

INVITATION TO BID

State of Ohio
Department of Administrative Services
General Services Division
Office of Procurement Services

The Original Signed Bid must be submitted to the Office of Procurement Services to receive consideration for award.		BIDDER NAME	
BID NUMBER <u>OT904010</u>	OPENING DATE (1:00 p.m.) <u>NOVEMBER 23, 2009</u>	STREET ADDRESS <input type="checkbox"/> Check if remit address is different and list on separate sheet	
General Services Division Office of Procurement Services 4200 Surface Road Columbus, OH 43228-1395 Attn: Bid Desk		CITY STATE ZIP	
		COUNTY	MBE/EDGE CERTIFICATE NUMBER
		TELEPHONE NO. ()	TOLL FREE NO. 1 - ()
		CONTACT PERSON	FAX NO. ()
REQ./INDEX NO. <u>DOH017</u>	BID NOTICE DATE <u>NOVEMBER 19, 2009</u>	CONTRACTOR'S E-MAIL ADDRESS	
SELECT YOUR PREFERRED METHOD OF RECEIVING PURCHASE ORDERS AND ENTER THE E-MAIL OR FAX NUMBER INFORMATION (ONLY SELECT ONE METHOD) <input type="checkbox"/> E-Mail <input type="checkbox"/> Fax			
In addition to the standard terms for payment, the payment terms for state agency(ies) will be 2%,10 Days, Net 30 Days unless otherwise stated in the following space. If no discount is offered, bidder should circle "Net 30 Days". ____%, ____Days, Net 30 Days			
PARTICIPATING AGENCY(IES): LIMITED TO OHIO DOH/WIC; INDIANA AND WISCONSIN WIC PROGRAMS; AND OTHER STATE WIC PROGRAMS AUTHORIZED BY THE NATIONAL ASSOCIATION OF STATE PROCUREMENT OFFICIALS (NASPO)			
ADDENDUM FOR CHANGE ADDENDUM NO.: 5 REVISION DATE: 11/13/09			
<u>THE DEPARTMENT OF ADMINISTRATIVE SERVICES, OFFICE OF PROCUREMENT SERVICES IS SOLICITING BIDS FOR:</u> WIC INFANT FOODS REBATE PROGRAM Attached are pages 8, 11 and 13 to this Bid. Remove the pages from the existing Bid and replace with the attached pages. This addendum is issued to change the container size for Wisconsin from 3.5 ounces to 4.0 ounces to be consistent with the states of Ohio and Indiana. This will also eliminate the possibility of a sole-source Contractor that only provides 3.5 ounce containers. This also clarifies and makes consistent on pages 11 and 13 language pertaining to "same net rebate price per ounce."			

SPECIFICATIONS AND REQUIREMENTS
FOR THE WIC INFANT FOOD REBATE PROGRAM FOR OHIO, INDIANA, AND WISCONSIN

III. PROGRAM REQUIREMENTS

A. Infant Food

1. Infant food shall be manufactured under and comply with all applicable provisions of the Federal Food, Drug and Cosmetic Act, as amended, and all regulations promulgated there under.
2. Infant fruits and vegetables shall be sold at the retail level in accordance with authorized commercial wholesale pricelist. Ohio & Indiana are currently sold in 4 ounce containers and Wisconsin in 3.5 ounce containers.* Not allowed: added sugars, starches (e.g., cereal), salt or meat; added DHA/ARA; or baby food desserts (e.g., peach cobbler or tutti frutti)
3. Infant meat and poultry shall be sold at the retail level in 2.5 ounce containers, strained with gravy or broth only. Not allowed: added sugars or salt; added DHA/ARA; infant food combinations (e.g., chicken and green beans), or dinners (e.g., spaghetti and meatballs)
4. All varieties must meet USDA regulatory requirements for use in the WIC Program. Please see WIC Interim Rule at <http://www.fns.usda.gov/wic/regspublished/wicfoodpkginterimrulepdf.pdf>.

B. General Program Requirements

1. All products offered as infant food shall be under the same manufacturer/brand name.
2. The Contractor will be required to pay a rebate on all contract brand infant food redeemed by WIC retail vendors.
3. Infant foods for rebate specified in this Bid are being bid as brand specific, which signifies that no alternates will be accepted for an award. In Ohio, this is in accordance with the Ohio Administrative Code 123:5-1-10(I).
4. The rebate amount per ounce may be adjusted, if applicable, in accordance with the Escalator Clause of this agreement.
5. Rebateable infant foods applicable to each state (Ohio, Indian, and Wisconsin) must be available statewide.

C. Contract Brand Infant Food Rebate Procedure

Reference Attachments One and Two for the rebate procedures specific to Indiana and Wisconsin, respectively.

The following rebate procedures are specific to Ohio:

1. For the term of any Contract awarded pursuant to this Bid, the Contractor shall, in exchange for single supplier status, rebate monthly, a fixed amount per ounce of Contract brand infant food calculated by multiplying the rebate amount for that item by the number of ounces redeemed during the valid period by WIC retail vendors.
2. Payments due to the State shall be based on the number of ounces of infant food redeemed.
3. The rebate amount applied to the infant food shall be the amount effective during the month of the first day of use of the Food Instrument. (i.e., coupons issued on or after the start date of the rebate program.)

*3.5 ounce containers are currently being sold in Wisconsin. For the purpose of this Bid, the state of Wisconsin agreed to 4.0 ounce containers. Effective 11/13/09.

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3. If any audit, litigation, or other action involving the records is commenced before the end of the retention period specified in Section III, Item D, Part 2, the records must be retained until all issues arising out of the audit, litigation, or action are resolved.

IV. CONTRACTOR RESPONSIBILITIES

- A. The Contractor shall perform in compliance with Section III, Items A through D of any Contract awarded pursuant to this Bid.
- B. The Contractor shall guarantee that sufficient quantities of Contract brand infant food, offered on their Bid Response and awarded on any Contract awarded pursuant to this Bid, to meet State WIC Agencies participant demand, shall be made available for purchase by authorized WIC retail vendors. In the event the Contractor cannot make available the contract brand infant food to WIC retail vendors in one or more counties, for more than five (5) consecutive days for instances not covered under force majeure, the Contractor shall pay the same net rebate price per ounce* under the terms of this Contract, on another brand of similar infant food issued to participants.
- C. The Contractor shall provide to the State WIC Agencies advance notice of any changes in product packaging size, retail price, product labeling including UPC, or product reformulation. The notice shall be provided at least one hundred and twenty (120) calendar days prior to the effective date of such changes.
- D. If the Contractor produces new infant food products or new container sizes that are eligible for the WIC Program, the Contractor will provide a rebate based on the same net rebate price per ounce as the corresponding existing product.

V. CONFIDENTIALITY

- A. Due to federal confidentiality requirements, the Manufacturer may not have access to actual or copies of food instruments or other client records which identify WIC participants.
- B. States are prohibited from disclosing confidential Vendor information to the Manufacturer.

VI. STATE WIC AGENCIES RESPONSIBILITIES

- A. The State WIC Agencies shall perform in compliance with any Contract awarded pursuant to this Bid.
- B. The State WIC Agencies shall make available to the Contractor or the Contractor's designated representative all necessary reports pertaining to the redemption and billing process of the Sole Source Rebate System. The Contractor may have access to the WIC retail vendor's name, address and authorization status. Further, the State WIC Agencies will not be required to provide documents and/or information regarding policies and procedures (not related to billing processes), or operations of the WIC Program and the methods used to issue infant food.
- C. The State WIC Agencies' obligations under any Contract awarded pursuant to this Bid are contingent upon the funds awarded by the federal government, specifically the United States Department of Agriculture and appropriation of funds by the each state's legislative body. If each state's legislative body fails at any time to fund the State WIC Agency any Contract awarded pursuant to this Bid shall terminate on the date the funding expires without further obligation to the State WIC Agency. In Ohio, the State WIC Agency's obligations under any Contract awarded pursuant to this Bid are subject to O.R.C. Section 126.07. Nothing in any Contract awarded pursuant to this Bid shall be construed to alter the State WIC Agencies' exclusive right to determine which brands of infant foods, including those of the Contractor, are USDA authorized WIC Program approved brands for distribution to WIC Program participants in the retail vendor system.
- D. In the performance of their duties under any Contract awarded pursuant to this Bid, the State WIC Agencies shall abide by all applicable State and Federal regulations concerning the WIC Program including the regulations developed by the Food and Nutrition Service, United States Department of Agriculture contained in 7 CFR Part 246, and State WIC Program administrative rules, as they exist now or may be amended.
- E. The State WIC Agencies agrees to provide the Contractor with reasonable notification regarding changes to State WIC Program administrative rules which affect the Contractor's obligations under any Contract awarded pursuant to this Bid.

*Changed "a rebate, at the same percentage discount" to "the same net rebate price per ounce." Effective 11/13/09.

SPECIFICATIONS AND REQUIREMENTS
FOR THE WIC INFANT FOOD REBATE PROGRAM FOR OHIO, INDIANA, AND WISCONSIN

IX. PROCEDURAL NOTES

- A. This solicitation is for infant food (fruit & vegetables in 4 ounce containers*) in Ohio, Indiana, and Wisconsin; and meats & poultry in 2.5 ounce containers in accordance with authorized commercial wholesale pricelist.) only. If the State WIC Agency adds more types of infant foods produced by the Contractor to its approved list during the term of the Contract, the Contractor will provide a rebate based on the same net rebate price per ounce as the corresponding existing product.**
- B. During the term of any Contract issued pursuant to this Bid, if the Contractor discontinues the production any of the types of Contract brand infant foods, the Contractor may, in writing to the State WIC Agency, offer a replacement infant food. The Contractor must include in the written offer for the replacement: (1) the reason for the offer, (2) the wholesale price per ounce, (3) the net price per ounce, (4) documentation that the offered product is USDA approved and meets the Federal WIC definition for an infant food, (5) the formulation of the offered product, and (6) an explanation of how the offered product will serve the same population.
- C. The State WIC Agency reserves the sole discretion to determine if a product offered by the Contractor under Section VIII, Item B is appropriate as a replacement of the Contract brand infant food. To be appropriate, the offered infant food must at a minimum:
1. Be an infant food approved by the United States Department of Agriculture, Food and Nutrition Service by meeting the Federal WIC definition for infant food;
 2. Be offered at the same net price per ounce as the Contracted product, and
 3. Be necessary because the manufacturer is discontinuing production of the Contract brand infant food.
- D. If the State WIC Agency adds a new or replacement infant food, the change will take effect within 120 days of written notification-by the State WIC Agency.
- E. Representative:
- Both the State WIC Agency and the Contractor shall appoint a representative to assist in the administration of any Contract awarded pursuant to this Bid. All required notices pursuant to any Contract awarded pursuant to this Bid by either party shall be sent to the other party's representative. In the event that either party designates a different representative after the term of any Contract awarded pursuant to this Bid has begun, notice of that individual's name, address, and telephone number shall be furnished to the other party, in writing, within fifteen (15) calendar days after the designation.

*Changed specification of 3.5 ounce containers to 4.0 ounce containers for all states. Effective 11/13/09.

**Clarified language to be consistent with "same net rebate price per ounce." Effective 11/13/09.