

Rhode Island WIC Program
Retail Vendor Policies
[VI, 2, 3, 4, 8, 10, 11 & 12](#)



Revisions are italicized

Policy V-1: APPLICANT VENDOR SELECTION AND AUTHORIZATION

(Revised 12/05)

GOAL

To ensure that only vendors which will be a benefit to the RI WIC Program are accepted and maintain their authorization.

PROCEDURE

Revised 2/-06

- A. Retail grocers, food stores (know as grocers), and registered pharmacies (known as pharmacies) located in the State of Rhode Island may request initial participation as authorized vendors in the WIC Program throughout the year. An application will only be issued to a grocery or pharmacy owner, partner or corporate officer acceptable to WIC. Mobile stores and home food delivery companies are not eligible to be WIC vendors. Persons or entities may also apply up to thirty days before commencing operations of a grocery or pharmacy.

Revised 6/08

- B. A Vendor Application Package, consisting of
- a. Letter of Introduction,
 - b. Vendor Application Form (WIC-31),
 - c. WIC Price List,
 - d. Redemption Procedures,
 - e. Sample WIC check,
 - f. WIC-Approved Foods list,
 - g. Vendor Minimum Inventory, and
 - h. WIC's Guide to Retailers
 - i. Proof of Ownership
 - j. WIC Bulletins
 - k. Vendor Policy
- is sent to the vendor, only.

The applicant vendor returns the:

- a. Vendor Application,
 - b. Price List,
 - c. Proof of ownership,
 - d. Quarterly reconciliation tax forms for last four quarters (T-204 or T204CIG, both sides)
 - e. Copy of a recent driver's license or other positive photo identification, and
 - e.f. List names of stores, owner, partnership, manager, spouse, clerk
- to WIC for review after completion by the vendor.

The establishment owner, partner or a corporate official (provided they have the authority to sign on behalf of the company) must sign the Vendor Application and WIC Price List. The applicant must provide evidence of ownership and/or control, satisfactory to the HEALTH WIC Program, of the operations of the grocery or pharmacy at the location for which the application is being submitted.

- C. For the purposes of the HEALTH WIC Program the terms vendor, applicant or applicant vendor, except as described above, shall refer to the business and any person, firm, corporation, officer, owner or manager or any entity who/which has or has had a controlling or partnership interest in, or managerial control of the business with respect to the business' WIC vendor application or re-application for participation in the Program and in compliance with any Food And Nutrition Service (FNS) Program's rules, regulations or procedures.
- D. If the vendor has withheld, misrepresented or falsified any information required by the application process, the application will be denied and/or any subsequent Vendor Agreement relating thereto will be immediately rendered null and void, upon discovery.

If the vendor has participated in any actions which are violations of Program rules or accepted WIC checks prior to authorization, (in accordance with Vendor Compliance, V-4) the application will be denied and/or any subsequent Vendor Agreement relating thereto will be immediately rendered null and void, upon discovery.

The vendor may not be accepted if it has been debarred or suspended from participating in any transactions involving federal funds or other assistance with grantees and sub grantees of federal funds under the terms of 7 CFR Part 3017.

- E. A vendor will not be accepted if it shows potential for risk (see Policy V-2).
- F. FNS and WIC Compliance (Applies to Programs' Compliance in RI or in other states)
 - 1. Unless needed to serve an area (Section S, below), a grocery vendor will not be approved unless the vendor is authorized by the Food Stamp Program under the current ownership. If the Vendor is disqualified from the Food Stamp Program as a result of disqualification from the WIC Program, the Vendor may not reapply until FSP authorization is reinstated
 - 2. (a) A vendor will not be approved if a vendor as a vendor owner, officer, partner, manager or individual:
 - (i) Has not paid in full any fiscal claim, penalty, or fine owed to any USDA or other Federal or State Program or if the Vendor has not corrected any previous violation.
 - (ii) Has committed or been convicted of any violation of or been found in violation of any of the laws and/or regulations, or rules of any USDA or other Federal or State Program, or the terms of any previous Vendor Participation Agreement.

The vendor will not be accepted for from one to six years from the time of the last violation committed, or from the time it was determined the violation had been committed, or prior to the end of any disqualification, sentence, or sanction imposed with respect to that violation; whichever last occurs.

If the sanction was a civil money penalty, or fine or other monetary settlement imposed in lieu of a disqualification or agreed to as part of resolution of a charge of violation of USDA rules, the vendor may not be

Section 3 Appendix - 3

accepted during the period of time the monetary penalty or settlement is in lieu of, beginning with the date the sanction was imposed.

Re-applicant(s) must serve this time under the WIC Program before they can be re-approved as a WIC Vendor or such term as consistent with the nature of the act and penalties for a similar act as set forth in Policy V - 4. The HEALTH WIC PROGRAM may accept such a vendor if it deems vendor would be a special benefit to the Program and acceptance to be in the best interests of the Program, and impose an alternative penalty and/or special conditions of participation in lieu of denial of participation.

- (iii) Is owned, in whole or in part, or is managed by any person who has committed or been convicted of any violation of or found in violation of the laws, regulations, or rules, of any above USDA Program in accordance with the above.
 - (iv) Employs any person who has committed or been convicted of any violation of, or found in violation of, any of the laws, regulations, or rules of any USDA Program in accordance with the above, whether such violations occurred in relation to that applicant store while the store was under previous ownership, or any other store where such person committed such violations unless such person is under on-site supervision of a superior during all hours of WIC related activity and is not allowed to take part in any WIC check transactions.
 - (v) Has committed any violation of the laws, rules, or regulations of any USDA Program while under disqualification or other sanction by any USDA Program, or when not participating in such Program; in accordance with Policy V-4, Vendor Compliance.
 - (vi) Where there is evidence of an attempt to circumvent, or assist in a circumvention of, a period of disqualification from any USDA Program or a civil money penalty imposed for violations of the rules or regulations of any USDA Program in accordance with Policy V-4 or Program vendor selection and authorization rules and requirements.
 - (vii) Where there is a likelihood that a former owner, who would not him/herself qualify, still retains direct or indirect ownership in, control over or interest in the business or its operations.
- (b) Re-application/Re- approval of Vendor Agreement - When reliable evidence or likelihood exists of violations of the regulations, rules, or procedures of any USDA Program in accordance with (a), above or Policies V-2 or V-4, such evidence shall be grounds for denial of the WIC Vendor Agreement. The Rhode Island Department of HEALTH WIC Program may deny vendor participation in the Program for a period in accordance with (a), above, or until such time as the vendor is no longer subject to, or under judicial, administrative penalties, sanctions and/or sanction reviews, or other punishment, whichever last occurs. Any of the

Section 3 Appendix - 4

conditions of (a) above, shall constitute a violation for purposes of re-approval of a vendor even when it has been served under any USDA Program but not under the WIC Program. Applicant(s) or re-applicant(s) must serve this time under the WIC Program before he/she can be re-approved as a WIC Vendor.

3. The HEALTH WIC PROGRAM may, at its option, enter into a conditional Vendor Participation Agreement when a vendor is pending judicial or administrative finding, decision, or applicant sanction for an alleged violation, or being readmitted following an allegation of violation, or for special authorization needs as provided for in O, below,.
4. Each applicant vendor, including re-applications, will be reviewed for compliance with any current or previous WIC Agreement for the past three years from the date of application or from the termination of the most recent Agreement.

A vendor will not be accepted or renewed if it meets any of the following criteria:

- (a) Is currently suspended or disqualified from any USDA Program for non-compliance, or is under threat of disqualification related to pending charges. This shall not be subject to administrative or judicial review under the WIC Program.
- (b) Committed three violations of WIC Program rules such as would be grounds for a 90 day or less disqualification under the provisions of Policy V-4: Vendor Compliance.
- (c) Committed two violations, and/or was issued two notices of violation, of a type described in Policy V-4: Vendor Compliance, as Violations and Sanction Types A, B, C, D, E, F; or committed serious, deliberate, or widespread violations described under I or J of that policy.
- (d) Received two suspensions or disqualifications during the preceding three years. Such vendors shall not be renewed or approved for participation for from one to three years from the date of termination of their current or most recent Agreement, in accordance with Policy V-4.
- (e) Has been determined to be charging excessive prices, in accordance with Policy V-10.
- (f) If federal regulations for the WIC Program are adopted which change the maximum disqualification or suspension term or standards for vendor authorization the HEALTH WIC Program may modify the terms of disqualification or non-approval for participation in accordance with the standards set forth in the new federal regulations.
- (g) If the WIC Program has reason to believe a change of ownership or control may have occurred and the vendor fails to furnish sufficient proof that a change has not occurred.

G Revised 6/07

If new WIC Vendor is determined to be an “ Above 50% Vendor”, they will not be authorized by WIC.

The “potentially Above-50% Vendor” (PA50%V) peer group will be assigned to applicants who have the potential for total WIC sales to comprise more than 50% of their total food sales.

The “Above 50% Vendor” (A50%V) Peer group will be applied to those Vendors whose total WIC sales comprise ~~of~~ 50% or more of their total food sales.

The redemption histories of all new WIC authorized grocery (ie non-pharmacy, non-farmers market) vendors will be reviewed during the application process. To identify a potential Above 50% Vendor (A50%V) the following information will be considered:

- (a) It the applicant is a new business with no redemption history
- (b) Recent Food Stamp Program redemption data for the applicant
- (c) Self reported total gross food sales for the prior year
- (d) Recent State of RI Monthly Sales & Use Tax Return (Form T-204M)
- (e) Recent State of RI Quarterly Reconciling for Monthly Filers Form (Form T-204M-R)
- (f) Projected WIC food sales, based on WIC’s analysis of peer group food redemption profiles.

A new vendor with no food sales history or Food Stamp Program sales history will be considered a potential A50%V for the first 6 months of WIC authorization. A new branch of a national chain grocery store will not be considered as a potential A50%V.

During this 6- month period of time, the potential A50%V’s redemptions will be monitored to ensure their reimbursements are no greater than the statewide average price of their peer group, or the maximum allowed price for their peer group (whichever is the lower amount).

Revised 9-11-06

If individual food package redemptions are identified at a higher cost than the statewide average, A50%V stores will be required to lower their prices if they want to maintain their WIC authorization. Concurrently, WIC will review its competitive and its maximum allowed price and make adjustments as needed.

In addition, newly authorized stores identified as potential A50%V, will be given a 6- month probationary period. During this time, monthly redemption data will be reviewed to identify if, in fact, the probationary WIC vendor is an A50%V. If this is confirmed, they will be terminated from the WIC Program.

H. Vendors must be in good standing with all other HEALTH units, such as Food Protection and Sanitation and Board of Medical Licensure & Discipline, as applicable.

I. Added 11/05

Applicants must document and provide proof upon request that infant formula available in their store has been purchased from the RI WIC Authorized List of Infant Formula Providers. In addition, they must agree to only purchase infant formula from sources on this WIC authorized list.

Section 3 Appendix - 6

- J. Prior to a site visit, the following items will be reviewed for completeness and acceptability in conformance with applicant selection standards and criteria:
1. Application form WIC-31 completed, WIC Price Sheet, proof of ownership, photo identification
 2. USDA active authorization (required for grocery applicants)
 3. No debarment or suspension
 3. Prior USDA and prior WIC compliance
 4. Food Protection/Board of Medical Licensure & Discipline status
 5. Acceptable prices
 6. No potential for risk
- K. If the vendor is acceptable according to the above criteria and if openings exist in accordance with Q, below, an on site visit is conducted at the location of the applicant store using the Vendor Application Site Visit Form (WIC-32) including WIC food availability, check handling and redemption, willingness to cooperate in vendor monitoring, willingness to fulfill obligations of the Vendor Participation Agreement and prices.
- L. The Vendor applicant must demonstrate that inclusion of the store or pharmacy would prove to be a benefit to the program. The vendor must demonstrate cooperation with Program staff, participants and procedures as well as comprehension and acceptance of Program goals and objectives. A Vendor deemed to be a potential for risk (in accordance with Policy V-2) is not considered to be a benefit to the Program.

Revised 2-05

- M. The grocer applicant must stock a variety of staple foods for sale including fresh, frozen and/or canned fruits and vegetables, fresh, frozen and/or canned meats, dairy products, and grain products such as bread, rice and pasta. and a minimum inventory and supply of WIC-Approved Foods at competitive prices.

1. A minimum inventory shall be defined as the WIC Vendor Minimum Inventory Requirements in effect at the time:

- (a) For a grocery or food store, the WIC-Approved Food Groups are milk, cereal, cheese, juice, eggs, infant formula, beans, peanut butter, and infant cereal. For the categories of milk, eggs, and infant cereal, two types are preferred but not required.

Stores authorized to accept checks for Special Infant Formula must maintain the minimum inventory for such products.

Revised 2-06

- (b) For a registered pharmacy, the WIC-Approved Food groups are exempt formulas and medical foods. **The pharmacy is not allowed to accept WIC checks for standard infant formulas, nor food items.**
- (c) The registered pharmacy shall obtain and make available within two working days any exempt formula or medical foods requested by a WIC shopper and specified on a WIC check in the amount, form, size and type specified on at least two WIC

Section 3 Appendix - 7

checks, as presented, provided the product is available to retail pharmacies, at less than or equal to the maximum allowed price for the product.

The WIC Office, will make every effort to match checks to packing, but where this is not possible Vendor must break package/case to complete the amount specified on the check.

2. An applicant will not be approved if its shelf price(s) for any WIC-Approved food(s) is excessive as defined in policy V-10. An exception to this policy may be made when a clinic area has fewer than four full line WIC-Approved food vendors, or a city or town less than two, or if the vendor is, or would be, the lowest WIC price store in the area. A clinic area is defined as those census tracts in which a clinic has at least 25% of the participants or in which 10% of its participants reside.

Revised 2-06

3. Acceptance or denial of grocers will be predicated on a full consideration of the variety of staple foods, minimum inventory of foods, overall needs of the Program, FNS and WIC compliance, prices of WIC foods, need for additional vendors, application data, site visit, benefit to the Program, business integrity, other applicant vendor criteria and the impact of that store's acceptance on the Program's ability to effectively monitor or assess all applicant or authorized vendors.

Acceptance or denial of pharmacies will be predicated on a full consideration of the minimum inventory of foods, overall needs of the Program, FNS and WIC compliance, prices of WIC foods, need for additional vendors, application data, site visit, benefit to the Program, business integrity, other applicant vendor criteria and the impact of that store's acceptance on the Program's ability to effectively monitor or assess all applicant or authorized vendors

A vendor cannot be accepted or renewed if its potential or likelihood to violate the Program's rules would require special, burdensome or disproportionate monitoring efforts by the Program.

O. Combined Grocery/Liquor Establishments

A grocer vendor will not be accepted if the vendor also sells alcoholic beverages at the same location. In order to be considered as a separate location, any alcoholic beverages must be displayed and sold in a separate physical unit, with no direct in building access between the grocery and liquor sales units. Said units must have separate entrances, no shared entrance, a physical barrier between which prevents access, and registers for each unit and within each unit.

- P. The WIC Program will review applicant vendors on a regular basis. Vendor monitors will plan part of each month, up to 20% of each month's total visits, to schedule applicant vendor site visits so that any applicant can expect an answer within a reasonable period of time.

Applicant site visits may be curtailed *from August to October* at the discretion of the Program Chief to concentrate resources on the Agreement re-application process.

Q. The WIC Program will review the records of existing vendors each year prior to Agreement_re-application. The review will be based upon criteria used for applicant vendors, and information submitted by vendor on re-application forms or otherwise required by HEALTH WIC Program, other information received or acquired by HEALTH WIC Program and other re-application criteria, including all criteria mentioned above. Only vendors who meet all criteria will be re-approved.

1. Re-applications will also be denied if a vendor:

Revised 2-06

- a. Redeems fewer than 25 WIC checks in any one-month period on two or more occasions during the consecutive 12-month period preceding the re-application review.
 - b. If the vendor's prices are or have been in excess of the maximum price standard (Policy V-10) twice during the consecutive 15-month period preceding the re-application review.
 - c. If the vendor's completed application and its requirements are not received within the allowed time period and/or due date.
2. Neither the FSP decision to impose a Civil Money Penalty (CMP) nor the HEALTH WIC Program's participant access determination shall be subject to administrative review under the WIC Program.
 3. At the sole discretion of HEALTH WIC PROGRAM, approximately one half (1/2) of vendors not designated as potential for risk may have their Agreements extended for the Federal Fiscal Year. The other half of those not designated as potential for risk may be granted a two year Agreement.
 4. Vendors classified as potential for risk and Vendors whose current authorization has been in effect for less than twenty-four (24) consecutive months prior to July 1, in a given year, will be granted only up to a one year contract. At HEALTH WIC Program's sole discretion, new Vendors may upon review have their contracts extended for an additional year.

R. Applicant Training

1. Prior to approval/re-approval, all applicant vendors must undergo Vendor Training under the auspices of HEALTH WIC PROGRAM WIC Staff. Such training shall consist of at least an orientation to the purposes and goals of the WIC Program, its capped funding and impact on the number of people served, WIC-Approved Foods, Minimum Inventory requirements, WIC Check redemption procedures, excessive price policies, and other Program vendor policies and procedures as are normally a part of formal vendor training sessions. HEALTH WIC PROGRAM may add such other topics it deems necessary.
2. In general, these training sessions will take place at the HEALTH WIC PROGRAM, although HEALTH WIC PROGRAM has the prerogative to designate other locations where it deems training would be more efficient or effective

S. Maximum Number of Authorized Vendors

Section 3 Appendix - 9

1. As a rule, the number of authorized retail grocer vendors may not exceed **200** and of pharmacies may not exceed 40. Pharmacy counters in WIC approved stores shall be counted as a pharmacy for the purpose of determining the maximum number of authorized vendors and pharmacy vendors, and whether an opening exists for an applicant.
 2. When it is in the interests of the effective and efficient administration of the Program, an exception may be allowed for a temporary period of time at the discretion of the HEALTH WIC PROGRAM. Such circumstances may include such conditions as the following:
 - a. The vendor would be the only grocer or pharmacy in a clinic area, or a city or town.
 - b. The vendor's prices are significantly below the state average for WIC-Approved foods and the vendor carries at least 75% of the allowed types or brands and usually has in stock sufficient quantities of foods to redeem more than two infant and two non-infant maximum food packages, in addition to the minimum inventory requirements.
 - c. In the case of pharmacies, the HEALTH WIC Program shall consider the following priority system, which is based on the relative price, ability to meet minimum inventory requirements, and participant shopping convenience in authorizing a pharmacy in excess of the maximum number:
 - (i) No store is authorized in an area and the store's prices are more than 10% below the statewide WIC average for special formulas and other WIC foods, the store meets the minimum inventory for all WIC food categories and types and the store stocks four or more special formulas.
 - (ii) No store such as in (i) is authorized in an area and the pharmacy carries four or more special formulas and its prices for special formulas and contract brand infant formulas are more than 10% below the statewide averages.
 3. As needed, the applicant vendors will be reviewed to bring the number authorized up to the maximum allowed level.
 - a. Except as provided for in 2, above, and b, below, and vendors being considered for contract re-approval or extension, the appropriate number of applicants will then be selected for authorization in order of lowest composite food prices for WIC foods, provided fully and correctly completed application and related items have been received by the state WIC office. Price information may be updated as needed, such as more recent redemption reports and vendor price lists.
 4. The WIC Program reserves the right to further limit vendor participation, application and/or application review in order to ensure that effective vendor monitoring and education is maintained.
- T. A decision is then sent to the applicant vendor in writing. If acceptance is denied, the decision notice shall contain the causes for denial and an opportunity to appeal the action by requesting an

appeal within 15 days of the date of the notice. Vendors who are denied may be reconsidered according to the following criteria:

1. Vendors denied solely on the basis of sufficient vendors in the state or the local area shall be reconsidered when openings become available.
2. Vendors denied on the basis of violations, sentence, or other sanctions imposed or pending may reapply after the stipulated period.
3. Vendors denied on the basis of previous disqualification or other noncompliance with rules of any FNS Program, or WIC vendor agreement may reapply when the noncompliance sanction period is completed.
4. A Vendor served notice that it does not meet criteria will be considered as a withdrawn application if it does not contact the State WIC office within 15 days of the date of the notice to claim conformance with the criterion. Such a vendor may not reapply for at least 90 days.
5. A Vendor given a final decision of denial on its application may not reapply for at least six months from the date of the decision letter, or for such longer period of time commensurate with sanctions as set forth in policy V-4.

U. Special Authorization

1. The HEALTH WIC Program may solicit vendors to provide such services as are needed and review those who express an interest in authorization and may make a selection based upon the vendors' ability to provide needed services, lowest price, largest selection of foods, and such other indicators of benefit to the Program as are appropriate.
2. Such selections may be made to provide service in a defined area where there is no authorized WIC grocer and/or pharmacy, where particular WIC foods are unavailable, and for other needs.
3. If the number of participants in need of service in an area is twenty or less, the HEALTH WIC Program may limit the number of vendors selected to provide such service in such area to one. This selection may be reviewed at the time of re-application of the vendor agreement and revised selection(s) made, as benefit to the Program indicates.
4. To meet special participant needs vendors may be authorized to provide all services or foods or only certain services or foods, as appropriate, when the need for special services is determined.
5. For foods which are unavailable through retail vendors or which have an average retail price more than 15% above the average price for the food type (e.g., formula), the Program may make such arrangements for the participant to obtain such foods through specialized providers (e.g., low priced retailers, hospital clinics or pharmacies, HEALTH WIC Program center clinics, HEALTH WIC PROGRAM, manufacturers, wholesalers/resellers etc.), based on price and accessibility.

6. The HEALTH WIC Program may offer temporary provisional authorization to prevent disruption of service to participants when an applicant is replacing a store which has recently been a high WIC volume vendor, the ownership and/or management is/are authorized at other locations and the agency determines that the vendor is likely to be and remain in conformance with the preponderance of vendor selection and performance criteria and that the vendor's prices for WIC foods are less than 95% of the statewide average according to HEALTH WIC PROGRAM analysis.
7. The HEALTH WIC PROGRAM may authorize a retail grocer to redeem checks for a special formula product designated by the HEALTH WIC PROGRAM. If a WIC authorized store has a pharmacy counter (owned by the same company), it may be authorized to offer any approved WIC special formula and be issued a separate stamp for tracking purposes (If so designated, the pharmacy counter must meet all requirements for WIC pharmacy vendors.). The decision to authorize shall include consideration of whether the store's price for the product is less than that charged by other vendors, using the statewide average or other price measures selected by the HEALTH WIC PROGRAM.
8. The HEALTH WIC PROGRAM may authorize such arrangements for the participant or go out to bid so that the Program may make available such foods through specialized providers (e.g., low priced retailers, hospital clinics or pharmacies, HEALTH WIC Program center clinics, HEALTH WIC PROGRAM, manufacturers etc.), based on price and accessibility. The foods would include, but not be limited to, specialty low volume formula.

Policy V-2: IDENTIFICATION OF POTENTIAL FOR RISK VENDORS

Goal

To focus vendor monitoring efforts on those vendors with the greater potential or likelihood to abuse or err in complying with WIC Program requirements:

I. Indicators

Revised 11/05

Potential for risk vendors are those applicants or participating vendors who demonstrate or indicate the potential or likelihood to violate the Program's regulations, policies, or the terms of the vendor agreement in any manner. The Program will employ such procedures as may be helpful in identifying potential for risk vendors. Indicators of potential for risk or likelihood may include, but are not limited to, the following identifiable quantitative criteria:

- high or disproportionate volume,
 - questionable pricing patterns,
 - high cost of redeemed food instruments,
 - sanction points assigned to vendor for violations of WIC rules.
- B. A history of errors, violations, warnings, notices or sanctions related to any USDA Program, including imposition of a Food Stamp Program Civil Money Penalty or bond requirement for approval to accept Food Stamp Benefits. Vendor, court and administrative records of the WIC Program and the Food and Nutrition Service (FNS) will be reviewed to determine this potential.
- C. Violations of any state, federal or local business or food delivery or government ethics law, or regulation; or violation of any law where the unlawful conduct of the vendor relates to:
- a. the business, the operation thereof or the use of the business premises (including violations of laws or rules pertaining to food, HEALTH WIC Program and sanitation requirements, weights and measures, pricing, packaging, consumer protection, lottery and the like); or to
 - b. criminal behavior related to violence, weapons or illicit drugs or to threat of or committing physical violence; or
 - c. violation of government business conduct rules, or attempts to induce agents of state, local or federal agencies to violate ethics rules or to improperly influence the actions of such an agent; or
 - d. where evidence exists of a likelihood of such behavior, actions or violations.
- D. High or other questionable prices or charges.
- E. Errors in check redemption practices.
- G. Low inventory, especially in relation to level of redemptions.
- H. Complaints received from participants, local agencies, other vendors, or the public.

- I. Reports of vendor errors or violations received during participant surveys of vendor services, or interviews.
 - J. Actual violations, or circumstances leading to the likelihood of violations.
 - K. Ineffective supervision of vendor employees.
 - L. Lack of cooperation with vendor monitoring or vendor education.
 - M. Lack of understanding or support of the purposes, goals or needs for the Program.
 - N. Lack of knowledge or comprehension about program procedures or WIC-Approved foods.
 - O. Lack of cooperation with Program participants, the HEALTH WIC Program, or the US Department of Agriculture.
 - P. The business integrity and reputation of the vendor.
 - Q. Vendor withdrawal from participation, or of an application, following written notification of violation, regardless of any settlement language between the vendor and HEALTH WIC PROGRAM, unless all HEALTH WIC PROGRAM charges are adjudicated as unjustified, unsubstantiated, unwarranted or improper.
 - R. Failure to report involvement of any owner or management personnel of a store, or their immediate relatives, in the operating of any other WIC vendor.
 - S. Failure to respond to the re-application offer by the designated due date for filing of all information.
 - T. Non- return of a previously issued WIC Vendor Stamp.
 - U. Such other relevant factors as may reasonably indicate the likelihood of vendor violations.
- II. Review of Potential for Risk Vendors

When a vendor is identified as a potential for risk, priority is given to use of program resources for case review, monitoring, site visits, review of food instruments redeemed, investigation and other methods.

- A. If review of redeemed food instruments (as defined in Policy V-4,IA1a) reveals actual or suspected errors, overcharges, or other pricing violations or patterns associated with potential violations then appropriate investigative, sanction, claim or penalty procedures will be followed.
- B. Additional site visits may focus not only on all vendor procedures but also on specific actual or potential violation(s).
- C. Additional information may be sought from local agency staff, participants, or others and FNS may be contacted regarding any Food Stamp Program concerns.

- D. Review of vendor records related to inventory, redemption and fiscal operations with regard to the WIC Program.
- E. Available resources for special investigative activities including compliance purchases may be utilized (see items following this Policy).

III. Follow-up Activities

The Potential for Risk vendor will be intensively monitored until such time as compliance with all program regulations and procedures is assured and/or sanctions are implemented. Steps to assure compliance or take sanctions may include but are not limited to the following:

- A. Special education and training at the HEALTH WIC Program, the vendor's location or any other location, given by vendor monitoring or program administrative staff, or other appropriate parties.
- B. Appropriate letters of notice describing the vendor's responsibilities and the penalties for noncompliance.
- C. A written compliance agreement may be required from the vendor for the purpose of the vendor's giving written assurance of future compliance, understanding of his responsibilities and understanding of the penalties for future violations.
- D. Sanction procedures may be instituted as set forth in the Vendor Compliance Policy V-4.

Policy V-3: VENDOR EDUCATION AND TRAINING

Goal

To delineate education and training, both initial and ongoing, of vendors.

Procedure

- A. When a store applies for the WIC Program, a copy of the Allowed Foods List, Redemption Terms, Applicant Minimum Inventory and the "WIC's Guide to Retailers" pamphlet is distributed. This provides basic orientation to the rules and operations of the Program.
- B. Before a vendor is accepted, the vendor owner, or management official acceptable to HEALTH WIC Program, shall attend a vendor training at a time and place designated by HEALTH WIC Program. Such training shall usually be at the HEALTH WIC Program, although another location may be designated.
- C. A vendor monitoring staff person will also visit the store to further explain the Program. This includes check redemption procedures, allowed foods, provisions of the Vendor Participation Agreement, and minimum inventory requirements.
- D. As the allowed foods list changes, or any other vendor related aspect of the Program changes, vendors shall be advised both in writing and during vendor monitoring visits.
- E. As determined by HEALTH WIC Program, vendors shall be required to attend training sessions at the HEALTH WIC Program Department. A vendor may request to be rescheduled up to two times for a particular session. Such request must be received during normal working hours on at least the day preceding a session. The Office of Supplemental Nutrition has the sole prerogative to grant or deny the request.
- F. Failure to attend a complete training session is grounds for termination, disqualification and/or other sanctions in accordance with the Vendor Agreement and Policy V-4.
- G. In their regular contacts with vendors, the monitors will provide additional training.
- H. While investigating complaints or inquiries, or potential for risk, the monitors will educate vendors on an as needed basis.
- I. Written notices to vendors will be distributed as needed. These may include information about Program changes, procedural reminders, vendor sanctions, and education about WIC foods, nutrition, and HEALTH WIC Program. Vendors are required to maintain a file, book, or other readily accessible compilation of such notices.

Policy V-4: VENDOR COMPLIANCE, Violations and Sanctions

Rev.2/21/06

GOAL

To ensure vendor compliance through a policy which provides the HEALTH WIC Program with administrative actions for dealing with WIC vendors (including applicants) or other persons or entities found to be in violation of contract requirements or Program regulations, rules, or procedures.

PROCEDURE**I. GENERAL CONDITIONS**

Potential high-risk vendors will be identified according to Policy 3. Based on that Policy's outlined criteria, authorized high-risk vendors will be ranked. Based on this prioritization, those ranked at highest risk will be investigated prior to those with a lower risk ranking. At a minimum, Compliance Investigations will be conducted at 10% of WIC authorized vendors on an annual basis, based on this prioritization.

When during the course of a single investigation, the HEALTH WIC Program determines that the vendor has committed multiple violations (which may include violations subject to HEALTH WIC Program sanctions), the HEALTH WIC Program shall disqualify the vendor for the period corresponding to the *most serious violation or the total acquired sanction points*. However, the HEALTH WIC Program shall include all violations in the notice of sanction. If a mandatory Federal sanction is not upheld on appeal, then the HEALTH WIC Program may impose a HEALTH WIC Program -established sanction.

The HEALTH WIC Program shall not accept voluntary withdrawal or use non re-approval of the vendor contract instead of disqualification, but shall enter the disqualification on the record.

Prior to imposing a disqualification, the HEALTH WIC Program shall determine, in its sole discretion, and document in the vendor file, whether the disqualification would result in inadequate participant access for all mandatory sanctions (except for conviction for trafficking / illegal sales). This determination will be based on the unavailability of other authorized vendors in the same area as the vendor under review and any geographic barriers to using such other vendors.

If the HEALTH WIC Program determines that a disqualification would result in inadequate participant access, then the HEALTH WIC Program shall impose a civil money penalty in lieu of disqualification, except for the third or subsequent violation [and conviction for trafficking / illegal sales]. The amount of a civil money penalty shall equal the average monthly WIC redemptions for the [six] month period [Explanation - The number of months must be at least six months, but may be more than six months] ending with the month immediately preceding the month during which the notice of sanction is dated, multiplied times 10 percent (.10), and then multiplied times the number of months for which the vendor would have been disqualified, provided that the civil money penalty shall not exceed \$10,000 for each violation, and provided further that the civil money penalty in lieu of permanent disqualification shall be \$10,000. If multiple violations are revealed by a single investigation, the total civil money penalty shall not exceed \$40,000.

If a vendor does not pay, only partially pays, or fails to timely pay a civil money penalty within 30 days of the notice of sanction or for the periods provided in an installment plan, subject to revision for good cause, the HEALTH WIC Program shall disqualify the vendor for the length of the disqualification corresponding to the violation for which the civil money penalty was assessed (for a period corresponding to the most serious violation in cases where a mandatory sanction included the imposition of multiple civil money penalties as a result of a single investigation).

When a vendor, who had previously been assessed a mandatory sanction [except for a conviction for trafficking / illegal sales], receives another mandatory sanction for the same or other mandatory violations, the HEALTH WIC Program shall double the sanction for the second violation. Civil money penalties may only be doubled up to the previously noted \$10,000 / \$40,000 limits.

Revised 2/21/06

The State will notify vendors of initial violation, for violations that require a pattern of occurrences in order to impose a sanction, prior to documenting another violation. However, this notice may be waived if it is determined it would compromise an investigation

Revised 11/05

II. Violations and Sanctions

A point system to record vendor abuses has been developed. Each instance of a violation of Program rules has a set point value and a specific time period during which the points will remain on a vendor's record.

A one (1) year disqualification will be imposed if a vendor accumulates a total of twenty (20) points in a period of twenty-four (24) months or less. Should a Pattern (more than one occurrence) of any offense be determined to exist HEALTH shall impose sanctions and disqualification for a period of time not less than one (1) year and up to permanent disqualification. (See Tables 3A-1, 3A-2, 3A-3 below for Sanction Descriptions and Point Values)

A. USDA Mandatory Sanctions (WIC/ FSP Vendor Disqualification Rule 7 CFR 246.12)

Mandatory Sanctions are those sanctions imposed due to non-compliance with federally mandated policies and procedures regarding the WIC Program, as designated by the USDA. Should a vendor be found in non-compliance of any of these policies the vendor shall be immediately disqualified from the WIC Program.

“Incidence” refers to one “positive” compliance buy, or, in some instances below, to any single occurrence of a violation.

“Pattern” is defined as a minimum of two (2) violations occurring within a six (6) month period.

1. **Class 1 Violations - Permanent Disqualification (Federal, Mandatory)**

a) Conviction for Trafficking / Illegal Sales

A vendor convicted in court for the crime of trafficking in food instruments or for selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802) in exchange for WIC checks will be **permanently disqualified**, effective on the date of receipt of the notice of disqualification.

2. Class 2 Violations - Six (6) Year Disqualification (Federal, Mandatory)

a) Buying or Selling Food Instruments for Cash (Trafficking) and Illegal Sales

The State Agency will disqualify a vendor for six years for one incidence of trafficking or one incidence of selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802) in exchange for WIC checks.

3. Class 3 Violations - Three (3) Year Disqualification (Federal, Mandatory)

a) Sales of Alcohol or Tobacco in Exchange for Food Instruments

The State Agency will disqualify a vendor for three years for one incidence of the sale of alcohol or alcoholic beverages or tobacco products in exchange for WIC checks.

b) Sales Exceeding Documented Inventory

The State Agency will disqualify a vendor for three years for a pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item that exceeds the store's documented inventory of that supplemental food item for a specific period of time.

c) Charging WIC Participants More Than Other Customer or Shelf / Contract Price (Overcharging)

The State Agency will disqualify the vendor for three years for a pattern of charging WIC customers more for supplemental food than non-WIC customers or charging WIC customers more than the current shelf or contract price.

d) Unauthorized Channels

The State Agency will disqualify the vendor for three years for a pattern of receiving, transacting, and/or redeeming WIC checks outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person.

e) Food Not Received

The State Agency will disqualify the vendor for three years for a pattern of charging for supplemental food not received by the WIC customer.

f) Credit and Certain Non-Food Items Exchanged for Food Instruments

The State Agency will disqualify the vendor for three years for a pattern of providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition,

explosives, or controlled substances as defined by section 102 of the Controlled Substances Act (21U.S.C. 802), in exchange for WIC checks.

4. Class 4 Violation - One (1) Year Disqualification (Federal, Mandatory)

a) Unauthorized Food

The State Agency will disqualify the vendor for one year for a pattern of providing unauthorized food items in exchange for WIC checks, including charging for food provided in excess of items listed on the check.

5. Class 5 Violation - Variable Length Disqualification (Federal, Mandatory)

a) Disqualification from the Food Stamp Program

The State Agency will disqualify a vendor, which has been disqualified from the Food Stamp Program (FSP). The WIC disqualification will be for the same length of time as the FSP disqualification and the WIC disqualification may begin at a later date than the FSP disqualification.

The State Agency will disqualify a vendor who has been assessed a civil money penalty for hardship in FSP under 7 CFR 278.6. The length of disqualification will correspond to the period for which the vendor would otherwise have been disqualified in FSP. Such disqualification may not be imposed unless the State Agency has first determined that the disqualification would not result in inadequate participant access. If the State Agency determines that inadequate participant access would result, then neither a disqualification nor a civil money penalty in lieu of disqualification may be imposed.

Revised 11/05

The State will notify vendors of initial violations requiring a pattern of occurrences in order to improve a sanction, prior to documenting another violation. However, this notice may be waived if it is determined it would compromise an investigation.

B. Class 6 Violations - State Agency Vendor Sanctions

The State Agency will impose sanctions, including disqualification, civil money penalties, and fines for violations in addition to those listed under USDA Mandatory Sanctions.

A point system to record vendor abuses has been developed so that each instance of a violation of Program rules has a set point value and a specific time period during which the points will remain on a vendor's record.

A one (1) year disqualification will be imposed if a vendor accumulates a total of twenty (20) points in a period of twenty-four (24) months or less.

The State Agency will impose a civil money penalty (CMP) in lieu of disqualification if, in the determination of the State Agency, inadequate participant access would result if the vendor were disqualified.

1. Sanction Terms and Point Value Tables

- i. 6-Year Disqualification – Mandatory Sanction Violation or 20 Sanction Points accumulated based on a pattern (more than once) of violations within a six (6) month period.
- ii. 3-Year Disqualification – 20 Sanction Points accumulated within a twenty-four (24) month period based on a pattern (more than once) of violations.
- iii. 1-Year Disqualification - 20 Sanction Points accumulated within a twenty-four (24) month period with no pattern (more than once) of violations.
- iv. Mandatory Re-Training – 10 Sanction Points accumulated within a twelve (12) month period.

Table 3A-1

Monitoring or Simulated Shopper Visit

<u>VIOLATION ID</u>	<u>SANCTION POINTS</u>	<u>DESCRIPTION</u>	<u>Points Retained For</u>
1	1	WIC Sign posted	6 months
2	1	Prices posted on shelf or foods (per item)	6 months
3	7	Minimum stock not available	1 year
4	1	Expired dates on WIC Authorized items (per item)	1 year
5	10	Evidence of discrimination	3 years
6	2	Poor sanitary conditions in store	6 months
7			
8	2	ID not checked at register	6 months
9	2	Unauthorized brands purchased	6 months
10	5	Unauthorized amounts purchased	1 year
11	5	Check not signed	1 year
12	5	Check signed before amount is entered	1 Year
13	2	Signatures not compared	6 months
14	2	Cash register receipt not retained	6 months
15	2	No Vendor ID Stamp	1 year
16	1	Food list not at register	6 months
17	20	No Current Food Stamp Authorization	DQ
18	5	Violation of Sanitary Code	1 year
19	20	Check Redemptions from other locations	DQ
20	20	Fiscal Term	DQ
21	20	Violation of Civil Rights	DQ

Table 3A-2

COMPLIANCE VISIT VIOLATIONS

<u>VIOLATION ID</u>	<u>SANCTION POINTS</u>	<u>DESCRIPTION</u>	<u>Points Retained For</u>
1	1	WIC Food Prices not posted (per item)	6 months
2	1	WIC Sign is not posted	6 months
3	1	Material, training manual, food lists not at register	6 months
4	2	Discourteous to participants	1 year
5	2	Demands identification other than WIC ID	1 year
6	7	Loses or does not return vendor stamp	2 years
7	2	Refuses to honor valid food instrument	18 months
8	2	Attempts to limit number of food instruments redeemed	18 months
9	4	Submits Price List that is incomplete, incorrect or late	6 months
10	2	Refuses to accept manufacturer coupons for WIC foods	1 year
11	2	Fails to train store personnel in WIC procedures	1 year
12	2	Does not follow proper check cashing procedures	6 months
13	5	Redeems invalid food instrument	1 year
14	5	Fails to attend state Vendor training	1 year
15	4	Fails to submit a Price List when requested	1 year
16	5	Redeems food instrument for non-authorized food brands, quantities, or types within WIC food categories	18 months
17	5	Labels non-authorized brands as WIC approved	18 months
18	5	Does not maintain competitive prices on WIC authorized items	18 months
19	1	Expired dates on WIC Authorized items (per item)	1 years
20	5	Misbranding WIC items	18 months
21	5	Does not maintain a clean and sanitary store	1 year
22	5	Fails to maintain store business hours as specified on application	6 months
23	7	Fails to maintain minimum stock. (Pharmacies fail to provide special formula within 48 hours)	1 year
24	10	Seeks restitution from participants for checks not paid by the State agency or subject to non payment by the State agency	1 year
25	5	Submits false information on Commodity Price List	18 months
26	10	Provides rain checks for food instruments	2 years
27	10	Fails to provide evidence of proof of purchase (invoices) of WIC foods	2 years

Table 3A-3

COMPLIANCE VISIT VIOLATIONS (Continued)

<u>VIOLATION ID</u>	<u>SANCTION POINTS</u>	<u>DESCRIPTION</u>	<u>Points Retained For</u>
28	5	Fails to remit payment for overcharges or provide justification for the overcharges, including scanner vs. shelf price discrepancies	2 years
29	10	Discriminates against WIC participants (protected classes)	2 years
30	5	Submits false information on application	1 year
31	10	Counterfeit Stamp	2 years
32	10	Redeems food instruments for foods which are not in WIC food categories	2 years
33	10	Redeems specific contract formula check for other formula	2 years
34	20	Terminates the Agreement without (required) advance notice to the agency as alternative to disqualification	DQ
35	10	Uses stamp on checks redeemed at another store	2 years
36	10	Charges the WIC program for foods not received by the participant	2 years
37	20	Overcharging (Charges the WIC program more than the actual cash value of the items purchased)	DQ
38	20	Fails to pay civil money penalty as scheduled	DQ
39	10	Exchanges food instruments for money credit and/or non food items	2 years
40	20	Circumvents disqualification or civil money penalty through a purported transfer of ownership	DQ
41	20	Food and Nutrition Service Sanction (Food Stamps)	DQ
42	0	Civil Money Penalty (FSP or WIC)	Variable
43	5	Accepted future dated checks	1 year
44	5	Accepted expired checks	1 year
45	5	Accepted previously signed checks	1 year
46	2	Failed to ask/check ID	6 months
47	2	Failed to compare signatures	6 months
48	10	Sold extra amount of food not specified on check	2 years
49	20	Price fixing (Charges WIC customers more than non-WIC customers)	3 years
50	10	Asked shopper to sign before price posted on check	18 months
51	5	Sold non authorized food items	1 year
52	20	Sold non food items	DQ
53	10	Provided Disallowed Incentive Item to WIC customer	1 year

a) Other Disqualifications

An additional item that can lead to or extend a disqualification period is:

- (1) The State Agency may disqualify a vendor that has been assessed a civil money penalty in lieu of disqualification by the Food Stamps Program for a mandatory vendor sanction.

C. Fiscal Claims Against Vendors

1. The HEALTH WIC Program may assess such claim as is appropriate related to any improper redemption in the provision of supplemental foods, in the price charged to the Program on any food instrument(s) (as defined in Policy V-4, IA1a) or for other burden on Program resources. Payment of such claim shall be in addition to any appropriate disqualification, denial or non-re-approval in accordance with this Policy and/or Policy V-1.

Claim may be made for amount paid on any food instrument(s) improperly redeemed or charged and banking, data processing, investigation and reasonable administrative costs incurred by the Department in the course of discovering, calculating, developing, collecting and so forth such claim.

Updated 4/2006

2. Claims - A reimbursement or payment credit will be initiated if a WIC check is submitted for payment above the current Maximum Allowed Price for that check based on the vendor's peer group. On day 1 the state's banking contractor will reject the check over the maximum allowed price (MAP); on day 2 the check will be reprocessed. During the reprocessing, the vendor will receive an ACH credit for the MAP (minus any associated bank fees assigned to the state WIC office). The vendor agrees to accept this adjusted ACH credit and the payment of any related fees if the price on the WIC check(s) submitted for payment exceeds the current MAP for the vendor's peer group/ subcategory.

a) Bank fees

If the WIC contract bank rejects a check because a vendor deposited it in violation of WIC redemption rules (other than those outlined in the above section "Claims"), the bank may debit the vendor's account for the amount of the "Returned Check" fee called for in the contract between the bank and the HEALTH WIC Program (note: the fee in 1/99 is \$.85/check). Each month, the bank will total the returned checks by vendor and initiate an ACH debit for the appropriate amount. When vendor receives notice of returned items, vendor may contact the HEALTH WIC Program to show cause why the debit should not be imposed or be reversed.

If the claimed costs exceed the amount improperly charged by the vendor plus the currently \$5.00 service charge, the state shall provide vendor with an explanation of how the amount of the claim was determined.

b) Vendor Dispute

If vendor disagrees with the claim, or the amount of the claim, vendor may request a review within twenty days of the postmark date of the claim. The vendor is entitled to submit any evidence to show why any or all of the claim should not be due, and to meet with the Program's manager of the HEALTH WIC Program 's vendor unit to seek cancellation or adjustment of the amount of the claim.

If vendor disagrees with the claim after the above review, vendor may request an Administrative Hearing, within thirty days of postmark date of the HEALTH WIC Program 's final decision on the review.

c) Payment of Claim

Subject to any review or appeal as above, failure to pay any portion or all of the money claim according to the schedule determined by HEALTH WIC PROGRAM shall be grounds for disqualification, denial or non re-approval for a period of up to one year for a non-mandatory sanction, or a time which best reflects double the maximum penalty for the related violation or abuse as set forth above unless the vendor pays the full remaining amount due within thirty days of being notified of such a failure. The total period may not exceed one year. The HEALTH WIC PROGRAM may recover the amount of the claim via an ACH debit on the vendor's bank account made by the WIC contract bank.

3. Fines

Fines shall be imposed under Section 23-13-14 of the General Laws of the State, subject to the requirements in N below, in addition to the appropriate administrative sanction in accordance with this Policy and/or Policy V-1.

D. Probation

A previously sanctioned vendor if subsequently authorized as a vendor shall serve a period of probationary authorization for a period equal to the most recent period of sanction, or one year, whichever is greater, and shall be subject to such special conditions imposed by HEALTH WIC PROGRAM such as termination for any offense with a 15 day warning or opportunity to correct, termination prior to hearing, additional monitoring, reporting and training requirements, price or volume restrictions, etc. This provision is subject to appeal.

E. Concurrent violations

Should a site visit, a complaint, investigation and/or an analysis determine two or more concurrent Class 1, 2, 3, 4 or 5 violations of WIC Program rules, the prescribed penalties as delineated above shall be to assess the most severe violation. Class 5 (state violations) shall be determined by the accumulation of sanction points.

F. For all Mandatory sanctions, the HEALTH WIC Program shall not accept voluntary withdrawal or use non re-approval of the vendor contract instead of disqualification, but shall enter the disqualification on the record.

III. GENERAL STATE CONDITIONS

1. The HEALTH WIC Program shall impose sanctions, including disqualifications, civil money penalties, and fines for violations for which there are not any mandatory sanctions.
2. A disqualification period shall not be less than one year (1/05) for all of the violations investigated as part of a single investigation.

3. A civil money penalty or fine shall not exceed \$10,000 for each violation, and shall not exceed \$40,000 for all of the violations investigated as part of a single investigation.
4. The HEALTH WIC Program shall determine the amount of a civil money penalty or fine “in the same manner as for mandatory sanctions; see item 3 under the General Conditions for Mandatory Sanctions”. Fines and civil money penalties shall become due for payment with “the same timing as for mandatory sanctions; see item 4 under the General Conditions for Mandatory Sanctions”, and, if such payment is not made, the HEALTH WIC Program shall disqualify the vendor for the length of the disqualification corresponding to the violation for which the civil money penalty or fine was assessed.
5. The HEALTH WIC Program shall not impose a civil money penalty based on an FSP civil money penalty.

IV. ADMINISTRATIVE ACTION

A. Evaluating the Violation and Sanction Term

When a vendor has committed more than one Class 1 through 5 violations for which this Policy stipulates different penalties the vendor shall be disqualified for whichever term is longest, in relation to the terms specified for the violation(s) committed.

Penalties based on Class 6 violations are determined by the total number of sanction points accumulated.

With respect to any sanction for which a specified term is set forth, the program administrator may make a determination other than the stipulated maximum term called for. In making this determination the administrator may consider factors that include, but are not limited to:

1. Whether the violation was an error committed or omitted in the performance of required procedural activities (ex: "misreading" an issue date although the date was looked at).
4. Previous sanctions - If state sanctions have once or twice before been imposed, a third sanction, for any violation(s), non-mandatory sanctions, additive up to one year
3. The extent of prior warning and opportunity for corrections of non-mandatory sanctions.
4. The extent of vendor education.
5. The extent of potential risk the practice holds for compromising the HEALTH WIC Program/nutritional effectiveness of the Program and/or its fiscal integrity.
6. Except for Class 1 through 5 violations that carry mandatory sanctions, the number and severity of the violation(s) under review, including a pattern of violations, based on the current violations and/or a history of previous violations.

7. Vendor cooperation in the monitoring, education, investigation, sanction, or correction process; in responding to requests for action or information; both in the current instance as well as in the past; or willingness to comply in the future.
8. Hardship to participants if the vendor is disqualified (See C, below).
9. Any other factors relevant to the efficient and effective administration of the Program.
10. If the vendor continues to violate Program rules following notice of disqualification, the disqualification period shall be extended by the period of the time the vendor remains in violation or continues to violate Program rules, in addition to the sanction period stipulated in Violations and Sanction Types, above, for the additional violations.

B. Sanction Steps

1. Initial discovery takes place and if there is a problem, a notice of violation will be issued, sanction points will be assessed and a warning letter issued. The warning letter will include a time frame in which compliance is expected. An effort is made to provide educational assistance to the vendor to correct the problem.
5. The vendor shall develop a plan of correction acceptable to HEALTH WIC PROGRAM at this time. The vendor is made aware that a subsequent review will be made to see if the problem has been resolved.

Revised 11/05

6. The State will notify vendors of initial violations requiring a pattern of occurrences in order to impose a sanction, prior to documenting another violation. However, this notice may be waived if it is determined it would compromise an investigation
7. Sufficient or insufficient compliance by the vendor is determined at the end of the time period stated in the final warning.
8. If the subsequent review reveals that a problem still exists, *sanction points will again be assessed. Based on the number of sanction points* accumulated the appropriate sanction will be applied
9. Based on the number of sanction points, the vendor may be disqualified from participation as a vendor.
10. The disqualification is implemented by notice to the vendor, by demanding return of the store's WIC vendor stamp, and/or by notifying the bank not to honor WIC checks deposited by the disqualified vendor.

A minimum of 15 days advance notice of the effective date of the action shall be provided to the vendor. Notice shall be in writing and contain notice of the action and the causes for and the effective date of the action, and notice of the opportunity to appeal the actions (if applicable) and the time period for requesting an appeal.

Exempt from the above notification requirement are permanent disqualifications based on convictions for trafficking and/or illegal sales; in those two instances, the disqualification is effective upon the vendor's receipt of the disqualification notice.

11. Disqualification of 1 year or less - At the end of the disqualification period, the vendor must notify the HEALTH WIC Program that the vendor is in compliance with all requirements. Upon verification of vendor compliance by the HEALTH WIC Program, the vendor may be restored to participating status if the time period is within the same fiscal year. If this does not occur until the following fiscal year, the agreement will terminate and vendor will be required to re-apply.

If the vendor fails to demonstrate compliance at the end of the disqualification period, disqualification shall be extended by the period of time set forth under Violations and Sanction Types, above, up to a period not exceeding one year.

12. Disqualification of more than 1 year - The vendor's Participation Agreement shall be terminated, and the Food Stamp Program (FSP) Field Office notified of such. The vendor shall not be reinstated until after he reapplies and is found by the HEALTH WIC PROGRAM to meet all applicant vendor criteria. Depending on the nature of the violation (particularly a mandatory disqualification), WIC Program disqualification may result in a FSP disqualification up to the same period and not subject to FSP administrative and judicial review (Section 278.6(e)(8) of FSP Regulations).
13. The vendor may be required to immediately refund or pay any related claim (see K., 2, above), separate and apart from any other warning or sanction activities. Failure to immediately pay the claim shall be grounds for disqualification of up to one year, in the absence of review and/or appeal, or following a review and/or appeal deciding in favor of a claim.

C. Inadequate Participant Access

Prior to disqualifying the vendor, the HEALTH WIC Program shall determine, in its sole discretion, and document in the vendor file, whether the disqualification would result in inadequate participant access for all mandatory sanctions (EXCEPT IN THE CASE OF A THIRD VIOLATION OF A MANDATORY SANCTION OR ITEMS LISTED IN IA, PERMANENT DISQUALIFICATION, ABOVE,). This determination will be based on the unavailability of other authorized vendors in the same area as the vendor under review and any geographic barriers to using such other vendors. Any determination of participant access shall consider the following and such additional factors as may be relevant:

1. Whether there are other vendors in the area who can provide the WIC-Approved foods as described in Policy V-1 Vendor Applicant Selection.
2. Whether the access is no less than the access or inconvenience the affected participants experience in securing any other essentials or non-essentials of life.
3. Since it is likely that vendors who violate the Program are not providing participants with the appropriate nutritional benefits of the Program, or are diverting funds from other needy

persons, the period of disqualification set forth in this policy is the preferred sanction, unless the conclusive weight of evidence is to the contrary.

4. That violators divert legitimate WIC related business from those vendors who adhere to Program regulations.
5. That when the violation is such that it also involves participation by participants/payees, the HEALTH WIC Program and nutritional benefits and the integrity of the Program itself are severely compromised.

If the HEALTH WIC Program determines that a disqualification would result in inadequate participant access, then the HEALTH WIC Program shall impose a civil money penalty in lieu of disqualification, except for the third or subsequent violation [and conviction for trafficking / illegal sales]. The amount of a civil money penalty shall equal the average monthly WIC redemptions for the [six] month period [Explanation - The number of months must be at least six months, but may be more than six months] ending with the month immediately preceding the month during which the notice of sanction is dated, multiplied times 10 percent (.10), and then multiplied times the number of months for which the vendor would have been disqualified, provided that the civil money penalty shall not exceed \$10,000 for each violation, and provided further that the civil money penalty in lieu of permanent disqualification shall be \$10,000. If multiple violations are revealed by a single investigation, the total civil money penalty shall not exceed \$40,000.

- a. If a vendor does not pay, only partially pays, or fails to timely pay a civil money penalty within 30 days of the notice of sanction][the periods provided in an installment plan, subject to revision for good cause, the HEALTH WIC Program shall disqualify the vendor for the length of the disqualification corresponding to the violation for which the civil money penalty was assessed (for a period corresponding to the most serious violation in cases where a mandatory sanction included the imposition of multiple civil money penalties as a result of a single investigation).
- b. When during the course of a single investigation, the HEALTH WIC Program determines that the vendor has committed multiple violations (which may include violations subject to HEALTH WIC Program sanctions), the HEALTH WIC Program shall disqualify the vendor for the period corresponding to the most serious mandatory violation. However, the HEALTH WIC Program shall include all violations in the notice of sanction. If a mandatory sanction is not upheld on appeal, then the HEALTH WIC Program may impose a HEALTH WIC Program-established sanction.
- c. When a vendor, who had previously been assessed a mandatory sanction [except for a conviction for trafficking / illegal sales], receives another mandatory sanction for the same or other mandatory violations, the HEALTH WIC Program shall double the sanction for the second violation. Civil money penalties may only be doubled up to the previously noted \$10,000 / \$40,000 limits.
- d. When a vendor, who had previously been assessed two mandatory sanctions [except for a conviction for trafficking / illegal sales], receives another mandatory sanction

Section 3 Appendix - 30

for the same or other mandatory violations, the HEALTH WIC Program shall double the sanction for the third violation. The HEALTH WIC Program shall not impose a civil money penalty in lieu of disqualification for the third mandatory violation. A fourth or subsequent violation shall be treated in the same manner as the third; the sanction for the fourth or subsequent violation shall be doubled and civil money penalties shall not be substituted for disqualification.

- e. The HEALTH WIC Program shall not provide prior warning that violations were occurring before imposing mandatory sanctions.

D. Prosecution

A vendor who commits fraud or abuse of the Program is subject to prosecution under applicable federal, state, or local laws.

E. Delegation

The HEALTH WIC Program may delegate, refer, or assign activities related to prosecution, collection of claims, monitoring, or investigation of vendors to any other party qualified and or/empowered to perform such activities.

F. Appeal of Sanctions

Federal Appeal Conditions

1. The vendor may appeal the denial of an application for authorization or if, during the course of a contract, the vendor is disqualified or any other adverse action is taken, except that expiration of the contract and the HEALTH WIC Program’s participant access determination for a mandatory or HEALTH WIC Program violation shall not be subject to administrative appeal.
2. Disqualification of a vendor from FSP may result in disqualification from WIC. Such disqualification from WIC shall not be subject to administrative or judicial appeal under the WIC Program. A WIC disqualification based on an FSP civil money penalty is subject to appeal, although not with respect to the participant access decision; also, the appeal of the reciprocal WIC disqualification may not challenge the FSP decision to impose the civil money penalty.
3. Disqualification from the WIC Program may result in disqualification as a retailer in the Food Stamp Program. Such disqualification may not be subject to administrative or judicial review under the Food Stamp Program
4. Except for disqualifications based on convictions for trafficking / illegal sales, which shall be effective on the date of receipt of the notice, the HEALTH WIC Program may take adverse action against the vendor 15 days after the HEALTH WIC Program provides the vendor with written notice.

When a food vendor's participation is adversely affected by any other HEALTH WIC Program action it may appeal the action under the provisions of policy A-2 Administrative Appeal to HEALTH WIC Program Decisions.

As noted above, except for disqualifications based on convictions for trafficking or illegal sales, which shall be effective on the date of receipt of the notice, the HEALTH WIC Program may implement the sanction or other adverse action following the fifteen day notification period, and not postpone the action until a hearing decision is reached. The state may consider such factors as participant inconvenience, potential for continuing harm to the program, vendor history of violations, previous decisions in similar cases, information provided by vendor and other factors the state considers relevant to the case.

The HEALTH WIC Program may at its option offer the opportunity for a vendor so affected to meet with the HEALTH WIC Program in informal conference, separate and apart from any appeal procedure. At such a conference a vendor may have the opportunity to present any information that the decision was in error, that there were extenuating circumstances, or that there are additional factors to be taken into consideration in determining or reversing the sanction. Such requests or convening of such informal conference shall not impede or delay any administrative appeal process unless such delay is determined to be in the interests of the Program by the HEALTH WIC Program.

- G. Once the sanction is upheld, the Regional Office and the Food Stamp Program shall be notified within 15 days.

Policy V-5: ~~VENDOR MONITORING VISITS~~**Goal**

~~To provide a regular pattern of visits to vendors to monitor their compliance with the laws, rules and procedures of the WIC Program.~~

Procedure**I. ~~Regular Visits~~**

~~A. The vendor monitoring staff shall regularly schedule monitoring visits each week.~~

~~8/99 1. Primary emphasis shall be on potential for potential for risk visits.~~

~~2. A list of vendors needing monitoring visits will be drawn up based on V-2, Selection of Vendors for Monitoring, and other considerations and time since last visit.~~

~~B. All visits shall be recorded on a Vendor Site Visit Report (WIC-33)~~

~~C. If needed, review WIC-related inventory, pricing, redemption, deposit or other records to establish the facts about any possible violation.~~

~~D. At each visit, the availability of WIC allowed foods shall be recorded on a Vendor Inventory Review (WIC-34A).~~

~~E. Any problems noted shall be discussed with the vendor at the conclusion of the visit. The Vendor and the WIC representative shall develop a plan of correction. A time frame shall be stipulated for compliance.~~

~~F. In the event of improperly completed checks, immediate steps should be taken. Missing prices should be recorded. The vendor should record his minimum price, unless he can document otherwise. Contact a Program supervisor if in doubt. A "stop payment" can be placed if a check is not/cannot be corrected.~~

~~G. Any complaints about a particular vendor shall be discussed during any monitoring contact.~~

~~H. Any failure to comply shall be noted and brought to the attention of the Asst. HEALTH WIC Program Administrator.~~

- ~~I. — Each day, the Asst. HEALTH WIC Program Administrator shall review all vendor contact record forms and discuss necessary follow up with Monitoring Staff.~~
- ~~J. — All forms shall be retained in the vendor's file.~~
- ~~K. — Site visits for applicants shall be regularly scheduled, up to 20% of each month's site visits. If feasible, visits should be made within two weeks of the receipt of a correctly completed application and recorded on a vendor Application Site Visit Form (WIC-32).~~

~~Applicant site visits may be curtailed during August, September and October at the discretion of the Program Chief to concentrate resources on the Agreement renewal/reapplication process.~~

~~L. — Documentation~~

- ~~1. — All visits shall be noted on the Vendor Monitoring Log (WIC-28) during the visit and signed by the vendor staff person and the person in charge of the store at the time. The following codes will define the type of visit:~~

~~S — Periodic site visit or education visit.~~

~~CB — Call back; to follow up on questions arising from a site visit.~~

~~P — Problem; additional visits related to complaints, possible deficiencies or violations, or other problems.~~

~~A — Application visits related to the store's request to be a WIC authorized vendor.~~

~~O — Other; miscellaneous visits to deliver or pick up materials or items, answer minor questions (if no WIC-33 completed)).~~

- ~~2. — On the first working day of each month, total that month's visits on the WIC-28. The logs will be maintained by month.~~

~~II. — Additional Investigations~~

~~Any probable violations should be followed up with, as appropriate, such activities as:~~

- ~~1. — Review of checks redeemed.~~
- ~~2. — Interviews or surveys of participants, local agency staff, other vendors, or other parties.~~

- ~~3. Follow up on site visits.~~
- ~~4. Compliance investigations.~~
- ~~5. Inventory audits.~~

~~Such activities may be conducted by state agency staff; independent consultants; investigators, or aides; or referred to other agencies of the HEALTH WIC PROGRAM or to other state agencies, as appropriate and available.~~

~~Policy V-6: PARTICIPANT OR LOCAL AGENCY COMPLAINTS REGARDING VENDORS~~

~~Goal~~

~~To provide a mechanism to transmit and respond to complaints about vendors.~~

~~Procedure~~

~~A. Any complainant or complaint, except from another vendor, shall be referred to the HEALTH WIC Client Services Unit. Local agencies should complete and forward a Vendor Question/Complaint Form with full details, including how to contact the complainant. The local agency may call in addition to sending the form.~~

~~Obtain as much of the following as possible:~~

~~1. Date, what occurred, store staff involved.~~

~~2. Checks involved, if any~~

~~3. Signed statement by complainant (i.e., ask complainant to sign completed form.)~~

~~B. The Client Services Unit shall forward the complaint form to the Vendor Unit Supervisor. The Supervisor shall assess the merits of the complaint and plan follow-up with vendor monitors.~~

~~C. If a complaint is verified the vendor and vendor monitoring staff person will immediately develop a plan of correction. All occurrences shall be noted on a Vendor Contact Record form.~~

~~D. Failure to comply with the plan of correction may result in a warning letter or a sanction.~~

~~E. A pattern of complaints may also be considered by the state agency as grounds for a warning letter or sanction.~~

Policy V-7: ~~VENDOR REPORTS ON PARTICIPANTS CHOOSING NON-WIC FOODS~~

Goal

~~To provide a mechanism for dealing with participants who attempt to buy non-WIC foods.~~

Procedure

- ~~A. When a vendor notices that a participant has chosen non-allowable food items to purchase with WIC checks he should:~~
- ~~1. Ask a participant to exchange non-allowable food items for foods listed on the WIC Allowed Foods list.~~
 - ~~2. Write down the participant's name, date of selecting wrong foods, WIC ID number and local agency, as well as the types of non-allowable food items she was trying to purchase.~~
 - ~~3. Call the Rhode Island Department of HEALTH WIC Program and relate the incident as it occurred.~~
- ~~B. At this point the Rhode Island Department of HEALTH WIC Program WIC staff liaison person for the local agency in question will:~~
- ~~1. Call the local agency and report the incident as told by the vendor, naming the participant and types of food that the participant had incorrectly chosen.~~
 - ~~2. File a report on the incident at the Rhode Island Department of HEALTH WIC Program~~
- ~~C. The local agency will then:~~
- ~~1. Flag the chart of the participant in question, with recount of the incident.~~
 - ~~2. At the next check pickup the participant will be referred to the nutritionist or nurse for an education session that covers the following information:~~
 - ~~a. What occurred, and where, in a tone such that the participant is given the benefit of the doubt. (For instance: It was reported that you tried to purchase such and such with your WIC checks; since these are not allowable WIC foods, we feel that perhaps you did not get the appropriate education concerning the list or, perhaps you lost your list ... here is another one...).~~

- ~~b. — Attempt to discover the reason for non-WIC food choice (ex, food intolerance, lack of knowledge?).~~
- ~~c. — Go over the list category by category naming allowed items.~~
- ~~d. — Then tell why each food was chosen and why it is important for the participant to purchase it.~~
- ~~e. — Ask if the participant has any questions and answer them.~~
- ~~D. — The state liaison would then do a follow up call with local to see what occurred, and so record on the same report originated earlier.~~
- ~~E. — A determination will be made of the participant's intention and the severity of any actual Program violation. The local agency will take appropriate additional measures (warning letter, suspension) if warranted.~~
- ~~F. — Other participant redemption violations will be handled in a similar manner.~~

Policy V-8: VENDOR MINIMUM INVENTORY REQUIREMENTS

Goal

To ensure that each authorized WIC vendor maintains a sufficient minimum inventory of WIC Allowed Foods.

Procedure

Revised 2-06

- A. For each food group, the vendor shall maintain a minimum inventory according to the WIC Vendor Minimum Inventory Requirements in effect at the time. WIC grocery vendors need to maintain a minimum inventory based on the WIC-39G requirements, while WIC pharmacy vendors need to maintain a minimum inventory based on the WIC -39P requirements.
- B. The minimum inventory must be comprised only of foods designated by the HEALTH WIC PROGRAM as WIC ALLOWED or Contract Brand.
- C. The HEALTH WIC PROGRAM reserves the right to exclude excessive priced, damaged, outdated, unsanitary or contaminated foods in calculating inventory levels.
- D. For purposes of determining compliance with this Policy, the HEALTH WIC PROGRAM representative shall consider only such inventory as displayed, shown in shopping areas or shown by on-site store staff during the time of a monitoring visit. The foods must be reasonably accessible and available for vendor monitoring review and for WIC customer purchase at the time of the monitoring visit.
- E. Failure to comply with the WIC Allowed Foods List and Minimum Inventory Requirements shall be noted as a deficiency when a store is surveyed.
- F. If the store is a pharmacy, they are only allowed to accept checks for specialty formulas.
- G. Grocery stores authorized to provide special formula products must maintain the minimum inventory quantities for said products.
- H. Vendor applicants shall be required to comply with the WIC Allowed Foods List and such minimum inventory as required by Vendor Applicant Selection Policy V-1.

Policy V-9: MONTHLY SUMMARY - VENDOR STATUS

Rev. 8/99

Goal

To record changes in vendor status and the accomplishment of each step in that process in order to insure vendor participation is in accord with related regulations and procedures.

Procedures

- A. When any change in vendor status is anticipated or accomplished, record the vendor name and the nature of the change under the correct heading on the WIC-29.
- B. Business Change—Record any changes in ownership, name, or location by listing the date. The "Comments" column should describe the nature of the change.
- C. There is a group of columns related to sanction/termination activities. Record the date and reason each activity takes place and note pertinent comments in that column.
- D. Four columns pertain to adding vendors to the Program. Record the date of each step in the appropriate column.
 - "Add" pertains to the date the Agreement is completed by both parties.
 - "Stamp" pertains to the date of stamp delivery.
- E. Record vendors being investigated by state or federal agency(s) with dates, notes, and comments.
- F. Maintain separate sheet(s) for each month.
- G. On the first working day of each month, total the activities for that month.

Policy V-10: PRICE STANDARDS AND PEER GROUP CLASSIFICATIONS*Revised 6/07*

Goal

To ensure that Program food funds are utilized for the maximum benefit to eligible persons, by preventing excessive charges by vendors.

Policy

Added 11/05

Excessive price standards for vendors are based upon comparative prices of each vendor in relation to prices charged to WIC by other WIC vendors in the same peer group. It is the responsibility of the vendor to set prices that are not unduly higher than prices charged to WIC by other vendors in the same peer group. An evaluation of prices shows that geography does not play a significant role in price variation across the state. RI WIC excludes prices from above-50%-vendors from the calculation of average/competitive, and maximum price calculations.

Procedure

Revised 6/07

- A. Peer Group Classification of stores - WIC vendors shall be classified according to the total value of yearly food sales for grocery vendors (WIC and non-WIC foods) and the number of stores in the chain (if a local vs. national chain). Stores will be grouped as follows:

Type of Business

Grocery Vendors*Total value of yearly food sales for grocery vendors (WIC and non-WIC)

Peer Group 1
Small Grocers

Less than \$500,000*
1-2 cash registers

Peer Group 2
Medium Grocers

\$500,000 up to \$3,000,000*
3-5 cash registers

Peer Group 3
Small Local Chain or
Large Independent Store

\$3,000,001 to \$20,000,000*
6 + cash registers

Peer Group 4
Large National Chain /
Extra Large Independent Store

Over \$20,000,001*

Peer Group 5
Commissary (military)

Peer Group 6
Farmers Market

Peer Group 7
Independent Pharmacy

Peer Group 8
National Chain Pharmacy

Peer Group 9
Current Above 50% Stores

Vendors whose total WIC sales
comprise more than 50% of their
total food sales.

Peer Group 10
Potential Above 50% Stores

New Stores with no data to analyze

Added 6/07

RI vendor peer groups classifications are established based on a combination of factors such as Vendor size, total volume, food and non food sales, WIC volume, square footage of store, number of cash registers, Type of store etc.

B. Competitive Pricing of WIC Allowed Foods

Prices reported, posted or charged for WIC foods shall not be excessive, as compared with those vendors within their peer group, or of other Rhode Island WIC vendors.

1. Competitive / Average Price (CAP)
Revised 6/07

The Competitive / Average Price (CAP) is established for each WIC Approved food item for each vendor peer group. The CAP is the average price that WIC will pay for any WIC food, food group, combination of foods, WIC food package(s) or check type(s), (regardless of type, brand, weight or volume provided).

Each peer group's CAP (excluding the A50%V) is based on:

- i. The average amount charged for that food item by authorized WIC vendors in the Vendor's assigned peer group, and/or,**
- ii. The average amount of accepted prices submitted on the vendor's price surveys by authorized WIC vendors in the Vendor's assigned peer group, and/or,**
- iii. The manufacturer's 75 case wholesale price list for infant formula x 115%,**
- iv. Or a combination of the three methods, to obtain the least expensive price.**

To ensure cost neutrality, and competitive pricing, the prices derived from the A50%V Peer group price surveys and redemptions will be excluded from the calculation of the CAP.

The CAP for vendors in the A50%V Peer group will be set at the statewide average for WIC allowed food items and WIC food instruments as determined by statewide redemption data and price survey data. To ensure cost neutrality and competitive pricing, the prices derived from the A50%V Peer group's price surveys and redemptions will not be included in the calculation of statewide averages.

Maximum Allowable Prices (MAP)

Revised 6/07

- 1. A Maximum Allowable Price (MAP) is established for each WIC Approved food item for each peer group. The MAP is based on each peer group CAP plus a factor to reflect fluctuations in the market place.**
- 2. Periodically, vendor's redemption patterns will be analyzed for the rate of redemptions near or at the MAP. Those vendors with a pattern of inflated food prices that is higher than other retailers / peers will be given an opportunity to reduce their prices. If they choose not to reduce their prices, the store will not be authorized by WIC, and rejected because of high prices.**
- 3. For applicants, the determination of excessive pricing may be based upon their submitted WIC Price Sheet, vendor redemptions and / or other methods of estimating or projecting the applicant's charges for WIC foods if authorized.**

Added 6/07

The federal regulations require state agencies (RI) to collect vendor applicant's current shelf price at the time of application. The intent of this provision is to ensure that all vendor

applicants, whether new applicants or current vendors, submit the same type of price information so that RI WIC may objectively consider the prices a vendor applicant charges as compare to other vendor applicants. Rhode Island, Department of Health, WIC program requires that all vendors participating in the WIC program submit a price list on a semi-annual basis.

3. Incentives

Added 11/05

- A. WIC does not allow vendors to provide incentive items or other free merchandise (except food or merchandise of nominal value) to WIC shoppers unless the vendor can provide proof that the incentive items were obtained at no cost to the vendor.
- B. Acceptable Incentive Items would be:
 - a. Merchandise obtained at no cost to the vendor and provided to participants without charge, or sold to participants at or above cost (subject to documentation),
 - b. Food or merchandise of nominal value (ie, having a per item cost of less that \$2)
 - c. Food sales and specials which:
 - i. Involve no cost, or only a nominal cost for the vendor
 - ii. Do not result in a charge to a WIC food instrument for foods in excess of the foods listed on the food instrument.
- C. This applies to for-profit vendors for which more than 50% of their annual food sales result from WIC sale (ie, "Above- 50%-Vendors.) or new vendor applicants likely to be "Above-50%- Vendors.

Policy V-11: VENDOR PAYMENT PROCESS

Goal

To provide a consistent procedure for reimbursing vendors for WIC checks accepted which cannot be processed; to ensure accountability through recording and documenting of such transactions; and to decrease the incidence of improper redemption procedures.

Procedure

Subject to the following procedures, the vendor shall have an opportunity to correct or justify an actual or alleged overcharge or error, or defend against a HEALTH WIC Program charge or claim for alleged overcharge or error. Only if the HEALTH WIC Program is satisfied with the correction or justification, then it may provide payment or adjust the payment to the vendor accordingly. The HEALTH WIC PROGRAM may deny any reimbursement if overcharge or errors are not sufficiently justified, corrective action not taken, or overcharges or errors are repeated.

General

Revised 11/05

- A. No check will be considered for reimbursement unless the check, request for reimbursement and acceptable justification and explanation are received at the WIC Office, HEALTH WIC PROGRAM, not more than 30 days after the “Last Day to Use” printed on the check. If the bank has rejected the check, it must be submitted to the State WIC Office within 30 days of the date it was rejected by the WIC contract bank.

If the check is paid, there is a \$5.00 handling fee deducted from any reimbursement if a check was improperly accepted or completed by vendor.

Only a limited number of checks will be reimbursed for any vendor. Repeated submissions will not be honored. The State WIC Office will use a cut off number related to the amount of vendor's volume. Once the cut off reached no more reimbursements to that vendor will be honored.

Vendors will be billed by WIC for the bank-handling fee of \$.85 per check.

Under no circumstances should a vendor request or accept cash payments from WIC participants for WIC foods, rejected WIC checks or un-deposited, improperly handled WIC checks.

RI WIC Program’s Rejected Check Submissions Instructions

REJECT REASON	WHAT THE VENDOR SHOULD DO
*No Vendor Stamp	Stamp and re-deposit in the vendor’s bank
Illegible Vendor Stamp	Vendor should re-stamp the check so that it is legible and re-deposit it in the vendor's bank before the check expires. If the Vendor Stamp is worn out, contact the State WIC Office for a replacement stamp.
Invalid Vendor Stamp or Multiple Vendor Stamps	Vendor will not be paid
No Signature	Vendor will not be paid
Expired	Vendor will not be paid
Future Dated	Vendor will not be paid
Excessive Dollar Amount	If the State WIC office reimburses the vendor for a WIC check, it will be based on the MAP item prices for that vendor’s peer group. The vendor may lose this money.
Improperly Altered Price Illegible Price	Will consider paying only if alteration occurred when vendor was attempting to correct a pricing error. If the State WIC office reimburses the vendor for a WIC check, it will be based on the MAP item prices for that vendor’s peer group.
Price Missing	Vendor will not be paid
Altered Signature	Vendor will not be paid
Void/Stop payment	The vendor should submit to the State WIC Office; with receipt for any bank fee. May be reimbursed if not on Stop Payment Notice and vendor identifies who redeemed it. The vendor may lose this money.
Previously rejected Already Paid Other	Vendor will not be paid

B. Checks exceeding the Maximum Allowed Price (MAP)

Revised 6/06

An ACH reimbursement or payment credit will be initiated if a WIC check is submitted for payment above the current Maximum Allowed Price for that check, based on the vendor's peer group.

On day 1, the state's banking contractor will reject the check exceeding the MAP. On day 2 the bank will reprocess the check. As a result of this reprocessing, the vendor will receive an ACH credit for the MAP (minus any associated bank fees assigned to the state WIC office). The vendor agrees to accept this adjusted ACH credit and the payment of any related fees if the price on the WIC check(s) submitted for payment exceeds the current MAP for the vendor's peer group.

Policy V-12: CHANGE OF VENDOR OWNERSHIP

Rev.10-16-01

Goal

To evaluate each "change of ownership" to determine if there is a continuity of the business, management and personnel at the store.

I. Policy

- A. The retail store shall notify the WIC Office in advance if there is a modification or change of ownership, change of operations and/or control to be the subject of a determination of a "continuity of the business" and shall provide to the HEALTH WIC Program all information requested by the HEALTH WIC Program necessary for the proper review of the transaction. All information provided by the retail store at the request of the HEALTH WIC Program will be kept confidential. Failure to notify in advance will result in immediate termination of the Vendor Participation Agreement and will jeopardize the new application. (Vendor Participation Agreement, IB5).
- B. Continuity of the business, for purposes of this policy, is defined as:
1. Change of a single proprietorship to a partnership or corporation where the original sole proprietor remains a partner or shareholder with at least a 45% interest in the new partnership/corporation.
 2. Change in a partnership by adding partners where the original partners still maintain at least a 45% interest in the new partnership.
 3. Change in a partnership by loss of one or more partners. This would include conversion of a partnership to sole proprietorship through loss of one or more partners, where the one of the original partners still maintains at least a 45% interest in the business. In the case of a change to a sole proprietorship, one of the original partners must have 100% interest.
 4. Incorporation of an existing partnership where the original partners still maintain at least a 66% interest in the corporation.
 5. Corporate mergers or buy-outs where the original corporation is merged with another or becomes a subsidiary.
 6. In reviewing B4 and B5, the HEALTH WIC Program may deny the retail store a determination of "continuity of the business" even though it meets all other criteria identified in this policy if the HEALTH WIC Program determines that the change in

the structure of the business was for an inappropriate reason. In reviewing the purpose for which the business structure was changed, the HEALTH WIC Program may review the following circumstances regarding the transaction to justify the denial:

- (a) Under capitalization;
 - (b) Failure to adhere to corporate formalities;
 - (c) Substantial intermingling of corporate and personal affairs;
 - (d) The use of the corporate form to perpetrate fraud; and
 - (e) Any other circumstances relevant to the determination of the appropriateness of the transaction.
7. Appointment by the Court of a Receiver to oversee the assets and operation of the Vendor.
 8. Appointment by the Court of an Executor to oversee the assets and operation of the Vendor.
- C. Continuity of management and personnel is defined as when a majority of the management and personnel in the store that deal with the WIC policy and procedure and WIC transactions will continue to be employed in the same position under the new ownership structure.
- D. Instances where there is no continuity of the business as defined in B will be considered a "modification/change of operations/ownership/ control, etc."; the WIC agreement is immediately considered null and void and the procedures described in Policy V-1 will be implemented or hardship procedures described in C., below will be followed if pre-notification of the change of ownership is received.
- E. Instances where there is a continuity of the business, management and personnel will be considered a "modification of ownership" rather than a "change of ownership" and will be processed as follows:
1. The "new" business entity will be permitted to continue to transact WIC food instruments (as defined in Policy V-4, IA1a) maintained.
 2. Additional review or training of the "new" proprietary person(s) will be required.
 3. The appropriate signatory authority of the "new" business entity will be required to sign a new agreement and a Certification of Prospective or Modification of Store Ownership form (WIC-56), a Certification of Prospective or Modification of Store Ownership - Court Appointed Receiver (WIC-56A), or a Certification of Prospective or Modification of Store Ownership - Probate Court Appointed Executor (WIC-56B), signifying their continued intent to conform with WIC Policy and Procedures.

4. The vendor number will change and the modification of the ownership will be transparent to WIC participants and clinic employees.
- F. Instances where there is a continuity of the business but no continuity of management and personnel will be considered a "modification of ownership" and will be processed as follows:
1. The "new" business entity will be required to undergo training before being able to continue transacting WIC food instruments (as defined in Policy V-4, IA1a).
 2. Arrangements will be made to forward participants to alternate stores until the "new" business entity receives training.
 3. The appropriate signature authority of the "new" business entity will be required to sign a new agreement signifying their continued intent to conform with WIC Policy and Procedures.
 4. The "new" business entity will be placed on probationary status for six months during which time the store will be reviewed to ensure continued compliance with WIC Policy and Procedures.
 5. The vendor number will not change, however, there will be service disruption until the appropriate training is held. In such instances training will be expedited to the extent feasible.
- II. Procedure
- A. The "old" and "new" business entities must notify the HEALTH WIC Program vendor unit of reported/identified change/modification of retail store operation and/or ownership, as soon as identified.
 - B. The HEALTH WIC Program will determine appropriate status of change/modification of operation/ownership based on this policy.
 - C. When the HEALTH WIC Program is informed that an authorized WIC retail store plans to change operation/ownership, as described in D, above, and the HEALTH WIC Program determines Inadequate Participant Access (not inconvenience) would occur, the HEALTH WIC Program may:
 1. Instruct the owner to schedule a store review and application pickup date.
 2. Conduct review or data scheduled and complete new store paperwork with written justification for Inadequate Participant Access. The HEALTH WIC Program will

review the prospective store's application package in an expedited manner. If the prospective store-owner's application package is approved by the HEALTH WIC Program, the store will be provided Probationary Authorization only. A follow-up unannounced probationary review will be required within 6 months of the change of ownership to insure that the new store ownership is continuing to adhere to all WIC Selection and Limitation Criteria.

- D. The HEATH WIC Program will complete follow-up action as required.

~~Policy V-13: RI WIC LICENSED / AUTHORIZED INFANT FORMULA SUPPLIERS~~~~Added 11/05~~

~~Goal: To ensure that infant formula purchased by WIC shoppers in WIC authorized stores has been obtained from licensed / authorized sources.~~

~~I. An annually updated listing of licensed infant formula providers will be maintained by the State WIC Office. This listing will be comprised of:~~

~~A. A listing of the Primary Infant Formula Suppliers:~~

~~1. This "Primary List" is generated from the WIC Vendor Application forms. Vendors are required to list the source(s) of their infant formulas. The source is compared to the retail and wholesale food vendors currently licensed in RI by the RI Department of Health. If the source is actively licensed in RI, they are considered a licensed / authorized infant formula supplier for WIC vendors and added to the Primary List.~~

~~a) The Primary List will be provided to each WIC vendor on an annual basis.~~

~~B. A current Comprehensive listing of the RI Department of Health licensed retail and wholesale food vendors.~~

~~1. The "Comprehensive List" is composed of all retail sales and wholesale distributors currently licensed by the RI Department of Health, Division of Food Protection.~~

~~a) The Comprehensive listing will be available upon request.~~

~~II. All WIC Vendor Applicants must demonstrate that the infant formula sold to WIC participants has been provided by an approved infant formula supplier on the above lists.~~