

**OHIO WOMEN, INFANTS, AND CHILDREN (WIC) PROGRAM
PHARMACY CONTRACT APPLICATION**

01/01/2017 –12/31/2019

Region 3

By and Between the Ohio Department of Health (the Department) and,

(Name of Vendor as Registered with IRS)

Company/Owner Information

1. List the address, name, title, fax number and phone number of the person where contract issues, correspondence, and inquiries should be directed.

Address City State Zip Code

Contact Person Title

(____) _____
Telephone Number Fax Number

Email address _____

2. Type of Business (check one).

____ Sole Proprietor ____ Partnership ____ Corporation ____ Limited Liability Company (LLC)

Enter your vendor Federal Tax Identification Number (TIN) Number Registered with the Internal Revenue Service (IRS) or if a Sole Proprietor without a TIN, then provide Social Security number: _____

3. Are you (applicant), or any current owners, officers, or managers currently under a disqualification from the WIC program or under disqualification, suspension, or withdrawal from the food assistance program formerly known as SNAP (Supplemental Nutrition Assistance Program)? Yes ____ No ____
4. Have you (applicant), been assessed a food assistance program (SNAP) civil money penalty in lieu of disqualification? Yes ____ No ____
If yes, how long would the disqualification been if imposed? _____ Date of the disqualification? _____
5. During the three years prior to the contract beginning date, have you (applicant), been disqualified as a licensed lottery sales agent, had a lottery sales agent license suspended or revoked pursuant to Chapter 3770 of the Revised Code? Yes ____ No ____
6. During the three years prior to the contract beginning date, have you (applicant), a current or former employee of the applicant while an unauthorized vendor, transacted WIC Nutrition Cards (WNC) or WIC coupons at any time including the pendency of any administrative review, abbreviated review or other administrative or court proceeding? Yes ____ No ____
7. During the six years prior to the contract beginning date, have you (applicant), any of your current owners, officers or managers of this store been convicted of a crime or had a civil judgment entered against them for any activity indicating lack of business integrity as defined in Ohio Administrative Code (OAC) 3701-42-03? Yes ____ No ____

If you answer yes to questions 3-7, attach a written explanation.

8. Number of store locations listed in this application? _____

9. Store Location (Please print or type all information below)
Additional Store Locations (Copy additional pages if necessary)

01/01/2017 – 12/31/2019
Region 3

Store Name _____

Address _____ City _____ State _____ Zip Code _____

County _____ SNAP Permit # _____ Email address _____

Contact Person _____ () _____ () _____
Telephone Number Fax Number

10. Is applicant currently an authorized WIC pharmacy at this location? Yes _____ No _____

a. If yes, WIC Vendor # _____

11. What is the square footage of the pharmacy? _____

12. Pharmacy open days and times: _____

13. Can this pharmacy location provide prescribed formula within 24 hours? Yes _____ No _____

14. Does this pharmacy location accept manufacturer coupons or discount cards? Yes _____ No _____

15. Does this pharmacy location have a WIC contract with any other state? Yes _____ No _____

If yes, list name of state(s) _____ Contract Term Date _____

16. Provide the name and address of the infant formula supplier from where infant formula is purchased and attach a copy of the most recent infant formula invoice.

Name _____

Address _____ City _____ State _____ Zip _____

DEPARTMENT and PHARMACY APPLICANT / VENDOR, now enter into this Agreement to provide prescribed authorized formula to eligible participants in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC program). This Agreement will become effective and begin **January 1, 2017**, or upon signature of all parties, whichever begins later, and end **December 31, 2019** subject to the following terms and conditions outlined below.

I. WIC Pharmacy Vendor Responsibilities

- (A) Vendor shall read and become familiar with Chapter 3701-42 of the Ohio Administrative Code (OAC) as it exists at the time of signing and as, may become effective during term of this agreement.
- (B) Vendor shall provide to participants only prescribed authorized formula in exchange for WIC Nutrition Card benefits in the necessary quantity within 24 hours after a request.
- (C) Vendor shall provide all of the available sizes, types, and quantities of prescribed authorized formula contained on the WIC Nutrition Card unless participant chooses less.
- (D) Vendor shall offer participants the same courtesies extended to other customers, including but not limited to, providing a sales receipt or accepting store and manufacturer coupons, discount cards, or other discounts offered. Vendors may not provide participants incentive items, vendor discounts, coupons or other promotions that are not offered to non-WIC customers.
- (E) Vendor shall maintain participant confidentiality and not release or allow access to data and information in full or in part to any third person party or program.
- (F) Vendor shall accept valid WIC Nutrition Cards presented by a participant and shall:
 - (1) Deduct the value of any manufacturer or store coupons, discount cards, or other discounts offered from the total before requesting participant to approve the transaction;
 - (2) Be responsible for all WIC Nutrition Card benefits accepted or processed for payment by current and former employees or agents of the vendor. The vendor shall be responsible for the accuracy of any information submitted to the Department by those employees or agents including any person or persons operating the store under a management agreement;
 - (3) Ensure that the Department is not charged more than the marked or posted prices and is not charged more than non-WIC customers;
 - (4) Provide all participants with benefit receipts generated at the time of the WIC transaction; and
 - (5) Return to the local WIC agency within 24 hours any WIC Nutrition Card found at the location.
- (G) Vendor shall comply with all of the following:
 - (1) All federal and state laws, rules, and regulations governing the WIC program, including section 17 of the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C.A. 1786, as amended, pertinent federal regulations for the WIC program including 7 C.F.R. Part 246, as amended, and this chapter;
 - (2) All federal and state laws pertaining to nondiscrimination, including but not limited to Title VI of the "Civil Rights Act of 1964," 78 Stat. 241, 42 U.S.C.A. section 2000(d), as amended, pertinent regulations adopted thereunder, and 7 C.F.R. Parts 15, 15A, 15B, and section 125.111 of the Ohio Revised Code (ORC) as amended; and

- (3) All federal, state, and local criminal laws, either felony or misdemeanor.
- (4) Trafficking Victims Act. In carrying out this Agreement, vendor, and its employees, shall comply with Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 USC 7104); and is now located at 2 CFR Part 175 during the term of this Agreement. Vendor understands that its failure to comply with this provision may subject ODH to loss of federal funds. Vendor agrees to compensate ODH for any such funds lost due to its failure to comply with this condition.
- (H) Vendor shall be subject to audit by the Department and FNS for the time period covering any present or previous WIC authorization. Vendor shall maintain all original records of purchases, gross sales receipts, and invoices for all authorized formula for a period of not less than three years after the end of the federal fiscal year, and upon request, shall make available the records to the Department and FNS. If any litigation, claim, negotiation, audit, or other action involving the records has begun during the three year period, the vendor shall keep the records until all issues are resolved.
- (I) Vendor shall respond in writing within fifteen calendar days after receiving the Department's request for verification of ownership of the business entity or store locations, verification of authorized formula purchases and sales, or other documentation.
- (J) Vendor shall send one or more representatives from each location to all required training sessions scheduled by the Department. The vendor shall inform and train cashiers, other store personnel, and agents on WIC program requirements.
- (K) Vendor shall display the Department issued "WIC Nutrition Card Accepted Here" sign in a prominent place at the entrance of each location.
- (L) Vendor **shall not** do any of the following:
 - (1) Exchange WIC Nutrition Card or benefits contained on the card for cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802;
 - (2) Exchange WIC Nutrition Card or benefits contained on the card for alcohol or alcoholic beverages or tobacco products;
 - (3) Exchange WIC Nutrition Card or benefits on the card for credit, including rain checks or non-food items;
 - (4) Provide the participant with any monetary change from a WIC transaction unless it is a split tender transaction;
 - (5) Provide refunds or permit exchanges for authorized formula or require a participant to exchange his or her selection of authorized formula;
 - (6) Redeem WIC Nutrition Card benefits for authorized formula not received by the participants;
 - (7) Redeem WIC Nutrition Card benefits in which the amount of sale is more than the marked or posted prices or more than the prices charged to other customers;
 - (8) Charge sales tax for the purchase of authorized formula;
 - (9) Seek reimbursement from the Department for WIC Nutrition Card benefits transacted by another person or location, while not authorized as a vendor under rule 3701-42-03 of the OAC;
 - (10) Redeem WIC Nutrition Card benefits for a specific authorized formula which exceeds the store's documented inventory of that formula for a specific period of time;

- (11) Redeem WIC Nutrition Card benefits for unauthorized formula;
- (12) Redeem WIC Nutrition Card benefits for formula in excess of the formula contained on the card; and
- (13) Provide home delivery of authorized formula.

II. Department Responsibilities

- (A) Provide training regarding WIC program participation and notify vendor of the training sessions.
- (B) Provide vendor with the current list of authorized formula. The list will be provided before it becomes effective and is posted on the ODH website www.odh.ohio.gov under the WIC, (Women, Infant, and Children) folder.
- (C) Reimburse vendor according to Section III of this Agreement.

III. Payment Procedures

- (A) The Department shall pay a vendor for all EBT transactions submitted to the state WIC program if all of the following conditions are met:
 - (1) The WIC Nutrition Card transaction occurred during the valid period;
 - (2) The transactions contained in the claim file are less than 48 hours old at the time of the claim file submission;
 - (3) The participant approves the transaction at the point of sale;
 - (4) The claim file includes transactions that occurred only at the authorized vendor location; and
 - (5) The transaction occurred during the valid contract period.
- (B) If the conditions specified in paragraph (A) of this Section are met, the Department shall pay whichever is lower of the actual amount of sale or the not to exceed amount as established by the Department for each authorized formula in the transaction.
- (C) WIC EBT transactions may be deemed invalid for payment or, if paid, future payments may be offset for any of the following reasons:
 - (1) The vendor does not successfully transmit the WIC EBT claim file to the State's WIC EBT processing system (host) within 48 hours of the oldest transaction contained in the claim;
 - (2) The vendor processes a transaction for a WIC Nutrition Card that was on the hot card list file for more than 24 hours;
 - (3) The transaction data appears to be forged or altered;
 - (4) The store accepted the transaction while disqualified or terminated from the WIC program or did not have a valid vendor agreement;
 - (5) Unauthorized formula or unauthorized brands and/or unauthorized quantities of formula were redeemed. This includes but is not limited to formula issued to participants before the effective date or after the expiration date of the UPC/PLU in the Authorized Product List file;

- (6) The price of the formula within a transaction is more than the not-to-exceed price designated by the State for that formula and quantity or exceeds the store's customary selling price for the formula issued;
 - (7) The transaction includes UPC, PLU, benefit quantity or dollar amounts for formula not received by the participant.
- (D) Notwithstanding paragraph (C) of this Section, the Department may pay for a transaction if:
- (1) The vendor submitted a claim file to the state host that contained transactions beyond the 48 hour claim submission period referenced in paragraph (A) and the vendor justifies in writing and documents to the Department's satisfaction that the failure to meet the required deadline resulted from circumstances beyond the control of the vendor and its current and former employees. If the total value of such transactions submitted at one time exceeds five hundred dollars, the Department must obtain approval from the FNS regional office to pay for the transactions; or
 - (2) The vendor submitted transactions in which the actual amount of sale exceeds the not to exceed of the WIC benefit and the vendor justifies in writing and documents to the Department's satisfaction that the actual amount paid for the authorized formula was greater than the not to exceed because of legitimate increases in the cost paid by the vendor for the authorized formula. Documentation may include a copy of the wholesaler's invoice or similar evidence.
- (E) The Department shall notify a vendor if it determines that it will not pay for a transaction based on the failure to meet the conditions specified in paragraph (A) of this Section. The vendor may request reconsideration of the Department's determination not to pay. Request for reconsideration must be made in writing and must be received by the Department within thirty days of the date the auto reconciliation file was created that contains the transactions the Department did not pay.
- (F) The Department may deny payment or initiate claims collection action within 90 days of either the date of detection of the vendor violation or the completion of the review or investigation giving rise to the claim, whichever is later. Claims collection action may include offset against current and subsequent amounts owed to the vendor.
- (G) The Department may delay payment to the vendor or establish a claim in the amount of the full purchase price of each transaction that contained a vendor overcharge or other error.
- (H) Upon request by the Department, a vendor shall refund to the Department, within 90 days, any payments made to the vendor that are found to be invalid because vendor failed to comply with requirements in this agreement and/or Chapter 3701-42 of the OAC. At its option, the Department may recover the invalid payments by withholding all or a portion of current or future payments due to the vendor. The Department shall provide the vendor with notice of and an opportunity to respond to the Department's determination that a payment is invalid in the same manner as prescribed by paragraph (D) of this Section for a determination not to pay.
- (I) Any payment made by the Department pursuant to paragraphs (A) and (B) of this Section does not waive the Department's right to refuse payment for another transaction pursuant at any other time or to take action pursuant to rule 3701-42-08 of the OAC.

IV. Vendor Understandings

- (A) If vendor abuses the WIC program, the Department, when appropriate, shall refer vendor to federal, state or local authorities for prosecution under applicable statutes. In case of deliberate fraud, vendor may be subject to the penalties outlined in 7 CFR 246.23 (d). This section states: "whoever embezzles, willfully misapplies, steals or obtains by fraud any funds, assets or property provided under section 17 of the Child Nutrition Act of 1966, as amended, whether received directly or indirectly from USDA, or whoever receives, conceals or retains such funds, assets or property for his or her own interest, knowing such funds, assets or property have been embezzled, willfully

misapplied, stolen, or obtained by fraud shall, if such funds, assets or property are of the value of \$100 or more, be fined not more than \$25,000 or imprisoned not more than five years, or both, or if such funds, assets or property are of a value of less than \$100, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both."

- (B) Federal, state and local WIC personnel or their representatives, may periodically conduct announced or unannounced inspections during business hours of vendor's location. Vendor shall cooperate with such inspections and shall provide access to records pertinent to the WIC program, including WIC transactions and shelf price records or other pertinent records. During an inspection, vendor shall provide all authorized federal, local or State WIC personnel access to all WIC documents on the premises or under vendor's control. Vendor will present for inspection those records that are maintained off the store location premises within 24 hours of request. WIC Nutrition Cards may be confiscated from vendor if authorized personnel determine that vendor improperly obtained WIC Nutrition Cards.
- (C) This Agreement does not constitute a license or a property interest. If a vendor wishes to continue to be authorized beyond the period of its current agreement, the vendor must reapply for authorization. If a vendor is disqualified, the Department will terminate the Vendor's Agreement, and the vendor will have to reapply in order to be authorized after the disqualification period is over. In all cases, the vendor's new application will be subject to the Department's vendor selection criteria and any limiting criteria in effect at that time.
- (D) This Agreement hereby incorporates as if fully rewritten herein Chapter 3701-42 of the OAC as they exist at the time of signing and as, may become effective during term of the contract. Chapter 3701-42 of the OAC or any other applicable state or federal law, rule, or regulation will take precedence over any term of this Agreement to the extent that the term may be inconsistent.
- (E) The WIC acronym and the WIC logo are registered service marks of the United States Department of Agriculture ("USDA") and may not be used by the vendor in a way that will likely cause confusion in regard to their involvement with the WIC program. Vendors may not use in the official name in which the vendor is registered or in the name under which it does business the WIC acronym or a similar acronym or logo that would give the impression that the business is affiliated with or sponsored by the WIC program. The WIC Nutrition Card logo is a registered service mark of the Ohio Department of Health and may not be used by the vendor in any way that suggests the business is affiliated with or sponsored by the Ohio WIC program.

V. Conflict of Interest and Assurances

- (A) The vendor hereby represents that neither the vendor nor any officer, member or employee of the vendor has any interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities under this contract.
- (B) Neither the vendor nor any officer, member or employee of the vendor shall, prior to the provision of WIC services and payment for WIC services, acquire an interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of WIC services.
- (C) The vendor shall not promise or give to any employee of the Ohio Department of Health, other State of Ohio agency or local WIC agency anything of value that is of such a character as to manifest a substantial and improper influence upon the employee with respect to his or her duties. The vendor shall not solicit any employee of the Ohio Department of Health, any other State of Ohio agency, or local WIC agency to violate any Ohio Department of Health rule or policy relating to the conduct of contracting parties or to violate sections 102.03, 102.04 or 2921.42 of the Ohio Revised Code.
- (D) The vendor hereby certifies and affirms that, as applicable to the vendor, no party listed in Division (I) or (J) of section 3517.13 of the ORC has made, as an individual, within the two previous calendar years, one or more

contributions in excess of \$1,000.00 to the holder of the public office having ultimate responsibility for the award of the contract or to the public officer's campaign committees and that all parties are in full compliance with Divisions (I) and (J) of the ORC Section 3517.13. If it is determined that the vendor's certification of this requirement is false or misleading, notwithstanding any criminal or civil liabilities imposed by law, the vendor shall return to ODH all monies paid to the vendor under this contract. The provisions of this section shall survive the expiration or termination of this contract.

VI. Disqualification

- (A) The Department may disqualify vendor and terminate vendor's contract for program violations, including but not limited to abuse of the WIC program, certain patterns of WIC violations, and other noncompliance with Chapter 3701-42 of the OAC. Patterns of violations which will lead to mandatory disqualification include, but are not limited to, transacting WIC Nutrition Cards with charges exceeding shelf prices or prices charged to other customers (overcharging). Vendor may be disqualified from participating in the WIC program or assessed a civil money penalty pursuant to rule 3701-42-08 of the OAC.

Vendor may appeal a disqualification or monetary assessment through appeal procedures established in rule 3701-42-09 of the OAC. While vendor's appeal of a disqualification is in progress, vendor may not transact WIC Nutrition Cards. The Department will not reimburse vendor for formula disbursed by vendor after the effective date of vendor's disqualification.

- (B) Vendors disqualified from the WIC program or assessed a civil money penalty in lieu of disqualification will be referred to the FNS program for possible disqualification from participation in the SNAP program. Vendors disqualified from SNAP or assessed a civil money penalty in lieu of disqualification will be terminated and disqualified from the WIC program for the same length of time as the disqualification imposed or would have been imposed in the case of a civil money penalty by SNAP.

VII. Voidance, Amendments, Termination, and Expiration of the Agreement

- (A) Voidance

This Agreement is not assignable or transferable. If there is a change in ownership as defined in rule 3701-42-04 of the OAC of any of vendor's store locations listed in this Agreement, or if vendor ceases operation at a store location, this Agreement shall be void pursuant to rule 3701-42-04 of the OAC, as to that store location. **Vendor must notify the Department in writing prior to a scheduled change of ownership or operation including but not limited to a sale, lease transfer, bankruptcy, dissolution, or cessation of business or within thirty days after such event, if not scheduled. Notice must be sent to Ohio Department of Health, Bureau of Health Services, Vendor Management Unit, 246 North High Street, 6th Floor, Columbus, Ohio 43215. The Department will not reimburse vendor WIC Nutrition Card transactions after the date that a store location has changed ownership or location.**

- (B) Amendments

The Department may amend this Agreement at any time to include or incorporate additional provisions pursuant to rule 3701-42-04 of the OAC. The Department will notify vendor in writing, at least 30 days before the effective date of the amendments. Vendor may either accept the amendments or terminate the Agreement voluntarily pursuant to rule 3701-42-04 of the OAC. Vendor may not appeal amendments to the Agreement.

- (C) Termination by Vendor

Vendor may voluntarily terminate this Agreement for any reason in accordance with rule 3701-42-04 of the OAC. Vendor will notify The Department in writing, by certified mail, return receipt requested, at least 15 days before the effective date of the voluntary termination. Vendor's notice of termination will be sent to the Ohio Department of Health, Bureau of Health Services, Vendor Management Unit, 246 North High Street, 6th Floor, Columbus, Ohio 43215. Vendor's voluntary termination of this Agreement does not preclude the Department from disqualifying or

otherwise sanctioning vendor pursuant to rule 3701-42-08 of the OAC. The Department will not reimburse vendor for WIC Nutrition Card transactions after the effective date of termination.

(D) Termination by the Department

The Department may terminate this Agreement if vendor does not comply with 7 CFR Part 246 or Chapter 3701-42 of the OAC, as amended, or any term or condition in this Agreement, or if federal funds become unavailable. The Department will notify vendor in writing at least 15 days before the effective date of the termination except when otherwise provided by law. The notice shall include the reason for terminating and the effective date of the termination. Vendor may request a review of the termination of this Agreement as authorized by Chapter 3701-42 of the OAC. While administrative or abbreviated review is in progress, vendor may not transact WIC Nutrition Cards. The Department will not reimburse vendor for WIC Nutrition Cards transactions after the effective date of vendor's disqualification or the termination of this Agreement, whichever is earlier. If vendor fails to perform an obligation or obligations under this contract and thereafter such failure is waived by the Department, such waiver shall be limited to the particular failure so waived and shall not be deemed to waive other failures hereunder.

The agreement may be terminated immediately by the Department if the Department discovers a petition in bankruptcy or similar proceeding has been filed by or against the Vendor. If at any time during the contractual period a bankruptcy or similar proceeding has been filed by or against the Vendor, the Vendor shall immediately notify the Department.

(E) Expiration

This agreement expires at 11:59 pm on the last date of the contract period as listed on page one of this agreement, unless previously terminated. Neither the Department nor vendor is obligated to renew this Agreement. The Department will provide vendor with not less than 15 days advance notice of the expiration of this Agreement. Vendor may not appeal the expiration of this Agreement. The Department shall not reimburse vendor for any foods disbursed by vendor after this Agreement expires.

(F) Limitations

The obligations of the Department are subject to Section 126.07 of the Ohio Revised Code and are subject to the availability of federal funding from the USDA. Nothing in this Agreement shall be construed to guarantee that WIC Nutrition Cards will be transacted at the vendor's location(s).

IX. Administrative/Abbreviated Review

Any review for actions involving a denial of vendor's application, civil money penalty, disqualification or termination of vendor's contract, or breach of this agreement shall be reviewed in accordance with Chapter 3701-42 of the OAC. The result of any such administrative or abbreviated review shall be final and binding on the vendor. There is no right to further administrative or judicial review.

By signing, the parties caused this Agreement to be executed. The signature(s) must be that of an individual who can legally bind the entity that is entering into the contract. Applicant hereby certifies that:

- **The information provided in this application is complete, true and accurate;**
- **The pharmacy location shall provide prescribed formula in the necessary quantity within 24 hours after a request;**
- **Neither the vendor nor any of his or her current or former employees transacted WIC Nutrition Cards while unauthorized or transacted WIC Nutrition Cards or transacted and redeemed WIC coupons from an unauthorized store location during the three years prior to this Agreement or the vendor paid a civil money penalty pursuant to OAC section 3701-42-03;**
- **He has read and understands Chapter 3701-42 of the OAC, this Agreement, and all other application material;**
- **He does not have a conflict of interest as defined in Section V of this agreement; and**
- **He understands that providing false or misleading representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the denial of the application or termination of your WIC vendor contract as well as possible criminal prosecution.**

AUTHORIZED STORE REPRESENTATIVE(S)

THE DEPARTMENT REPRESENTATIVE

Print Name and Title

Signature

Date: _____

Print Name and Title

Signature

Date: _____

By: _____

Signature: _____

Title: Director of Health

Date: _____