

### 2.0 Vendor Contracting

Effective Date: 02-01-2024

#### 2.02 Vendor Selection Criteria

**PURPOSE:** To outline the minimum requirements Vendors must meet in order to be eligible for authorization and continued participation in the WIC Program.

#### DEFINITIONS:

*Fiscal quarter* means each consecutive three (3) month period of the fiscal year, which begins on October 1. Fiscal quarters begin on October 1, December 1, March 1, and June 1, respectively.

*Full-line Vendor* means a Vendor who is authorized to provide all WIC-approved foods in exchange for WIC benefits. Full-line Vendors may be grocers or grocers with on-site pharmacies.

*Grocer* means a full-line Vendor that does not have an on-site pharmacy.

*Grocer with Pharmacy* means a full-line Vendor that has a pharmacy on-site.

*Pharmacy Vendor* means a Vendor who is authorized to provide only WIC-approved formulas and nutritionals in exchange for WIC benefits. Pharmacy Vendors may be grocers with on-site pharmacies or stand-alone pharmacies.

*Stand-alone Pharmacy* means a pharmacy that is not connected to or contained within a grocery store.

*WIC-approved foods* mean supplemental foods approved by the State for issuance to eligible WIC participants. All WIC-approved foods are listed in the Approved Product List (APL).

*WIC nutritionals* means medical foods approved by the State that are specifically formulated to provide nutritional support for WIC participants with a qualifying condition.

*WIC-accepted supplier* means a supplier of WIC-approved foods and/or formulas that is:

1. A Michigan based wholesaler, distributor, or retailer that is licensed to distribute food by the Michigan Department of Agriculture and Rural Development (MDARD);
2. A non-Michigan based wholesaler, distributor, or retailer that is licensed to distribute food by the MDARD equivalent in the jurisdiction in which it is located;
3. A Michigan based pharmacy that is licensed by the Michigan Department of Licensing and Regulatory Affairs (LARA);
4. A non-Michigan based pharmacy that is licensed by the LARA equivalent in the jurisdiction in which it is located; or
5. A manufacturer that is registered with the Food and Drug Administration (FDA).

A regularly updated list of MDARD-licensed sources can be found on the WIC Vendor website at [Michigan.gov/WICVendor](https://Michigan.gov/WICVendor). Please contact the Michigan WIC program if you have questions about whether a supplier is *WIC-accepted*.

## A. POLICY:

1. Vendors requesting authorization for participation in the WIC Program must meet all of the applicable WIC Vendor Selection Criteria outlined below. Vendors must continue to meet this selection criteria throughout their contract period.
2. Failure to meet any of the selection criteria may be used as just cause for denial of a WIC Vendor Application for authorization or termination of a current WIC Vendor Contract. (See Exhibit 2.01B WIC Vendor Application, 2.01C WIC Pharmacy Vendor Application, 2.05A WIC Vendor Contract, and 2.05B WIC Pharmacy Vendor Contract.)
3. The Department will review WIC Vendor Applications utilizing some or all of the following selection criteria based on store designation:
  - a. All Vendors (Grocer; Grocer with Pharmacy; Pharmacy):
    - i. Compliance with competitive prices and price limitations as determined by the Department.<sup>F</sup> (See Vendor Policy 2.03 Vendor Peer Groups.)
    - ii. Lack of any conflict of interest between the Vendor and the local agency or the Department as defined by applicable State laws, regulations and policies.\*
    - iii. Business integrity as determined by the Department. Unless denying authorization of a Vendor applicant would result in inadequate participant access, the Department will not authorize a Vendor applicant if during the past six years the Vendor applicant or any of the Vendor applicant's current owners, officers, 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, and obstruction of justice.\*<sup>F</sup>
    - iv. Compliance history with WIC program policies, rules and regulations, as applicable, and compliance with any prior contract with the Department. In the case of stores owned jointly or by corporations, the Department may evaluate past performance of one or more of the same partners, shareholders, directors or officers at other locations.\*
    - v. Lack of negative history indicating the store was sold by its previous owner in an attempt to circumvent a WIC sanction. The Department will consider such factors as to whether the store was sold to a relative by blood or marriage of the previous owner(s) or sold to an individual or organization for less than its

fair market value. The Department may also consider other factors in making its determination.\*

- vi. Purchase of WIC-approved foods, formulas and medical foods exclusively from WIC-accepted suppliers.<sup>F</sup>

b. Full-line Vendors (Grocer; Grocer with Pharmacy)

- i. Availability of mandatory minimum stock of WIC-approved foods. (See Exhibit 2.02A WIC Vendor Minimum Stock Requirements.)<sup>F</sup>
  - 1. At its discretion, the Department may allow exceptions to the Minimum Stock Requirements (MSRs) for ethnic, religious or other specialty stores (e.g., Kosher and Halal stores may be granted an exception from stocking non-Kosher or non-Halal foods, or a vegetarian store may be granted an exception from stocking meat and fish products).
  - 2. The Department may allow exceptions to the MSRs for some or all Vendors in instances where the Department has deemed normal retail distribution unsuccessful (i.e., during statewide shortages or times of disaster or emergency). (See Vendor Policy 5.07 Compliance in Emergencies.)
  - 3. Exceptions to the MSRs may not include the federally required supplemental foods (i.e., two different fruits, two different vegetables, and one approved whole grain cereal) or overrule the requirement to purchase WIC foods from a WIC-accepted supplier.
- ii. Documented authorization in the Supplemental Nutrition Assistance Program (SNAP). A WIC Vendor must be in good standing with the USDA Food and Nutrition Service.<sup>F\*</sup>
- iii. Valid license issued by the Michigan Department of Agriculture & Rural Development (MDARD).\*
- iv. Minimum required volume of WIC transactions. A Vendor that transacts less than \$800 in WIC EBT transactions per fiscal quarter will be considered a low volume Vendor, which may indicate lack of demand for that particular store. Vendors will receive a warning the first quarter they are found out compliance with this requirement. If a Vendor is not in compliance with the requirement to transact \$800 or more in WIC EBT transactions during the next fiscal quarter, the Vendor will be terminated and disqualified. New Vendors will be evaluated after the first full fiscal quarter of authorization.\*

- v. Total WIC sales for any annual period that do not exceed 50% of the Vendor's total annual food sales.
  
- c. Pharmacy Vendors (Grocer with Pharmacy; Stand-alone Pharmacy)
  - i. Valid Pharmacy License and good standing with the Department of Licensing and Regulatory Affairs (LARA).\*
  
  - ii. Ability and willingness to order WIC-approved formulas and nutritionals when requested by a WIC participant or WIC program representative.\*
  
- 4. Any of the above selection criteria followed by an asterisk(\*) may be waived for Vendors or Vendor applicants needed to ensure participant access. (See Vendor Policy 2.04 Vendor Limitation Policy.)
  
- 5. The Department may reassess an authorized Vendor at any time during the Vendor's contract period using the Vendor Selection Criteria in effect at the time of the reassessment and may terminate contracts with those Vendors that fail to meet them. (See Vendor Policy 2.06 Contract Expiration & Termination.)

<sup>F</sup> Indicates a mandatory federal selection criterium.

References:

7 CFR Part 246.12 (g)(h)(t)

Cross-References:

2.03 Vendor Peer Groups  
2.04 Vendor Limitation Policy  
2.06 Contract Expiration & Termination

Exhibits:

2.01B WIC Vendor Application  
2.01C WIC Pharmacy Vendor Application  
2.02A WIC Vendor Minimum Stock Requirements  
2.05A WIC Vendor Contract  
2.05B WIC Pharmacy Vendor Contract