereal, including single grain rice and single grain oatmeal, plus a minimum of two additional varieties, in 8-ounce containers.**

14. If a manufacturer discontinues manufacturing and selling some WIC eligible cereal products within its range during the term of the contract, such that its range reduces from more than 4 to less than 4, what will be the implication to the manufacturer during the contract term?

**Answer: As the IFB document will be incorporated into the final contract as Appendix B, the winning bidder would not be honoring the terms of the contract if it reduced its number of infant cereal varieties below four (4) during the term of the contract. In this case, the State may opt to terminate the contract.**

15. Will the State substitute a different manufacturers product if the contract winners range of WIC eligible cereal products falls below 4 during the contract? If so, will contract winner be obligated to pay redemption on the substituted product?

**Answer: The State would explore all available options for providing WIC participants with a sufficient variety of infant cereal products to meet their dietary needs, including the option of terminating the contract. The contractor is only required to rebate the DOH for another company's infant cereal products when the entire line of the contractor's approved infant cereals has a factory backorder of three calendar days or more, and another company's infant cereal will need to be substituted to provide the participant(s) with his/her monthly prescription.**

16. Page 13, Section 4.i. - We have the following questions related to this section:

- a. Thirty days is an insufficient amount of time to determine whether there are potential billing errors. We request this provision be changed from 30 days to 120 days. Please confirm this change will be made.

**Answer: This provision will not be changed. Please note that the 30-day requirement contained in item i. on page 13 of this IFB is only for notification that the manufacturer disputes or believes that there may be an error in the invoice. It is not necessary that full documentation and presentation of the contractor's concerns be completed within that period. The 30-day notification timeframe is necessary for the NYS WIC program to comply with USDA/FNS financial reporting requirements; disputed receipts must be treated as potential unliquidated obligations. The 30-day requirement does not apply if the state uncovers errors in billing resulting in under- or over-billing to the contractor.**

- b. Please confirm that this time limit would also apply to the state such that if the state does not notify the contractor within 30 (or 120) days of a billing dispute or change related to a specific invoice, the state will have waived any right to request a return of funds.

**Answer: This provision will not be changed. The state is entitled to a rebate payment for all infant cereal food instruments issued to WIC program participants during the term of the agreement and redeemed according to the redemption period defined within WIC program procedures. Invoices will be prepared on an approximately monthly basis for the prior month's redemptions. Supplemental invoices will be prepared if ongoing state data system maintenance activities identify additional or corrected amounts. The 30-day requirement only applies to notification by the contractor to the state of a potential dispute; it does not apply if the state uncovers errors in billing resulting in under- or over-billing to the contractor.**

- c. Please confirm that no new billing claims of any kind may be brought by either party after closeout of the federal fiscal year to which the billing claim relates.

**Answer: This provision will not be changed. The state is entitled to a rebate payment for all infant cereal food instruments issued to WIC program participants during the term of the agreement and redeemed according to the redemption period defined within WIC program procedures. Additionally, if the state uncovers errors in billing resulting in under- or over-billing to the contractor, the state is required to revise the close-out information provided to USDA, and to bill or credit to the rebate contractor accordingly.**

- d. When does DOH typically complete closeout of the federal fiscal year? Is there a specified timeframe in which closeout must be completed?

**Answer: Closeout activities for the federal fiscal year ending on September 30<sup>th</sup> must be completed by January 31<sup>st</sup> of the following calendar year, when the final report is due to FNS.**

17. Page 14, Section 5.b. - Has the state issued any non-contract-brand infant cereal during the term of the existing contract? If yes, please provide monthly issuance of non-contract-brand infant cereals for the calendar year 2012 and 2013.

**Answer: This state has not issued any non-contract-brand infant cereal during the term of the existing contract.**

18. Page 16, Section D. - Bid Requirements - Contents of the "Technical Response" Envelope - we have the following questions:

- a. Please confirm the state is requesting that five complete sets (two signed originals and three copies) of both the Technical Response and the Cost Proposal are to be packaged separately and then included in one envelope.

**Answer: This is confirmed. If the contents do not fit in an envelope, a cardboard box may be used.**

- b. Please confirm items not marked "MANDATORY" on the Checklist for Bidders are not required to be submitted with the bid and may be provided upon notice of intent to award.

**Answer: This is confirmed.**

- c. Please confirm the state is requesting labels/Nutrition panels for all WIC-eligible 8 oz. infant cereals.

**Answer: This is not confirmed. Labels/nutritional panels for all sizes of WIC-eligible infant cereals are needed. After contract award, the Department may need to develop instructions for participants that allow them to distinguish NYSWIC-approved cereals from other infant cereals produced by the same manufacturer.**

- d. Please confirm the checklist referred to in this section is Attachment 14.

**Answer: This is confirmed.**

- e. Please confirm that none of the attachments are required to be notarized.

**Answer: If the Vendor Responsibility Questionnaire (Attachment 13) is submitted with the Technical Response, it should be notarized. In order to process the contract of the winning bidder, a notarized Vendor Responsibility Questionnaire is required. None of the other attachments to be included in the Technical Response require notarization.**

19. Page 17, Section D. - Bid Requirements - Contents of the "Cost Proposal" Envelope - we have the following questions:

- a. Please confirm the M/WBE Utilization Plan referenced in this section is Attachment 10.

**Answer: This is confirmed.**

- b. On page 27 of the IFB, it states: "For purposes of this solicitation, New York State Department of Health hereby establishes an overall goal of N/A% for MWBE participation and N/A% for Minority-Owned Business Enterprises . . ." Given the

DOH has determined the MWBE goals are not applicable to this WIC infant cereal rebate contract, we request Attachment 10 be deleted from the IFB.

- c. If Attachment 10 cannot be deleted, we request the IFB be amended to remove the mandatory requirement for this attachment, and the state instead allow the winning bidder to submit this document upon notice of intent to award.
- d. If this Attachment must remain a mandatory provision, please provide additional instruction to guide bidders in properly completing this attachment given the goals have been established as not applicable to this infant cereal rebate contract. For example, please confirm bidders may write "N/A" in most of the sections, including "Description of Plan to Meet M/WBE Goals," "Projected M/WBE Usage," "M/WBE Staffing Plan," etc.

**Answer (16b., 16c., & 16d.): The MWBE forms need to be filled out, signed and submitted as a part of the bidder's proposal.**

**The various fields within the MWBE form requesting basic information about the bidder should be filled out as directed. However, fields requesting a specific dollar amount or percentage should be filled using "\$0" or "0%" respectively. Fields which request a description of the bidder's plan to meet the MWBE goals or a description of work should be left blank.**

- e. Please confirm that none of the attachments are required to be notarized.

**Answer: This is confirmed.**

- 20. Page 18, Section E. 2. - Inquiries - Please confirm all questions and answers will be issued as solicitation amendments for purposes of this section, and will therefore become part of the resulting contract. Please further confirm the responses to questions will take precedence over other provisions in the solicitation package.

**Answer: All questions and answers will be incorporated into the contract resulting from this IFB. Further, to the extent that a particular section of the IFB is modified by the answers provided, the answers provided take precedence over the unmodified section of the IFB. The overall order of precedence, as stated on the face page of the Sample Contract and Appendixes (IFB Attachment 11 – page 65), shall remain unchanged.**

- 21. Page 19-20, Section E.4.a. – Public Bid Opening – Would the state be willing to provide a dial-in number for the bid opening?

**Answer: A public bid opening will be held on the date and time indicated on the cover of the IFB in the offices of the Division of Nutrition (Riverview Center, 150 Broadway Suite 650, Albany, NY 12204-2719). Bidders are welcome to send up to two representatives to witness the package openings. There will be at least two representatives from the State present at the opening.**

**At the opening, the bidders' company names will be announced, the cost proposal envelopes will be opened, and the amounts will be read aloud. No other information will be opened or shared. The contract will not be awarded at the time of the bid opening.**

**Companies that are submitting bids and who are unable to send representatives may send an email to [WICIFBS@health.state.ny.us](mailto:WICIFBS@health.state.ny.us) no later than 3:00 p.m. Eastern Time, August 26, 2013 requesting dial-in information. DOH will respond via email with dial-in information. Please note that participation in the bid opening is not a requirement to be selected for an award.**

22. Page 20, Section E.4.a. - the last sentence of this section states, "every offer shall be firm and not revocable for a period of 365 days or until released by the state, whichever occurs first." (see also page 21, section 5.o.) 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 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.

**Answer: This provision will not be amended. Up to 365 days may be needed to secure all necessary approvals for this procurement and to execute the resultant contract. However, the anticipated start date of the contract resulting from this IFB is November 1, 2013 and it is expected that all necessary approvals will be in place by that date.**

23. Page 20, Section E.5.c. - What is meant by "Make an award under the IFB in whole or in part." Under what circumstances would the state make a partial award? We urge the state to delete this provision and clarify this will be a sole-source contract for the winning bidder.

**Answer: It is anticipated that the state will make an award which will result in one (1) contract resulting from this IFB. However, the state reserves the right to make a partial award under circumstances where there are changes in the applicable laws, funding availability and/or programmatic needs.**

24. Page 21, Section E.5.1. - We urge the state to remove this provision from the IFB. In the alternative, please confirm the state will not attempt to negotiate price once bids have been submitted.

**Answer: The IFB will not be modified. The State will award the infant cereal contract to the responsible and responsive bidder who offers the lowest total monthly Net Wholesale Cost for infant cereal.**

25. Page 22, Section E.7. Term of Contract - Please see question #3 above.

**Answer: The contract awarded as a result of this Invitation for Bids will be for a five-year term.**

26. Page 22, Section E.7. - We request the second paragraph of this section be amended to require a minimum 120 days notice prior to cancellation of the contract. We note the state would need at least this amount of time to rebid the contract. Providing such short cancellation rights for the state diminishes the attractiveness of this contract.

**Answer: This is standard termination language contained in all New York State Department of Health contracts. The Department of Health will provide as much advance notice as possible prior to terminating any contract. It is noted that rebidding the contract takes several months. Furthermore, WIC benefit checks are issued up to 90 days in advance.**

27. Pages 26-29 - As indicated above in a previous question we have questions and concerns about how to properly complete Attachment 10 - M/WBE Utilization Plan, given the state has indicated in this IFB the goals under that program are "N/A" to this WIC infant cereal rebate contract. Please remove this section from the IFB, or at minimum we respectfully request the state provide additional guidance to bidders on how to properly complete these forms.

**Answer: The MWBE forms need to be filled out, signed and submitted as a part of the bidder's proposal.**

**The various fields within the MWBE form requesting basic information about the bidder should be filled out as directed. However, fields requesting a specific dollar amount or percentage should be filled using "\$0" or "0%" respectively. Fields which request a description of the bidder's plan to meet the MWBE goals or a description of work should be left blank.**

#### Additional Questions

28. Please provide additional information regarding the transition from the current contractor to a potential new contractor. Please explain the procedure to be utilized in making the transition.

**Answer: NYS WIC will notify all WIC vendors and WIC local agencies of the change in contractors and the effective date. NYS WIC Minimum Stock Requirements for vendors will be updated and distributed to vendors. Information system changes will be made to ensure that all infant cereal checks with NGB dates before February 1, 2014 are printed with the existing contractor's brand of cereal, and all infant cereal checks with NGB dates on or after February 1, 2014 are printed with the new contractor's brand of cereal.**

- a. If a participant visits a local WIC agency on November 1, 2013, what will be the first "not good before" date on the checks issued to this participant?

**Answer: This varies according to the participant's certification day and issuance cycle.**

- b. If a participant visits a local WIC agency on December 1, 2013, what will be the first "not good before" date on the checks issued to this participant? Will the participant receive one two checks for the current contractors infant cereal and one check for the new contractor's cereal?

**Answer: The first NGB date will vary according to the participant's certification day and issuance cycle. All infant cereal checks with NGB dates before February 1, 2014 will be printed with the existing contractor's brand of cereal. All infant cereal checks with NGB dates on or after February 1, 2014 will be printed with the new contractor's brand of cereal.**

- c. How often are participants required to visit the local clinics or WIC offices?

**Answer: Participants must visit the local clinic at least every 3 months.**

- d. How many months worth of food checks do participants typically receive per visit?

**Answer: Participants generally receive 3 months of WIC checks.**

- e. Do participants receive their food instruments on the day they visit the clinic? Are food instruments distributed evenly throughout the month or are they issued on specified days during the month?

**Answer: Participants generally receive their food instruments on the day they visit the clinic. Food instruments can be NGB-dated any day of the month.**

- f. Please explain whether checks have a "not good before" date on the day of the visit, or is it the first day of the next month?

**Answer: The NGB dates on checks reflects the participants issuance cycle, which is established at certification. The earliest NGB date can be equal to the day of the participant visit, or it can vary by up to 30 days before or after the date of the visit.**

- g. If a participant visits the clinic on January 15, 2014 and received three months worth of checks, what is the "not good before" date for the January check and the February and March checks?

**Answer: That depends on the participant's issuance cycle. If the participant is certifying with WIC for the first time, the NGB dates would be January 15, 2014, February 15, 2014 and March 15, 2014. The checks with the NGB date of January 15, 2014 will be printed with the existing contractor's brand of cereal. The checks with the NGB dates of February 15, 2014 and March 15, 2014 will be printed with the new contractor's brand of cereal.**

29. Please provide contact information to confirm receipt of bids prior to the due date and time.

**Answer: Confirmation of receipt of bids may be directed by email at [WICIFBS@health.state.ny.us](mailto:WICIFBS@health.state.ny.us), or in writing to either of the Permissible Subject Matter Contacts listed on page two of the IFB.**

30. How many WIC-only stores (above 50 percent vendors) currently operate in New York?

**Answer: At present, fewer than 30 above 50-percent vendors operate in New York State.**

31. What are the top five WIC retailers in New York? For each of the top five, are you able to estimate the percentage of WIC checks redeemed at these retailers?

**Answer: Any information about a WIC vendor other than name, address, telephone number, Web site/email address, store type, and authorization status is confidential under federal regulations.**

32. How many small (single cash register) stores are authorized by WIC in New York? Are you able to estimate the percentage of WIC checks that are redeemed in these small stores?

**Answer: NYS WIC does not classify stores in this manner – only as pharmacies or grocery stores within vendor management areas. We do not classify vendors according to peer groups.**

**As noted in the IFB (chart on page 9), 79 per cent of NYS WIC vendors are located in the Metropolitan Region (see the regional map on page 97 of the IFB). Based on recent survey data, we estimated that over 60% of vendors in this region are single cash register stores.**

33. Does the state conduct compliance buys specific to the redemption of contracted infant cereal to ensure only the contract brand cereal is being purchased by WIC participants?

**Answer: NYSWIC does not classify compliance buys in this manner. Program compliance is safeguarded through participant and vendor training, vendor monitoring, vendor investigations (including compliance buys), participant investigations and sanctions for program violations. Enforced minimum stock requirements for vendors ensure that the appropriate foods are available for participants to purchase with their WIC checks.**

**With regard to contract brand infant cereal, the minimum stock requirements specifically name the contract brand infant cereal, and contract brand infant cereal is printed on the participants' checks.**

34. Has the state identified instances in which non-contract infant cereal has been purchased with WIC checks that specify the contract brand to be purchased? If yes, please provide additional details to provide potential bidders with information on the extent to which this is occurring in New York.

**Answer: NYSWIC does not classify program violations in this manner.**

35. We were writing to ask whether organic products would be considered for this IFB?

36. Are organic cereals allowed, or must cereals be conventional?

**Answer (35 and 36): Any cereal that is available in 8-ounce packages and meets the federal regulatory criteria for infant cereal may be submitted as part of this IFB. The criteria are: plain dry infant cereal; containing a minimum of 45 milligrams of iron per 100 grams of dry cereal; NOT containing infant formula, milk, fruit, or other non-cereal ingredients. All Invitation for Bids (IFB) requirements apply regardless of organic status. Please note that the bidder is required to use its least expensive WIC-eligible cereal as its bid cereal, and that the Department of Health may choose which of the successful bidder's infant cereals will be allowed for participant purchase with WIC food instruments.**