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: OT904914 / OPENING DATE (1:00 p.m.): DECEMBER 18, 2013	STREET ADDRESS ☐ Check if remit address is different and list on separate sheet
	CITY / STATE / ZIP
General Services Division Office of Procurement Services 4200 Surface Road Columbus, OH 43228-1395 Attn: Bid Desk	COUNTY / MBE/EDGE CERTIFICATE NUMBER
	TELEPHONE NO. ( ) / TOLL FREE NO. 1 - ( )
	CONTACT PERSON / FAX NO. ( )
REQ./INDEX NO. DOH077 / BID NOTICE DATE 10/23/13	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)

☐ E-Mail ☐ 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):

OHIO DOH/WIC PROGRAM

ADDENDUM FOR CHANGE
ADDENDUM NO.: 7
REVISION DATE: 12/04/13

THE DEPARTMENT OF ADMINISTRATIVE SERVICES, OFFICE OF PROCUREMENT SERVICES IS SOLICITING BIDS FOR:

WIC DRY INFANT CEREAL AND WIC INFANT FOODS REBATE PROGRAMS

Attached are pages 1-16 to this Invitation to Bid. Remove the corresponding pages from the existing bid and replace with the attached.

As indicated herein this addendum is issued to remove page 17, remove all states except Ohio from the bid, extend the Bid Opening date, and to re-open the Q & A.

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PARTICIPATING AGENCY(IES): OHIO DOH/WIC PROGRAM

THE DEPARTMENT OF ADMINISTRATIVE SERVICES, OFFICE OF PROCUREMENT SERVICES, IS SOLICITING BIDS FOR:

WIC DRY INFANT CEREAL AND WIC INFANT FOODS REBATE PROGRAMS

TERM OF CONTRACT: This Invitation to Bid is to establish a requirements contract to procure the described supplies or services on behalf of the above participating agency(ies). The agency(ies) may place orders against the Contract beginning 04/01/14 or upon the date when DAS signs the Contract, whichever is later in time. The Contract will expire 03/31/17 unless DAS terminates the Contract based upon reasons set forth in Article I-C of the Standard Contract Terms and Conditions. No agencies may place purchase orders against the Contract beyond the expiration date unless DAS renews the Contract by amendment. The Contractor may begin performance under the Contract only upon receipt of a valid order from a participating state agency.

INSTRUCTIONS TO BIDDERS AND CONTRACT TERMS AND CONDITIONS, Revised 09/2012, are a part of this Invitation to Bid. Copies may be downloaded by clicking on this link: Instructions: Terms and Conditions for Bidding, Standard Contract Terms and Conditions, and Supplemental Contract Terms and Conditions. All prior versions of Instructions to Bidders, Contract Terms and Conditions are null and void.

By submitting this Invitation to Bid, the Contractor certifies that Contractor has truthfully disclosed the location(s) where all services are to be performed; the location(s) where all applicable State contract data is to be maintained or made available; and the principal location of business for the Contractor and all subcontractors. The Contractor further certifies and acknowledges that Contractor will not change the country of the location(s) where services are performed and will not change the country of the location(s) where data is maintained or made available without prior written consent of the State.

Any questions or clarifications regarding this Invitation to Bid should be directed to the Office of Procurement Services through the Internet at www.procure.ohio.gov/ All questions should be submitted a minimum of seven (7) working days prior to the bid opening date.

PRINTED/TYPED SIGNATURE	AUTHORIZED SIGNATURE (ORIGINAL SIGNATURE ONLY) (Please sign in blue ink)	DATE

The ORIGINAL signed Bid must be submitted to the Office of Procurement Services by 1:00 o'clock p.m., on the above listed opening date to receive consideration for award. It is requested that the Bidder NOT sign their bid in BLACK ink. BIDDER CERTIFIES, by signature affixed to its bid, that the information provided by it in its bid including the certified statements, is accurate and complete. Bidder declares to have read and understood and agrees to be bound by all of the instructions, terms, conditions and specifications of this Invitation to Bid and agrees to fulfill the requirements of any awarded contract at the prices bid.

SPECIAL CONTRACT TERMS AND CONDITIONS

AMENDMENTS TO CONTRACT TERMS AND CONDITIONS: The following Amendments to the Contract Terms and Conditions do hereby become a part hereof. In the event that an amendment conflicts with the Contract Terms and Conditions, the Amendment will prevail.

DELIVERY AND ACCEPTANCE: Services will be performed as set forth in the Contract and in accordance with paragraphs S-8, S-9, and S-10 of the Supplemental Contract Terms and Conditions. The location of performance will be noted on the purchase order issued by the participating agency. Payment for services rendered will occur upon the inspection and written confirmation by the ordering agency that the services provided conform to the requirements set forth in the Contract. Unless otherwise provided in the Contract, payment shall be conclusive except as regards to latent defects, fraud, or such gross mistakes as amount to fraud.

MANDATORY/REQUIRED SUBMISSIONS: As specified, mandatory submissions must be submitted with the Bid Response. Required documentation/materials should be submitted with the Bid. If not submitted with the Bid, the Bidder must provide the said documentation/materials within five (5) business days, after notification, to the Office of Procurement Services. Failure to provide mandatory submissions with the Bid Response or failure to provide the required documentation/materials, as applicable, within the stated time period will result in the Bidder being deemed as not responsive and the Bid Response will be immediately disqualified with no further consideration.

For specific submission requirements, Bidders should refer to Specifications and Requirements for a listing of those mandatory submissions due with the Bid Response. Some submissions do not become mandatory until requested during the Bid evaluation period.

EVALUATION: Bids will be evaluated in accordance with Article I-17 of the “Instruction to Bidder”. In addition, the State will evaluate the Bids in accordance with WIC Program Regulations. The Bidder will submit an Average Wholesale Price Per Ounce for each line. The commercial Wholesale Price Per Ounce shall be the average of the lowest Commercial Wholesale Price Per Ounce of each variety of infant cereal being offered, and all infant foods in the category being offered, as documented by the nationally published Commercial Wholesale Price List, as of the Bid opening date.

Line 1 – Infant Cereal Rebate Program
The Bidder must submit a rebate program for at least three varieties of infant cereal, one of which must be rice cereal.

Line 2 – Infant Foods Rebate Program
The Bidder must submit a rebate program for each category of the two (2) categories (1. fruit & vegetables; 2. meat & poultry) of WIC eligible infant food products.

An example at how a Bidder might arrive at an Average Commercial Wholesale Price for Category One (fruits and vegetables) is:

Authorized Item	Commercial Wholesale Price List	Percent of Sales based on UPC sales data	Weighted Price
Green Beans	$0.25	20%	$0.050
Peas	$0.29	70%	$0.203
Carrots	$0.27	10%	$0.027
Average Commercial Wholesale Price			$0.280

There are two (2) categories for this Bid. Category One is Fruits and Vegetables (4 oz. containers) and Category Two is Meats & Poultry (2.5 oz. containers).

The Bidder shall also submit a Rebate Amount Per Ounce for each category.

The State will subtract the Rebate Amount Per Ounce from the Average Commercial Wholesale Price Per Ounce to determine the Net Price Per Ounce.

The Net Price Per Ounce for each category will be multiplied by the Average Total Monthly Ounces redeemed to arrive at the Monthly Net Price.

The State will use the sum of the Monthly Net Prices for all categories to determine the lowest Bid.

SPECIAL CONTRACT TERMS AND CONDITIONS cont'd

CONTRACT AWARD: The contract will be awarded to the lowest responsive and responsible bidder meeting all Bid specifications and requirements listed herein offering the lowest Monthly Net Price by line item.

To determine the lowest monthly net cost, the State will subtract the Rebate Amount Per Ounce from the Average Commercial Wholesale Price Per Ounce to determine the Net Price Per Ounce. The Net Price Per Ounce will be multiplied by the Average Total Monthly Ounces redeemed to arrive at the Monthly Net Price. The State will use the sum of the Monthly Net Prices to determine the lowest bid per line.

For purposes of this Contract, any authorized brand of infant cereal or infant foods for which the Bidder submits a rebate Bid will be considered a contract brand infant cereal or infant food. The State WIC Agency provides no guarantee of the quantity of infant cereal or infant foods that will be used under a Contract awarded pursuant to this Bid.

CONTRACT RENEWAL: At the sole discretion of the State, any term contract issued pursuant to this bid may be extended for any number of months not to exceed twelve (12) months. Additional extensions may be achieved by mutual agreement between the State and the Contractor for any number of months, the cumulative total of all extensions shall not exceed thirty-six (36) months.

ESCALATOR CLAUSE: Any increase or decrease in the average nationally published Commercial Wholesale Price List of a particular category awarded on Contract pursuant to this Bid after the published Bid opening date, or during the term of any pursuant Contract, shall result in a cent-for-cent adjustment in Average Commercial Wholesale Price Per Ounce of that category to ensure the Net Price Per Ounce of that category is equivalent to the Net Price Per Ounce obtained in this Bid. The adjustment to the Commercial Wholesale Price Per Ounce shall be effective for Food Instruments with the first day of use during the month following the month for which the price change was effective. The Office of Procurement Services shall be notified by the Contractor, in writing, at least forty-five (45) calendar days in advance of any change in the Commercial Wholesale Price Per Ounce of the infant food / infant cereal. Notification shall consist of a letter to the Office of Procurement Services announcing the price(s) to be changed and shall be accompanied by a copy of the new wholesale price list. In the event that the Contractor fails to provide at least forty-five (45) calendar days notice of a price increase, the State will determine the effective date of the price adjustment, not to exceed sixty (60) calendar days.

The Contractor is additionally responsible for reporting any decreases in the Average Commercial Wholesale Price Per Ounce and request a decrease in the same manner as described above. If the Contractor fails to notify the State of any decrease it may result in being deemed as in default of the awarded Contract.

*TERMINATION: Any Contract awarded pursuant to this Bid may be terminated by either party upon at least one hundred and eighty (180) days advance written notice to the other party, subject to the following limitations. The Contractor shall not terminate any Contract awarded pursuant to this Bid prior to September 30, 2016. Failure to provide services in accordance with the requirements of any Contract awarded pursuant to this Bid may be cause for immediate termination by the State WIC Agency. In this case, the State WIC Agency agrees to provide at least thirty (30) days written notice to the Contractor to resolve the problem. Satisfactory resolution of the problem shall be determined by the State WIC Agency. In its notice, the State WIC Agency will specify what "satisfactory resolution of the problem" means.

Failure of the State WIC Agency to insist on strict performance on any Contract awarded pursuant to this Bid or to terminate any Contract awarded pursuant to this Bid after giving the Contractor the opportunity to resolve problems does not waive the State WIC Agency's right to insist on subsequent strict performance. In addition, any Contract awarded pursuant to this Bid shall automatically terminate under the circumstances specified in the following paragraph (Liquidated Damages). Notice of written termination must be sent to the State WIC Agency or the Contractor by certified mail, return receipt requested or delivered in person, with proof of delivery.

LIQUIDATED DAMAGES: In the event that the Contractor fails or refuses to provide services as agreed in any Contract awarded pursuant to this Bid or terminates any Contract awarded pursuant to this Bid at any time during the term of the Contract or any extension of the Contract, the Contractor shall pay to the State WIC Agency monthly payments equal to the rebate amount the State WIC Agency would receive to maintain the net price per ounce of contract brand infant cereal and/or infant food established pursuant to this Bid, as if the Contract were still in effect. The Contractor shall continue to make such payments each month until the date the Contract or extension to the Contract has been scheduled by the State WIC Agency to expire as provided herein, or until the State WIC Agency has executed a Contract with another Contractor to provide substantially the same services as named in any Contract awarded pursuant to this Bid and the term of such Contract has commenced, whichever is sooner. Payments by the Contractor pursuant to this term shall be made in accordance with Section III, Item D.

* Denotes removal of language referencing all states except Ohio.

*SPECIAL CONTRACT TERMS AND CONDITIONS cont'd

Payments by the Contractor shall be liquidated damages and not a penalty, and shall enable the State WIC Agency to continue to provide contract brand infant cereal and infant food to its then-current caseload of WIC participants within the funding amount appropriated to the State WIC Agency for that purpose.

The State WIC Agency shall make its best efforts to mitigate the liquidated damages obligation of the Contractor by securing another Contractor to provide substantially the same services as named in any Contract awarded to this Bid. It is estimated to require three (3) to five (5) months from the date the Contractor ceases provision of services to the date another Contractor commences provision of services. This section does not apply to disputed invoices.

FDA REGISTRATION: Pursuant to the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act) all domestic and foreign facilities that manufacture, process, pack or hold food for human or animal consumption in the United States are required to be registered with the Food & Drug Administration (FDA) no later than December 12, 2003. This registration includes owners, operators, or agents in charge of domestic or foreign facilities that manufacture/process, pack, or hold food for human or animal consumption in the United States. All domestic facilities, whether or not food enters interstate commerce, are required to register. Facilities may complete their registration with the FDA online at: http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/RegistrationofFoodFacilities/OnlineRegistration/default.htm

When applicable, by signature affixed on Page 1, the bidder, or their supplier, certifies that they comply with this requirement.

USE OF WIC LOGO AND NAME: The WIC acronym and the WIC logo are registered service marks of the United States Department of Agriculture (USDA) and may not be used by the vendor in a way that will likely cause confusion in regard to their involvement with the WIC program. Vendors may not use in the official name in which the vendor is registered or in the name under which it does business the WIC acronym or a similar acronym or logo that would give the impression that the business is affiliated with or sponsored by the WIC program.

* Denotes removal of language referencing WSCA-NASPO and all states except Ohio.

SPECIAL CONTRACT TERMS AND CONDITIONS cont'd

DISCLOSURE OF SUBCONTRACTORS / JOINT VENTURES (See Standard Contract Terms and Conditions, Section (roman numeral) V. General Provisions:, Paragraph Q.,): [For Supplies only Bids]:
List names of subcontractors who will be performing work under the Contract.

_____ _____

_____ _____

_____ _____

By the signature affixed to Page 1 of this Bid, Bidder hereby certifies that the above information is true and accurate. The Bidder agrees that no changes will be made to this list of subcontractors or locations where work will be performed or data will be stored without prior written approval of DAS. Any attempt by the Bidder/Contractor to change or otherwise alter subcontractors or locations where work will be performed or locations where data will be stored, without prior written approval of DAS, will be deemed as a default. If a default should occur, DAS will seek all legal remedies as set forth in the Terms and Conditions which may include immediate cancellation of the Contract. Failure to complete this page may deem your bid not responsive.

NOTICE ON THE USE OF SOCIAL SECURITY NUMBERS AS FEDERAL TAX IDENTIFICATION NUMBERS:
The Department of Administrative Services (Department) requires vendors and contractors wishing to do business with the State to provide their Federal Taxpayer Identification Number to the Department. The Department does this so that it can perform statutorily required "responsibility" analyses on those vendors and contractors doing business with the State and, under limited circumstances, for tax reporting purposes. If you are a vendor or contractor using your Social Security Number as your Federal Taxpayer Identification Number, please be aware that the information you submit is a public record, and the Department may be compelled by Ohio law to release Federal Taxpayer Identification Numbers as a public record. If you do not want to have your Social Security Number potentially disclosed as a Federal Taxpayer Identification Number, the Department encourages you to use a separate Employer Identification Number (EIN) obtained from the United States Internal Revenue Service's to serve as your Federal Taxpayer Identification Number.

*SPECIFICATIONS AND REQUIREMENTS FOR THE WIC INFANT CEAREAL AND INFANT FOOD REBATE PROGRAM FOR OHIO

I. SCOPE AND CLASSIFICATION

A. *Scope

The Federal Government requires states to examine cost containment measures in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC Program). The purpose of this Bid is to secure a rebate contract for authorized infant cereal and infant foods (fruits, vegetable, meats, and poultry). The infant cereals and foods offered by the Contractor(s) shall be designated to be Ohio's contract brand infant cereal or infant foods, thereby establishing a Sole Source Rebate System.

B. Classification

1. Contractor shall provide rebates for the following:

   a. 8oz. and 16oz. containers of infant cereal redeemed by WIC retail vendors.

      i. The Bidder must offer at least three types of cereals, one of which must be Rice.

      ii. Acceptable types of cereals include Rice, Barley, Oatmeal, and Mixed/Multigrain, Whole Wheat and Corn.

      iii. The Bidder may not exclude any WIC eligible infant cereal from the rebate.

   b. All authorized infant foods (fruits & vegetables, meats & poultry) redeemed by WIC retail vendors.

2. Any other infant cereal and/or infant food produced by the Contractor and authorized by the State WIC Agency during the contract including any extensions shall receive rebate. State agencies may independently determine if new products will be authorized.

II. DEFINITIONS

A. "Alternate Shoppers" are individuals designated by the participants to transact Food Instruments on behalf of the participant.

B. "Contract Brand Infant Cereal" means all authorized infant cereals produced by the manufacturer awarded the infant cereal cost containment rebate contract.

C. "Contract Brand Infant Foods" means all authorized infant foods as defined by USDA-FNS, (fruits & vegetables, meats & poultry) produced by the manufacturer awarded the infant food cost containment rebate contract.

D. "Food Instruments", checks, vouchers, electronic benefit transfer cards or other documents that may be exchanged/used by a participant or alternate shopper for authorized foods and primary brand specific infant cereal and infant foods at a WIC retail vendor location.

E. "Participants" are eligible individuals who are receiving Food Instruments under the WIC Program.

F. "Redeemed" means the transacted Food Instrument submitted by the WIC retail vendor for payment.

G. *"State WIC Agency" means the Ohio Department of Health.

* Denotes the removal of language referencing all states except Ohio.

*SPECIFICATIONS AND REQUIREMENTS cont'd,
FOR THE WIC INFANT CEAREAL AND INFANT FOOD REBATE PROGRAM FOR OHIO

H. "Valid period" is the duration of time that a Food Instrument may properly be exchanged by a participant for authorized foods.

I. "WIC retail vendors" are authorized by the State WIC Agency to exchange Food Instruments for WIC authorized Foods.

J. "Average Commercial Wholesale Price Per Ounce" is the average of the Wholesale Price Per Ounce for foods in the category being offered, as documented by the nationally published Commercial Wholesale Price List.

K. "Rebate Amount Per Ounce" is the amount the Bidder is submitting. This amount will be subtracted from the Average Commercial Wholesale Price Per Ounce to determine the Net Price Per Ounce.

L. "Net Price Per Ounce" is the result of subtracting the Rebate Amount Per Ounce from the Average Commercial Wholesale Price Per Ounce.

III. PROGRAM REQUIREMENTS

A. Infant Cereal

1. Infant cereal 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 cereal shall be sold at the retail level in 8oz. and/or 16oz. containers as authorized by the state agency.

3. Infant cereal shall be nutritionally complete, not requiring the addition of any ingredient other than water.

a. Infant cereal shall be dry type without added fruit, fruit flakes or infant formula. Not allowed: added DHA, prebiotics, or organic.

b. The cereal must be plain, dry infant cereal, not wet-packed (jarred).

4. The cereals shall contain a minimum of 45 milligrams of iron per 100 grams of dry cereal (i.e. iron content per ½ ounces of cereal = 45% U.S. RDA for infants).

5. The Bidder must offer at least three varieties of cereals, one of which must be rice.

a. Acceptable types of cereals include Rice, Barley, Oatmeal, and Mixed/Multigrain, Whole Wheat and Corn.

b. All varieties must meet USDA regulatory requirements for use in the WIC Program.

6. Current Federal program regulations allow a maximum of 24 ounces of cereal to be prescribed for each infant each month. This is a maximum amount that may be prescribed to all infants. It is not guaranteed that all infants will be prescribed infant cereal nor is it guaranteed that all prescribed quantities will be purchased. Food packages generally include infant cereal, when the infant turns six months of age.

B. 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's are currently sold in 4oz. containers.

a. 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).

* Denotes the removal of language referencing all states except Ohio.

*SPECIFICATIONS AND REQUIREMENTS cont'd,
FOR THE WIC INFANT CEAREAL AND INFANT FOOD REBATE PROGRAM FOR OHIO

3. Infant meat and poultry shall be sold at the retail level in 2.5oz. containers, strained with gravy or broth only.

   a. 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 current and future USDA regulatory requirements for use in the WIC Program. Please see WIC Interim Rule at http://www.fns.usda.gov/wic/regspublished/wicfoodpkginterimrulepdf.pdf

C. General Program Requirements

1. All products offered as infant cereal and infant food shall be under the same manufacturer/brand name. Co-branding with another manufacturer/brand is allowed.

2. All products offered as infant food shall be under the same manufacturer/brand name.

3. The Contractor will be required to pay a rebate on all authorized contract brand infant cereal and infant food redeemed by WIC retail vendors.

4. Infant cereal and 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. This is in accordance with the Ohio Administrative Code 123:5-1-10(I).

5. The rebate amount per ounce or the Average Commercial Wholesale Price Per Ounce may be adjusted, if applicable, in accordance with the Escalator Clause of this agreement.

6. *Ohio's rebate eligible infant cereal and infant food must be available to all retailers statewide.

D. *Contract Brand Infant Cereal/Food Rebate Procedure

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 cereal and/or infant foods 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 cereal and/or infant foods redeemed.

3. The rebate amount applied to the infant cereal and/or infant foods 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).

4. The State WIC Agency shall produce a monthly report specifying the amount of infant cereal and/or infant foods identified as redeemed and paid in the preceding month through the regular WIC payment system.

5. The State WIC Agency shall also produce a monthly report specifying the amount of infant cereal and/or infant foods redeemed through the State WIC Agency exception payment process.

6. The State WIC Agency shall submit an invoice based on Section III, Item D, paragraphs 4 and 5 and a copy of the reports to the Contractor within forty-five (45) calendar days after the end of the month for which the State WIC Agency is invoicing the Contractor for payment. The invoice shall contain the methodology and all data used to calculate the monthly rebate payment owed by the Contractor.

* Denotes the removal of language referencing all states except Ohio.

*SPECIFICATIONS AND REQUIREMENTS cont'd,
FOR THE WIC INFANT CEAREAL AND INFANT FOOD REBATE PROGRAM FOR OHIO

7. For each Food Instrument that is redeemed during the month for which a rebate is invoiced and that includes Contract brand infant cereal and/or infant foods, the State WIC Agency shall provide, at the Contractor's request, the following data that will enable the Contractor to verify the invoiced amount:

   a. The Food Instrument ID

   b. The Issue Date of Food Instrument

   c. The Food Instrument Valid Begin Date

   d. The number of ounces redeemed of the Contract brand infant cereal and/or infant foods

   e. ***The dollar amount of each Food Instryment redeemed.

8. The Contractor must notify the State WIC Agency of any dispute or error in the invoice within ninety (90) calendar days after receipt of the invoice. If the Contractor does not notify the State WIC Agency of a discrepancy in the invoice within ninety (90) calendar days after receipt of the invoice, the invoice will be determined to be accurate and the Contractor shall waive the right to dispute the invoice.

9. In the event that the invoice submitted to the Contractor for payment is determined by the State WIC Agency to be inaccurate, a revised invoice will be submitted and the Contractor shall pay the State WIC Agency in accordance with Section III, Item D, paragraphs 8 and 10. If the Contractor identifies a discrepancy on the invoice, the State WIC Agency will respond to the Contractor with an answer or an update as to the status of their investigation into the discrepancy within twenty (20) State working days, although final resolution may take longer. All disputes of any invoice during a federal fiscal year must be resolved by the first day of February in the following fiscal year. The Contractor shall not withhold any rebate payments to the State WIC Agency.

10. The Contractor shall pay the State WIC Agency the amount indicated on the invoice specified above within thirty (30) calendar days after receipt of the invoice. Invoice accuracy shall solely be determined by the State WIC Agency, based on appropriate documentation provided by the State WIC Agency.

    Because WIC retail vendors have thirty (30) days to submit Food Instruments for processing after the Food Instrument's valid period, the total exchanges for any given month may include Food Instruments from at least two issue months. In addition, USDA occasionally approves payment of coupons that may be expired at the time of submission. The Contractor agrees that infant cereal and/or infant foods identified on Food Instruments issued with a first day of use during the term of this Agreement, but not redeemed until after the date of expiration or termination of this Agreement, shall be rebate eligible.

11. The Contractor shall pay rebates on infant cereal and/or infant foods issued with a first day of use while any Contract issued pursuant to this Bid is in effect and redeemed, even though the Contract may have been terminated or may have expired when the rebate amount is paid.

12. *Ohio WIC Agency shall have the option of requesting from the Contractor up to one (1) prepayment of the monthly rebate amount owed per calendar year. The prepayment invoice will be based on the amount of infant cereal and/or infant foods redeemed from the most recent invoice paid by the Contractor. The State WIC Agency will submit a notice of request for a prepayment at least thirty (30) calendar days prior to the requested payment date. The notice shall specify the month to which prepayment shall be applied. The Contractor may deduct from the prepayment up to one percent (1%) of the total prepayment invoice. Once the actual amount of infant cereal delivered and redeemed is determined for the month for which the prepayment was requested, over and/or under adjustments shall be made. The adjustment shall treat any deduction up to one percent (1%) made by the Contractor as though the Contractor made the prepayment without making such deduction. The State WIC Agency shall not be required to pay interest on overpayments made by the Contractor.

13. In the event the Contractor has not issued payment to the State within thirty (30) calendar days of receipt of invoice, for any outstanding balance for any month during the Contract term, the Contractor shall be assessed and shall pay, in addition to the outstanding balance due, a penalty equal to one percent (1%) of the outstanding balance.

* Denotes the removal of language referencing all states except Ohio.

*SPECIFICATIONS AND REQUIREMENTS cont'd,
FOR THE WIC INFANT CEAREAL AND INFANT FOOD REBATE PROGRAM FOR OHIO

14. Each month as part of the automated WIC Business Intelligence (BI) database process, the State WIC Agency calculates the partial redeemed count and amount for rebated infant cereal/food. Rebated items are not combined on WIC coupons with any other products. The steps in the partial redemption calculation are as follows:

    a. Sum the total containers statewide that were contained on the WIC coupons redeemed in the prior month to obtain a total statewide container count. This summary is by item number and month.
    b. Sum the statewide amount paid for all of these items. This summary is by item number and month.
    c. Calculate an average statewide price for the items paid rounded to 4 decimal points. This average is by item number and month.
    d. For each WIC coupon that contained a rebated item and was paid a value greater than zero, calculate the partial redemption item count for the coupon.
    e. This calculation is equal to the count of items issued on the coupon minus the result of amount paid divided by the state average rounded-up.

Example:
Containers of cereal/food issued on the WIC coupon = 7
Amount State WIC Agency paid on the WIC coupon = $30.00
State average for this cereal/food = $6.00
The formula looks like this with the values added:
Partial containers = 7 containers issued – Round-up ($30.00 / $6.00)
This equates to 2 partial containers on this WIC coupon.

The State WIC Agency writes the value (2) to the obligation record in the WIC Business Intelligence (BI) database process load process in addition to calculating the Partial Dollar Amount it represents. The Partial Dollar Amount is equal to the Partial Count multiplied by the rebate amount. These values are included in the monthly report run for Rebate Partials.

* Denotes the removal of language referencing all states except Ohio.

*SPECIFICATIONS AND REQUIREMENTS cont'd,
FOR THE WIC INFANT CEAREAL AND INFANT FOOD REBATE PROGRAM FOR OHIO

E. *State Agency Payment and Contact Information

As applicable, the Contractor shall issue rebate payment checks payable to:

Mailing Address:	PROGRAM Contact Person:
Treasurer, State of Ohio c/o Ohio Department of Health Bureau of Nutrition Services P.O. Box 15278 Columbus, OH 43215-0278	Mr. Bob Parker Program Analysis Unit Supervisor Bureau of Nutrition Services Ohio Department of Health 246 N. High Street Columbus, OH 43215 Telephone: 614-728-2877 Fax: 614-564-2470 E-mail: robert.parker@odh.ohio.gov

F. Record Keeping

1. The Contractor shall allow the State WIC Agency, the United States Department of Agriculture's Food and Nutrition Service, the Comptroller General of the United States, or any of their duly authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to any Contract awarded pursuant to this Bid, for the purpose of making audits, examinations, excerpts, or transcriptions.

2. The Contractor shall retain for three and one half (3.5) years, after the final rebate payment is made, all records directly related to any Contract awarded pursuant to this Bid.

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 F, Part 2, the records must be retained until all issues arising out of the audit, litigation, or action are resolved.

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*SPECIFICATIONS AND REQUIREMENTS cont'd,
FOR THE WIC INFANT CEAREAL AND INFANT FOOD REBATE PROGRAM FOR OHIO

IV. CONTRACTOR RESPONSIBILITIES

A. The Contractor shall perform in compliance with Section III, Items A through F of any Contract awarded pursuant to this Bid.

B. The Contractor shall guarantee that sufficient quantities of Contract brand infant cereals and/or infant foods, 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 cereals and/or infant foods 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 a rebate, at the same percentage discount under the terms of this Contract, on another brand of similar infant cereal and/or infant foods issued to participants. Before issuing a non-contract brand infant cereal and/or infant foods, the State will first provide an alternative Contractor product that meets the authorized food requirements as specified by Federal nutrition requirements.

C. *The Contractor shall provide to the State WIC Agency advance notice of any changes in product packaging size, wholesale 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/infant cereal products or new container sizes that are eligible for the WIC Program, the Contractor will provide that same Average Commercial Wholesale Price Per Ounce minus Rebate Price Per Ounce (Net Price Per Ounce) for that category.

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 Agency shall perform in compliance with any Contract award pursuant to this Bid.

B. The State WIC Agency 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 vendor's name, address, email/website, telephone number, store type, and authorized status.

C. The State WIC Agencies' obligations under any Contract awarded pursuant to this Bid are contingent upon the grant of funds by the federal government, specifically the United States Department of Agriculture and appropriation of funds by 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. 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 cereal and/or 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 Agency 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 the State WIC Program administrative rules contained in, as they exist now or may be amended.

E. The State WIC Agency 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.

* Denotes the removal of language referencing all states except Ohio.

*SPECIFICATIONS AND REQUIREMENTS cont'd,
FOR THE WIC INFANT CEAREAL AND INFANT FOOD REBATE PROGRAM FOR OHIO

VII. CONTRACTOR QUALIFICATIONS

The Contractor shall be in compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967, and as supplemented in the United States Department of Labor regulations.

VIII. BIDDER DOCUMENTATION

A. The Bidder shall certify to the state of Ohio that their company is in compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967, and as supplemented in the United States Department of Labor regulations.

B. The Bidder shall certify to the state of Ohio that their company is in compliance with all applicable standards, orders, or requirements issued under 33 USC 1368, Executive Order 11738, and 40 CFR Part 32, and any applicable standards and policies related to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. This certification may be Included in the same letter as that specified in Section VIII, Item A.

C. The Bidder shall certify to the state of Ohio that:

1. The rebates offered in this Bid Response have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such rebate with any manufacturer or with any competitor.

2. Unless otherwise required by law, the rebates, which have been offered, have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to the award directly or indirectly to any other manufacturer or to any competitor.

3. No attempt has been or will be made by the Bidder to induce any other person or firm to submit or not submit a Bid Response for the purpose of restricting competition.

4. This certification may be included in the same letter as that specified in Section VIII, Item A.

D. The Bidder shall provide with the Bid Response the name, address, and telephone number of company representative to be Contractor's contact for any Contract awarded pursuant to this Bid, as specified in Section IX, Item E.

Notice: Documentation for Section VIII, Items A thru C, as specified above, should be attached to the Bid Response. If documentation is not attached to Bid Response, the Office of Procurement Services may request it during Bid evaluation. Documents will be requested during evaluation and given a deadline of five (5) business days provided for submission. Failure to provide documents requested by the deadline provided will deem the bid not responsive and no further consideration will be given.

E. The Bidder shall provide with the Bid Response a copy of the nationally published Commercial Wholesale Price List for each infant cereal and/or infant foods produced and/or subcontracted. Price list shall be that which is in effect on the published opening date of the Bid.

IX. PROCEDURAL NOTES

A. This solicitation is for infant cereal and infant foods. However, if the State WIC Agency adds more types of infant cereals and infant foods produced by the Contractor to its approved list during the term of the Contract, the Contractor must pay a rebate. To determine the rebate amount, the State will use the per ounce rebate from the Rebate Bid Page and Contractor's published national wholesale price per ounce at the time the infant cereals and/or infant foods are approved by the State WIC Agency.

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*SPECIFICATIONS AND REQUIREMENTS cont'd,
FOR THE WIC INFANT CEAREAL AND INFANT FOOD REBATE PROGRAM FOR OHIO

B. During the term of any Contract issued pursuant to this Bid, if the Contractor discontinues the production of the Contract brand infant cereal and/or infant foods, the Contractor may, in writing to the State WIC Agency, offer a replacement for the infant cereal and/or infant foods. 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 a USDA approved WIC infant cereal or infant food and meets the Federal WIC definition for an infant cereal or infant food, (5) the formulation of the offered product, and (6) an explanation of how the offered product will serve the same population served by the product being replaced.

C. The State WIC Agency reserves the sole discretion to determine if a product offered by the Contractor under Section IX, Item B is appropriate as a replacement of the Contract brand infant cereal or infant food. To be appropriate, the offered infant cereal and/or infant food must be at a minimum:

1. Be a cereal and/or food approved by the United State Department of Agriculture, Food and Nutrition Service to be used as an infant cereal or infant food by meeting the Federal WIC definition for infant cereal or 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 cereal and/or infant foods.

D. If the State WIC Agency adds a new or replacement infant cereal and/or infant food, the change will take effect within one hundred twenty (120)days of written notification by the State WIC Agency of the addition or replacement.

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 had 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.

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BID PRICE PAGE *

Line 1 – Infant Cereal Rebate Program

OAKS ITEM NO.: _____TBD_____ BIDDER:_____

A	B	C	D
State Program	**Average Monthly Redeemed (ounces) Per Infant**	**Average Monthly Infant Participation Receiving Cereal**	**Average Monthly Total Ounces Redeemed**
Ohio WIC	17.89	22,357	399,967

Twenty-four ounces is the maximum amount allowed by WIC Program Regulations (7CFR section 246.10) Issued amounts may be less.

	E			F	G
Cereal Varieties Offered	Manufacturer's Brand Name:	Indicate Available Packaging Sizes		***Average Commercial Wholesale Price Per Ounce (In Effect as of the Bid Opening Date)	Rebate Amount (Per Ounce)
(3)		8 oz	16 oz		(4)
RICE				$	$
BARLEY				$	$
OATMEAL				$	$
MIXED				$	$

Additional Information:

(1) If there is an error in the numbers provided by the Bidder, the Bidder is bound by the Net Price Per Ounce calculated by the State as indicated in the Contract Award paragraph.
(2) The Net Price Per Ounce is applicable to all participating states.
(3) Pricing must include Rice and not less than two other varieties, please mark varieties and size being offered.
(4) The Rebate Amount Per Ounce must be the same for all varieties of infant cereal.

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BID PRICE PAGE cont'd *

Line 2 – Infant Foods Rebate Program

OAKS ITEM NO.: ___TBD_____ BIDDER:_____

A	B	C	D
State Program	**Average Monthly Redeemed (ounces) per Infant ***	**Average Monthly Infant Participation**	**Average Total Monthly Ounces Redeemed**
Ohio WIC	117.52 oz. – Fruits & vegetables	26,641	3,130,850
	58.39 oz. – Meats & Poultry	1,513	88,344

		E				F	G
State Program	Average Monthly Redeemed (ounces) per Infant –Column B above	Manufacturer's Brand Name:	Average Total Monthly Ounces Redeemed (Column D above)	Indicate Available Packaging Sizes		Average Commercial Wholesale Price Per Ounce (In Effect as of the Bid Opening Date)	Rebate Amount Per Ounce
				2.5 oz	4 oz		
Ohio WIC	117.52 oz - Fruits & Vegetables		3,130,850			$	$
	58.39 oz Meats & Poultry		88,344			$	$

Additional Information:

(1) If there is an error in the numbers provided by the Bidder, the Bidder is bound by the Net Price Per Ounce calculated by the State as indicated in the Contract Award paragraph.

(2) The Net Price Per Ounce is applicable to all participating states.

FOOD VARIETIES OFFERED: _____

* Denotes the removal of language referencing all states except Ohio.