

Addendum to IFB# 67-007

Infant Formula Rebate

Date: June 5, 2023

Addendum Number: 3

Addendum Changes:

Below are questions deferred on Addendum 2, posted to eMarketplace on March 24, 2023:

1. **Section A.1.9. Bid Submission Date (page 5)** - Please explain when all bids received by the State will be able to be viewed by all bidders and the process to receive this information.

Answer #1: At the date of the bid opening on June 14, 2023, the Department will announce, and visually show on Microsoft Teams, the bidder name and their Total Net Cost Per Month. The Department will respond to any requests for bids in accordance with the Commonwealth Procurement Code and Pennsylvania Right-To-Know Law.

2. **Part A. General Information, A.1.3, page 2** - Please provide the percentage of contract brand infant formula EBT benefits that were issued to participants but never redeemed in 2022 or the most recent year for which the data is available.

Answer #2: In 2022, 11.3% of products issued were not redeemed.

Questions Received after Pre-Bid Conference on May 24, 2023:

1. In response to answer #14 – The bid opening time is listed as 2:00 pm Eastern which conflicts the information in the Addendum 2 changes. Please confirm the correct time for the bid opening.

Answer #1: The Department will publicly open bids at 1:00 p.m. Eastern Time on June 14, 2023. Please follow the Prospective Bidder Letter to submit your bid.

2. In response to answer #19 – Does the State have an anticipated date the official award will be available and where it will be posted?

Answer #2: Please refer to section A.1.9. – Bid Submission Date – All Bidders will be notified via email no later than 15 calendar days after the opening date and time of this IFB as to the disposition of their bid.

3. In response to answer #29 – In order to allow maximum flexibility during any shortage, please confirm an alternate brand, in addition to alternate forms, produced by the contract manufacturer will be issued before issuing non-contract formulas.

Answer #3: Confirmed. Please refer to question #29 on Addendum 2.

4. In response to answer #54d - The State indicated 2,366 children over 12 months of age are receiving a rebated formula per month. Please confirm this is accurate as the amount seems to be dramatically higher than other States.

Answer #4: The Department defers this question and will confirm the total in the coming days.

5. In response to answer #56 - Please confirm if addendums (such as those the state will issue as a result of the written answers) issued by the state are required to be signed and/or submitted with the bid?

Answer #5: No, the addendums themselves do not need to be signed or submitted with the bid. Addendums to the IFB will state clearly if they impose any additional bid requirements.

6. In response to answer #74 - Please confirm a price list is not required for bid submission since it is not noted in the revised list of required documents.

Answer #6: Confirmed.

7. In response to answer #78 –
 - a. Is the state indicating they will NOT provide any supporting documentation on a monthly basis when submitting invoices?

Answer #7a: No. First, please refer to Page 5, Section A.1.10 regarding Record Accessibility. This section provides that the Department will provide, upon request, “books, records, and documents related to the generation of monthly invoices[.]” Second, please refer to Appendix G, which contains invoice packets that the Department sends to the current infant formula rebate contractor. These packets include:: a letter that includes the total amount of rebate being requested and participation data; a copy of the PENN invoice showing the number of units redeemed, the rebate amount per unit, and the total invoice amount for each product, as well as the overall total rebate amount; and a copy of the participation report. Third, please refer to Page 10, Section B.1.6.; particularly Paragraph 4, that states when the Department will reimburse the Contractor or adjust a rebate invoice.

- b. Answer to question 31 also indicates that a manufacturer is required to submit any dispute within 60 days or waive any right due cans potentially billed in error. Without supporting documentation provided with each invoice, the only way for a manufacturer to substantiate invoices would be to audit routinely within the 60 days time frame which is unreasonable. Please confirm the State will provide data to support the monthly invoice and ensure accurate billings to the manufacturer.

Answer 7b: Please refer to Answer 7a.

- 8. In response to answer #78 –
 - a. What is the name of the State’s system that is used to generate rebate invoices?

Answer 8a: Our management information system is called Pennsylvania EBT and Nutrition Network (PENN).

- b. Are the following data fields available in the State’s system: EBT transaction number, pseudo participant ID (nothing that would disclose confidential participant information), product description, number of cans redeemed, redemption dollar amount, first date to use, redemption date, infant age range at first date to use or infant date of birth, and feeding method (e.g. Fully Formula Fed, Partially Breastfed)?

Answer 8b: Yes.

- c. If not, what data fields are available in the State’s system and used to calculate rebate invoices?

Answer 8c: Please refer to Answer 8b.

- d. Is any of the data in the State’s system that is used to generate rebate invoices available through a Right to Know Law request?

Answer 8d: Please also refer to Answer 7a. Preliminarily, as described more fully stated in Page 5, Section A.1.10., Contractor may request from the Department “books, records, and documents related to the generation of monthly invoices[.]” Additionally, as stated in Page 10, Section B.1.6., Paragraph 4:

The Department will make every effort to validate all overbilling errors. The Department will reimburse the Contractor, or adjust a rebate invoice, whichever the case may be, upon the Department’s determination: that a product was fraudulently purchased, that a WIC-authorized retail store/vendor committed an error, that there was an impermissible non-contract brand product substitution, or under any other circumstance that the Department deems appropriate.

Lastly, as stated in Page 10, Section B.1.6., Paragraph 5, “[t]he Department and the Contractor will meet, whether virtually or otherwise, as often as necessary to review the progress and performance of the Contract, including any concerns related to billing procedures.”

In other words, the Department contemplates providing the Contractor such information as is necessary to verify the accuracy of the rebate amounts being sought without Contractor needing to request the same under Right to Know Law.

As to whether the data listed in Question 8b is available under a Right to Know Law request, the answer is “likely, yes” provided that such information does not constitute an applicable exception to the Right to Know Law, or is otherwise protected from disclosure under the law. The Department reserves the right to make a final determination on information sought at the time the request is received, consistent with the contract provisions referenced above.

- e. If so, what data is available and what exemption applies to the data that is not available?

Answer 8e: The data identified in Question 8b are available in PENN and the Department is able to provide it to the Contractor upon request. Please also see Answer 8d.

9. Please confirm the Microsoft Teams meeting link that was previously provided will still be functional for the new bid opening date/time. If not, please provide the new link and conference call number (as applicable).

Answer #9: Confirmed. The link has not changed, only the date and time.

10. **Section A.1.7. Pre-Bid Conference Date and Time** - Please provide the attendee list for the pre-bid conference.

Answer #10: In addition to Department staff, the following individuals attended the Pre-Bid Conference on May 24, 2023:

- **Derrick Rumley, WIC Manager, Mead Johnson**
- **Heather Ruszin, CEO, Stellar Health Services**
- **Kori Stenzel, Senior Manager, Abbott Nutrition**
- **Danielle Jonda, Associate Manager (WIC), Abbott Nutrition**

11. **Section A.1.8. Bids** - Email is inherently insecure. We urge the State to shift to either a hard copy bid or a secured online bidding portal.

Answer #11: The Department of Health has successfully been receiving paper-less bids and applications since the beginning of the pandemic. Please refer to Answer 12 of Addendum 2.

12. **Section B.1.2. Formula Section (ii) (page 8)** - Please define “truckload” and add to the definition section. We recommend the following language: “40,000 – 44,000-pound pricing”.

Answer #12: Since there are no Federal regulations defining a “full truckload”, we will not provide an exact definition.

*Except as clarified and amended by this Addendum, the terms, conditions, specifications, and instructions of the IFB and any previous addenda, remain as originally written.