

3701-42-03 WIC vendor authorization.

- (A) The director shall authorize an applicant to be a vendor by entering into a contract with an applicant that meets the criteria established under this rule. The contract shall be for a term of no more than three years. Unless otherwise provided in this rule, the contract beginning date shall be consistent with paragraph (C) of this rule. Any sole proprietorship, partnership, cooperative association, corporation, limited liability company, or other business entity that owns and operates a grocery store may apply to the director for authorization in accordance with this rule.
- (B) To apply for a contract, an applicant or authorized representative of the applicant shall complete an application packet on forms prescribed by the director. It is the applicant's responsibility to obtain documentation of the date of mailing of the application and/or of the director's timely receipt of the application.
 - (1) A complete application must be postmarked or received by the director no fewer than ninety days before the contract beginning date, as set forth in paragraph (C) of this rule. Except as provided in paragraph (B)(2) of this rule, if any part of the application is postmarked or received by the director fewer than ninety days before the contract beginning date, as set forth in paragraph (C) of this rule, the application will be deemed incomplete and denied.
 - (2) If an application, which is complete except for verification of food assistance program authorization, is received by the director within the time period in paragraph (B)(1) of this rule, and the applicant has a food assistance program application pending, the director may consider the application for approval once verification of food assistance program authorization is received even if received after the contract beginning date in paragraph (C) of this rule.
 - (3) If the applicant does not own or operate the business at the location that the applicant is proposing to contract as a vendor at the time of application, the applicant may submit the application and include the address of the location and the estimated opening date. The director shall process the application to the extent possible and complete the processing of the application upon the opening of the location. Once the application has been fully processed, the director may contract with the applicant for the location provided that the applicant complies with all other requirements of the rule. The applicant may not transact or accept WIC nutrition card benefits until notified that the location is an authorized vendor.
 - (4) Notwithstanding the application submission requirements set forth in paragraphs (B)(1) and (C) of this rule, the director may approve a contract under any of the three conditions set forth in this paragraph. The contract beginning date shall be the date the contract is signed by the director, and shall expire at eleven fifty-nine p.m. the day prior to the next contract beginning date specified in paragraph (C) of this rule.
 - (a) A vendor in good standing with the WIC and food assistance programs may apply at any time to add a location to an existing contract if the proposed location is under the same tax identification number or primary entity and the vendor has not been denied a WIC contract at that location within the previous twelve months.

- (b) An applicant, who purchases or otherwise acquires a grocery store or pharmacy that is a current vendor location in good standing, may apply for a new WIC contract for that location provided that the application meets all other requirements of this rule and the director determines the purpose of the sale was not to circumvent a WIC sanction.
 - (c) An applicant who establishes a business operation within the last twelve months, and has not been denied a contract during that time, but misses the application deadline for that business location's region may request and submit an application during the next available scheduled application contract period as set forth in paragraph (B)(5) of this rule. The director shall enter into a contract with the applicant if the application is received timely as set forth in paragraph (B)(1) of this rule, and meets all contracting criteria as set forth in paragraph (D) of this rule, and the addition of the business location will not exceed the maximum vendor locations for the state, as determined in accordance with paragraph (E) of this rule. The contract shall expire at eleven fifty-nine p.m. the day prior to the next three year contract beginning date specified for that business location's designated region set forth in paragraph (C) of this rule.
 - (5) The director may accept applications for a contract to begin in one year increments from the contract beginning date specified in paragraph (C) of this rule for that region. Approved applications shall be referred to as pick-up contracts and shall expire at eleven fifty-nine p.m. the day prior to the next contract beginning date specified for that region.
- (C) The regions and contract beginning dates shall be as follows:
- (1) Region one shall consist of Allen, Ashland, Auglaize, Crawford, Defiance, Delaware, Erie, Fulton, Hancock, Hardin, Henry, Huron, Knox, Lorain, Lucas, Marion, Morrow, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Union, Van Wert, Williams, Wood, and Wyandot counties. The three-year contract beginning date for vendors in region one shall be July first 2017 and every third July first thereafter.
 - (2) Region two shall consist of Ashtabula, Columbiana, Cuyahoga, Geauga, Lake, Mahoning, Medina, Portage, Stark, Summit, Trumbull, and Wayne counties. The three-year contract beginning date for vendors in region two shall be July first 2016 and every third July first thereafter.
 - (3) Region three shall consist of Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Fayette, Greene, Hamilton, Highland, Logan, Madison, Mercer, Miami, Montgomery, Preble, Shelby, and Warren counties. The three-year contract beginning date for region three shall be January first 2017 and every third January first thereafter.
 - (4) Region four shall consist of Athens, Belmont, Carroll, Coshocton, Fairfield, Franklin, Gallia, Guernsey, Harrison, Hocking, Holmes, Jackson, Jefferson, Lawrence, Licking, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pickaway, Pike, Ross, Scioto, Tuscarawas, Vinton, and Washington counties. The three-year contract beginning date for region four shall be January first 2018 and every third January first thereafter.
- (D) The director shall enter into a contract with an applicant if the application was

received timely, meets all of the following criteria and the addition of the location will not exceed the maximum locations for the state, as determined in accordance with paragraph (E) of this rule:

- (1) The application contains truthful and accurate information and is signed by an authorized representative. The application shall include:
 - (a) Sufficient IRS documentation of his or her current federal employer identification number. Sufficient documentation shall include a current United States internal revenue service (IRS) deposit coupon, letter or mailing label that contains both the IRS insignia and the applicant's federal employer identification number;
 - (b) Properly completed EFT form with a copy of a voided check or a letter of account verification from the applicant's financial institution for each location receiving reimbursement;
 - (c) Verification of the applicant's current food assistance program authorization;
 - (d) Verification that infant formula is purchased from an entity included on the WIC infant formula supplier list;
 - (e) Price survey; verification of good standing with the Ohio Secretary of State's office, if applicable;
 - (f) Copy of valid state issued driver's license, state issued identification card, or passport containing a photograph of the individual(s) signing the application; and
 - (g) Any other documentation or information requested by the director.
- (2) The applicant or one or more representatives of the applicant from each proposed location attends a training session at the time and place set by the department.
- (3) The proposed location is in compliance with the minimum authorized food stocking requirement set forth in rule 3701-42-05 of the Administrative Code.
- (4) The proposed location must grant access to the WIC program staff to complete the required preauthorization site visit during the hours of operation specified on the application. Failure to allow WIC program staff to enter the premises during business hours, as stated on the application, may be grounds to deny the contract;
- (5) The applicant, if a current vendor, during the one year period prior to the contract beginning date as set forth in paragraph (C) of this rule had WIC sales of less than fifty per cent of gross food sales.
- (6) Neither the applicant nor any of the applicant's current owners, officers, members or managers, is currently under disqualification from the WIC program or under disqualification, suspension, or withdrawal from the food assistance program.
- (7) If the applicant was assessed a food assistance program civil money penalty in lieu of disqualification, the disqualification period that would have been imposed

has expired.

- (8) The applicant has paid in full or is current in payment of any money owed to the department.
 - (9) During the three years prior to the contract beginning date set forth in paragraph (C) of this rule, the applicant has not 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.
 - (10) During the three years prior to the contract beginning date set forth in paragraph (C) of this rule, neither the applicant nor a current or former employee of the applicant, while not an authorized vendor, transacted WIC nutrition cards at any time including during the pendency of any administrative review, abbreviated review or other administrative or court proceeding.
 - (11) During the six years prior to the contract beginning date set forth in paragraph (C) of this rule, neither the applicant nor any of the applicant's current owners, officers, members, or managers, have been convicted of or had a civil judgment entered against them for any activity indicating a lack of business integrity. Activities indicating a lack of business integrity include but are not limited to, fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, tax evasion, wire fraud, mail fraud, selling illegal substances, or sales of drug paraphernalia.
 - (12) Upon request by the director, the applicant provides proof of any necessary local license, other regulatory approval to operate at each location specified in the application, or other documents to substantiate compliance with this rule. The director may, at any time, require from any applicant or vendor, additional documentation.
 - (13) Entering into a contract will not create a conflict of interest as defined by applicable state laws, regulations, and policies between the applicant and the state agency or its local agencies.
 - (14) Each location at which the applicant proposes to provide authorized foods is a fixed and permanent business location, is not at an address or within a building where WIC nutrition cards are distributed and is open to the general public for the purchase of food items.
- (E) The director shall not approve contracts that would exceed the maximum number of locations for the state as established each year on January first. If the director receives a number of applications for locations that meet all of the criteria set forth in paragraph (D) of this rule but, if all were approved, would exceed the maximum number of locations as determined by this rule, the director shall enter into a number of contracts not exceeding the maximum number of locations in accordance with the following requirements:
- (1) Of this rule, the director shall enter into a number of contracts not exceeding the maximum number of locations in accordance with the following requirements; the director shall contract with those applicants for locations to operate within the state , that have the lowest total price for authorized food items specifically selected for comparison by the director. For applicants that are

not current vendors, the director shall develop a price survey and identify on the survey selected authorized food in a specified size, type, and brand that will be used for comparison of prices. If the applicant does not complete the price survey or does not stock a specific item, the director shall assign a price for the item not completed on the survey by deeming the price to be the highest price reported by other applicants in the state.

- (2) If two or more applicants have the same total price, but all cannot receive a contract because the maximum number of locations would be exceeded, the director shall give priority to those locations that accept manufacturer coupons and discount cards.
- (3) If two or more applicants have the same total price and accept manufacturer coupons and discount cards, but all cannot receive a contract because the maximum number of locations would be exceeded, the director shall approve locations in the order the properly completed applications were received or post marked.
- (F) Notwithstanding paragraphs (B) to (E) of this rule, the director may contract with an applicant that has a current food assistance program certificate if the director determines that the locations proposed by the applicant are needed to provide participants with appropriate access to authorized foods.
- (G) Before the director enters into a contract with an applicant, the department shall conduct an unannounced preauthorization site visit of each proposed location to determine compliance with rule 3701-42-05 of the Administrative Code.
- (H) Except as otherwise provided in this rule, the director shall deny an application for authorization as a vendor if any of the criteria specified in paragraph (D) of this rule are not met. The director may impose a civil money penalty in lieu of denying an application if the director determines that it is in the best interest of the WIC program. The amount of the civil money penalty shall not exceed two thousand five hundred dollars.
- (I) The director may deny a vendor application if the applicant has a history of non-compliance with the requirements of this chapter of the Administrative Code or if the director determines that the applicant provided false information in connection with its application.
- (J) If vendor has been charged or indicted by another agency during the contract application period, WIC reserves the right to defer processing the application until the investigation or prosecution is complete.
- (K) All authorized vendors are required to have an Ohio WIC program certified EBT system prior to contract effective date. The system shall be installed and maintained at the vendor's expense.
- (L) The contract does not become effective until signed by the applicant or applicant's authorized representative and the director.

Effective: 09/16/2016

Five Year Review (FYR) Dates: 06/30/2016 and 09/15/2021

CERTIFIED ELECTRONICALLY

09/06/2016

Date

Promulgated Under: 119.03
Statutory Authority: 3701.132
Rule Amplifies: 3701.132
Prior Effective Dates: 1/10/1992 (Emer.), 4/12/92, 4/1/94, 1/26/96, 6/21/97,
6/21/04, 3/20/06, 4/1/11, 6/20/13