



Department of Health

IFB # X041761/X041792

WIC Infant Formula Rebate System

Questions and Answers Posted July 24, 2025

Question #	Corresponding IFB Section	Question	Answer
1.	IFB page 1, Designated Contacts and permissible Subject Matter Contact	IFB page 1, Designated Contacts: This Page specifies a designated Department contact as well as a permissible subject matter contact for this IFB. Please confirm that bidders may communicate with their standard contacts from the New York State Department of Health regarding any issues that do not pertain to the IFB ie: supply updates for the current contract, and/or changes to formula, et al.	All correspondence related to this solicitation should be submitted to BSFP-FMS.Procure@health.ny.gov. Correspondence related to an existing contract should continue to be addressed to the assigned contact(s) for that contract.
2.	IFB page 4, Section 1, Calendar of Events	<ul style="list-style-type: none"> a. We appreciate the State's willingness to respond to the bidders' written questions and inquiries. Timing between answers and bid submission is important and necessary to allow bidders enough time to prepare a bid proposal that is responsive and reflective of the responses provided by the State. Because of the amount of analysis and approvals required for a contract of this size, please confirm that if answers are delayed from the current published due date, the State will allow at least 10 business days between the day 	<ul style="list-style-type: none"> a. This is confirmed. b. This schedule allows additional time to resolve any unanticipated technical or operational disruptions that may impact the bid opening. c. All bids received prior to the bid opening will be kept in a secure electronic location. Bids will not be opened prior to the date and time of the bid opening.

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		<p>responses to questions are published and the bid due/opening date.</p> <p>b. Please explain why there is a 2-hour window of time between bid submission and opening.</p> <p>c. Please describe the method for securing emailed bids between the bid due time and the bid opening time.</p>	
3.	IFB page 5, Section 2.1, Introductory Background, Paragraphs 2 & 3	<p>a. Of the 2,900 retail grocery stores and pharmacies authorized to do business through the State's food delivery system, how many above 50% vendors are currently authorized?</p> <p>b. What are the top five (5) WIC retailers, measured by the percentage of WIC food volume (i.e., redeemed food instruments) in the State?</p> <p>c. Please confirm a manufacturer is not billed for rebates for infant formula issued to women and children.</p> <p>d. If not confirmed, please provide the monthly average number of women/children receiving infant formula.</p> <p>e. Please provide the percentage of infants that are issued benefits 3 months at a time, 2 months at a time and 1 month at a time.</p> <p>f. Please indicate the percentage of infants enrolled in the WIC program that were enrolled via adjunctive eligibility (i.e., they demonstrated active participation in SNAP, TANF, Medicaid or CHIP).</p>	<p>a. There are currently 23 authorized above 50% vendors in New York State.</p> <p>b. Per Federal regulations (7 CFR 246.26), any information that individually identifies a WIC vendor (except for the vendor's name, address, telephone number, website/e-mail address, store type, and authorization status) is confidential.</p> <p>c. This is not confirmed. The State will submit invoices for rebates on all contract-brand infant formula issued under the terms of the contract and redeemed according to program rules, regardless of whether the recipient is a woman, infant or a child. While infant formula is primarily issued to infants, it may also be issued to women and children with qualifying medical conditions if it is prescribed by a health care provider with medical documentation.</p> <p>d. Between May 2024 through October 2024, a monthly average of 259 children and 0 women received contract infant formula.</p> <p>e. This information is not available.</p> <p>f. An estimated 80.4% of participating infants are entering the program through adjunctive eligibility (see Table 4.1; Distribution of WIC Participants by Income-Related Characteristics, WIC</p>

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			Participant and Program Characteristics Report 2022).
4.	2.1. Introductory Background, page 5	What percentage of participants have incomes that exceed 185% of the federal poverty level?	3.8% (Table 4.6, Distribution of WIC Participants by Income as a Percentage of Federal Poverty Guidelines, WIC Participant and Program Characteristics Report 2022).
5.	2.1. Introductory Background, page 5	What percentage of infants are certified for participation in the program through their participation in other federal programs (i.e., SNAP, TANF or Medicaid)?	An estimated 80.4% of participating infants are entering the program through adjunctive eligibility (see Table 4.1; Distribution of WIC Participants by Income-Related Characteristics, WIC Participant and Program Characteristics Report 2022).
6.	2.1. Introductory Background, page 5	Does the State anticipate allowing the redemption of WIC Benefits online during the course of this contract? Please provide any additional details regarding the timing or execution of WIC Online. Please confirm the State will work with the contracted manufacturer to assure contractual compliance with the addition of WIC Online.	Yes, the State anticipates allowing online redemption of WIC benefits during the course of this contract. No additional details are available at this time. The State will work with the contracted infant formula manufacturer(s) to assure contractual compliance with the addition of online shopping.
7.	2.1. Introductory Background, page 5: Vendor/Retail questions	<ul style="list-style-type: none"> a. Please confirm authorized vendors are responsible for maintaining adequate stock of authorized infant formulas. The manufacturer is responsible for fulfilling orders from retailers through its established distribution network. b. Please clarify how the State determines the average retail price. c. Does the state perform compliance buys to confirm that WIC authorized retailers are only allowing the purchase of the formula listed on the Food Instrument? If the state is not currently performing these compliance buys, we urge the state to begin. d. How many vendors have been sanctioned over the course of the current contract for allowing the purchase of a formula not specified on the Food Instrument? e. Does the State authorize vendors doing more than 50% of their sales via the WIC program? 	<ul style="list-style-type: none"> a. This is confirmed. b. The State does not determine the average retail price. c. Yes, the State performs compliance buys. d. This information is confidential between the agency and the Attorney General's office unless and until results of relevant court actions are made public. e. Yes. f. This is not relevant for bid submission. g. This is not relevant for bid submission. h. This is not relevant for bid submission. i. New York State WIC (NYS WIC) Vendor Minimum Stock Requirements is available at https://nyswicvendors.com/vendor-training/.

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		<ul style="list-style-type: none"> f. Please provide what percentage of contracted formula is redeemed at over 50% vendors. g. Please provide the percentage of dollars reimbursed for the most recent four quarters to over 50% vendors (for rebated infant formula). h. Please provide a list of all over 50% vendors. i. Please provide the WIC vendors' minimum stocking requirements. j. What are the top 5 retail chains within the State? 	<ul style="list-style-type: none"> j. This information is not relevant to bid.
8.	2.1. Introductory Background, page 5	<p>Please confirm the States will provide vendor redemption data to the Contractor when issues of fraud arise.</p> <ul style="list-style-type: none"> a. Please confirm the States will work with the Contractor to provide such data in instances in which rebates have been paid for contracted products based on fraudulent transactions that involve infant formula. b. Please confirm the States agree to discuss with the Contractor appropriate means for addressing payment issues identified through manufacturer audits and/or fraud-related issues directly affecting the manufacturer. c. Please confirm the States will partner with the Contractor on recovery in instances where fraud has been discovered, and it has been further determined the manufacturer was overbilled for infant formula. d. How many vendors have been disqualified due to fraud issues in each of the last three years? e. Please confirm that there is no time limit on disputes arising from fraud or other illegal activity that prevents the Contractor from being able to identify the incorrect billing earlier. If not confirmed, please explain why such a time limit is appropriate. f. Please explain the States' processes to identify and curb fraud and how the state plans to secure the interests of its Contractor. 	<ul style="list-style-type: none"> a. This is not confirmed. As a preliminary matter, the State cannot divulge data related to any active or emerging fraud investigation or prosecution to its contractors. Additionally, there is no provision for or Federal guidance regarding potential fraud or audit-related recoveries in 7 CFR 246.16a. NYS WIC will carefully review and attempt to resolve documented discrepancies, in consultation with the New York Attorney General, where appropriate. b. This is not confirmed. See the response to 8.a. above in regard to fraud-related issues. Furthermore, consistent with the response to question 44.a below, the State reserves the unilateral discretion to set deadlines for Contractor submission of its audit results on a case-by-case basis. c. This is not confirmed. Anti-fraud enforcement and recovery, as matters of New York State criminal law, are the sole provenance of the agency and the Attorney General's office. There is no legal role for contract vendors in that process. Additionally, note that there is no provision for infant formula rebate contract language regarding potential

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			<p>fraud/audit-related recoveries in 7 CFR 246.16a</p> <p>d. This is not relevant for bid submission.</p> <p>e. Disputes arising from allegations of fraud or other illegal activity are all subject to statutes of limitations described in the New York State Civil Practice Laws and Rules (CPLR) and cannot be waived by contract.</p> <p>f. As the agency's specific anti-fraud practices and procedures directly impact the legal value of their results for the Attorney General, they are strictly confidential.</p>
9.	2.1. Introductory Background, page 6	Please detail the quantities of non-contracted non-exempt infant formula issued to infants, children, and women to meet religious eating patterns over the past 6 months.	A total of 33 cans of non-contract non-exempt infant formula was redeemed by WIC participants to meet religious eating patterns in the past 6 months (December 2024 to May 2025).
10.	2.1. Introductory Background, page 6	Under what circumstances would the State change its position and begin offering a non-contract, non-exempt formulas?	The State will not speculate on the circumstances that would dictate a change in policy.
11.	2.1. Introductory Background, page 6	Please provide the latest 6 months issuance by brand, size, and unit for all contract, exempt, and non-contract non-exempt infant formulas.	This information is not available.
12.	2.1. Introductory Background, page 6	What percentage of issued formula benefits are redeemed?	This information is not available.
13.	2.1. Introductory Background, page 8	<p>Please explain the State's policy on accepting returned formula from participants.</p> <p>a. Please confirm that if the State reissues formula (in the event of a return), that the contracted manufacturer will not pay rebates exceeding the federal maximum. Example: Mom is issued 9 cans of Enfamil Infant and redeems all 9 cans. Mom returns 7 cans to the clinic and is issued a new benefit for 7 cans of Enfamil Gentlease powder. Is the State seeking rebates on 9 cans or 16 cans today?</p>	<p>a. As noted in IFB Section 2.1, State policy allows participants to return redeemed but unopened formula containers to then be reissued an equal number of reconstituted ounces of a different formula that would better meet their needs. In the example above, the State would seek rebates on 16 cans. Because the participant has returned unopened cans to the local agency (which will be destroyed per State and Federal guidelines) and the same number of cans was re-issued, this is not</p>

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			considered issuance in excess of the federal monthly maximum allowance.
14.	2.1 Introductory Background, Table VI – Infant Formula Distribution – Number of Units Redeemed, page 8	Please explain which rebate eligible milk-based infant formulas are included in the milk-based line? The number of milk-based units redeemed appears to be significantly lower than the invoice provided. If not all sub-brands (Enfamil Gentlease, etc.) of the milk-based infant formulas are included, please revise this table.	IFB Table VI – Infant Formula Distribution – Number of Units Redeemed reflects redemptions of Enfamil Infant formula in the row labeled 'Milk-Based'. The table will not be revised to include all other sub brands.
15.	IFB, page 5, Section 2.1, Introductory Background, Paragraph 7	Will the State plan to issue non-contract formula in the event the winning manufacturer does not produce a rice-starch type product?	This is not confirmed.
16.	IFB pages 6-7, Caseload Tables I-IV	<ul style="list-style-type: none"> a. The 6-month average total for infants receiving formula in Table I (76,518) does not match the average caseload of infants receiving any formula in Table II (76,479). Please correct these datasets so the average number of infants receiving any formula is consistent across all data tables. b. Tables II, III and IV show different average totals of infants issued contract formula. While Table IV is consistent with the 68,820 infants reflected on bid sheet (Attachments C&D), Table II shows 68,838 infants and Table III shows 68,885 infants. Please correct these datasets so the average number of infants issued contract formula is the same, and aligns with the totals provided on bid sheet Attachments C&D. c. If table totals cannot be re-worked, please provide additional information on why the totals between the tables and bid sheets do not align. 	<ul style="list-style-type: none"> a. This data will not be amended. The minor inconsistencies in the tables are related to calculating the average using the different variables being reviewed. b. This data will not be amended. c. The minor inconsistencies in the tables are related to calculating the average using the different variables being reviewed. The values listed on the bid sheet shall be used in bid calculations.
17.	IFB, page 8, Caseload Table V	For infants categorized as partially breastfed, please provide the average infant formula allotment issued by baby age.	This information is not available.
18.	IFB, page 8, Paragraph 1	<p>Please confirm the following:</p> <ul style="list-style-type: none"> a. The State will not issue quantities of infant formula in excess of the monthly maximums prescribed by federal law for each WIC participant. 	<ul style="list-style-type: none"> a. This is confirmed but note the clarifying response to Question 13. b. This is confirmed but note the clarifying response to Question 13.

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		<ul style="list-style-type: none"> b. The Contractor will not be required to pay rebates on quantities of infant formula in excess of the federal monthly maximums. c. If rebates for quantities in excess of the federal monthly maximums are billed and rebated in error, the amounts associated with the over issuance and redemption will be reimbursed to the Contractor upon discovery. d. If any of the above statements are not confirmed, please provide a detailed explanation of why such portion was not confirmed. e. Given that returned redemptions are not included in the quantities specified on the bid sheets, it is important for manufacturers to understand how much formula is being returned on a monthly basis. Please provide at least 3 months of data to specify how much formula is being returned by participants on a monthly basis. f. If monthly return data is not available, please explain how the State is able to ensure rebated quantities over the Federal monthly maximum allotments are due solely to returned formula, and not over-issuance. 	<ul style="list-style-type: none"> c. The State will make every effort to resolve all disputes between the parties pertaining to any rebate invoice covered by this Agreement. Upon resolution of a dispute, the State will promptly disburse in accordance with prompt payment provisions of Article 11 of the State Finance Law, any funds due the Contractor. All disputes must conform to requirements stipulated in the contract, including but not limited to the requirement that the contractor notify the State in writing "of any intent to dispute or investigate a potential error in the rebate invoice within 30 days of receipt of the invoice." d. Not applicable. e. This information is not available. f. Reissued formula does not count as exceeding the Federal monthly maximum. The State monitors WIC local agencies for compliance with WIC Program Manual sections 1250 WIC Food Packages and Tailoring and 1253 WIC Formulas, which outline correct formula issuance procedures. Additionally, the NYS WIC Management Information System calculates the maximum monthly allowance for each formula and form by each participant's age and feeding method category. The system will not allow local agency staff to issue more than the maximum determined by the system.
19.	IFB, page 8, Table VI	What percentage of total issued infant formula benefits are not redeemed?	This information is not available.
20.	IFB, page 9, Section 2.2, Important Information, Paragraph 4	Please confirm if any amendments issued will be required to be signed and/or included as part of an offeror's proposal.	Revised forms that are published must be used in place of earlier versions previously published with the IFB and if signatures are required on those revised forms, then signature is required.

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			Amendments issued to this IFB are not required to be signed or included as part of the bidder's proposal.
21.	2.3 Term of the Agreement, page 10	If there is a change in the manufacturer, please confirm each of the State Agencies will contact their authorized vendors to notify them of such change? We request the State Agencies agree to notify their authorized vendors 90 days prior to the start date of the contract to ensure adequate time for vendors to place orders for the new contract formulas.	The State agency will contact WIC authorized vendors to notify them of the change following contract execution. The State will work with the new manufacturer to have a smooth transition.
22.	2.3 Term of the Agreement, page 10	<p>Should a contract transition occur, please provide detail as to how the State will manage the transition:</p> <ul style="list-style-type: none"> a. Will participants entering the WIC clinic on September 15, 2026 receive benefits for September, October, and November that include the existing manufacturer's products? Or will the month of September only be for the current manufacturer's contracted product? b. Please explain if the State issues benefits on a rolling basis or follows the calendar month. c. Please provide any additional details regarding the transition process if a different contract brand formula will be issued under the new contract. 	<ul style="list-style-type: none"> a. The month of September will only be for the current manufacturer's contracted product. Benefits for October and November would be issued under the terms of the contract(s) resulting from this IFB. b. Benefits are issued on a rolling basis. c. Transition from one contract to another contract requires, at a minimum, information system changes to associate formula benefits to the appropriate contract and rebate amounts. If there is a changeover from one manufacturer to another, additional activities will include information and support for WIC local agencies, WIC participants, and WIC vendors regarding the changes that they will have to make, such as transitioning infants from one formula to another, and changing business ordering and stocking practices to comply with WIC requirements.
23.	IFB, page 9, Section 2.3, Term of Agreement	This section mentions a 5-year contract period but does not specify a contract start and end date. Please provide specific dates for the entire contract term from start to completion.	The anticipated contract term is October 1, 2026, to September 30, 2031.
24.	IFB, page 10, Section 2.3, Term of Agreement	<ul style="list-style-type: none"> a. If a new Contractor is awarded the contract, please describe in detail the State's transition plan. 	<ul style="list-style-type: none"> a. Transition from one contract to another contract requires, at a minimum, information system changes to associate

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		<ul style="list-style-type: none"> b. Please confirm that if a participant comes to a clinic for benefit distribution on September 15 to receive three months of infant formula benefits, they will receive the remaining September benefits for the current contract holder's formula and October and November infant formula benefits for the new contract holder's formula. c. If this example is not correct, please provide specific details for how these 3 months would be issued. 	<p>formula benefits to the appropriate contract and rebate amounts. If there is a changeover from one manufacturer to another, additional activities will include information and support for WIC local agencies, WIC participants, and WIC vendors regarding the changes that they will have to make, such as transitioning infants from one formula to another, and changing business ordering and stocking practices to comply with WIC requirements.</p> <ul style="list-style-type: none"> b. This is confirmed, assuming the contract begins on October 1. c. Not applicable.
25.	IFB, page 11, Section 4.1, Definitions	<ul style="list-style-type: none"> a. The "Contract effective date" definition shows a desired award notification date of December 30, 2025, but the Calendar of Events table on page 4 shows an anticipated contract award notification date of January 9, 2026. Please confirm which date is accurate. b. Please revise the definition for "Contract brand infant formula" to be more specific to the sizes outlined in section 4.3.b of this IFB, since these size ranges encompass the products that the manufacturer is required to produce and is bidding upon. c. Please revise the definition for "Non-exempt formula" to refer to any contract brand infant formula eligible for a rebate. 	<ul style="list-style-type: none"> a. The anticipated Contract Award Notification Date is January 9, 2026. See IFB Amendment #2. b. This will not be amended. c. This is amended. See IFB Amendment #2.
26.	4.3 Product or Service Requirement, g., page 14	Will the State please change this to the cent for cent increase/decrease, shall take effect on the 1st day of the	This will not be amended.

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		month following the date of a wholesale price increase/decrease, to avoid penalizing the contractor. Many other WIC contracts have this provision.	
27.	4.3 Product or Service Requirement, i. page 14	Will the States be willing to change the price change notification to 60 days or the same time as other retail customers?	This will not be amended.
28.	4.3 Product or Service Requirement, j., page 14	Please confirm this provision applies only if the supply chain disruption or contract brand infant formula recall is due to the fault of the contractor.	This is not confirmed.
29.	4.3 Product or Service Requirement, j., page 14	Please confirm that should there be a shortage or recall of products, the state will first issue a different physical form of the contractor's formula, secondly, consider issuing another sub brand of rebate eligible formula of the contracted manufacturer prior to issuing another manufacturer's formula and seeking a rebate from the contractor. This would not apply in situations where product unavailability is due to Force Majeure.	If the primary contract infant formula is unavailable, the Department will first seek to issue another form of the primary contract infant formula or another appropriate contract infant formula prior to making another company's infant formula available. See IFB Amendment #2.
30.	4.3 Product or Service Requirement, l., page 14	Please confirm that the contractor is permitted to withhold payment if the overbilling is not supported by the agreed upon invoice documentation to substantiate the invoice balance, and the amount in question significantly exceeds the average of the past 3 months of invoices submitted by the state (variance of greater than 100%).	The Contractor may not withhold rebate payments based on rebate invoices issued by the State under any circumstances.
31.	4.3 Product or Service Requirement, l., page 14	Please confirm the fiscal year starts October 1.	The federal fiscal year begins on October 1 and ends on September 30.
32.	4.3 Product or Service Requirement, p., page 15	Please clarify that this provision applies only: <ul style="list-style-type: none"> a. If there is impact on participants' ability to redeem benefits. b. To the extent that the manufacture is not prohibited from assisting the department due to the same disruptions listed in this section. 	<ul style="list-style-type: none"> a. This is confirmed. b. This is confirmed.
33.	4.3 Product or Service Requirement, p., page 15	Please confirm that should there be a shortage or recall of the contract brand infant formula, the state will first issue a different physical form of the contractor's formula, secondly, consider issuing another sub brand of rebate eligible formula of the contracted manufacturer prior to issuing another manufacturer's formula and seeking a rebate from the contractor.	If the primary contract infant formula is unavailable, the Department will first seek to issue another form of the primary contract infant formula or another appropriate contract infant formula prior to making another company's infant formula available. See IFB Amendment #2 update to Section 4.3.j.

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34.	4.3 Product or Service Requirement, p., page 15	Please consider incorporating the same list of events for Force Majeure from Attachment 8.	This is not amended.
35.	IFB, page 13, Section 4.3.e&f, Product or Service Requirement, First bullet	This section references Column J on the first page of the excel bid sheets as the Percent Rebate. However, on both Bid Sheet Attachments C&D, the percent rebate on page 1 is in column I. Please confirm the correct column reference in each Excel bid file for the percent rebate.	The percent rebate on both Bid Sheet Attachments (C&D) on page 1 is in column I. See IFB Amendment #2.
36.	IFB, page 14, Section 4.3.g Product or Service Requirement	Please revise the effective date of a price increase or decrease to be the first day of the month after the price increase or decrease takes effect, to be consistent with when the price change would be reflected at retail shelves.	This will not be amended.
37.	IFB, page 14, Section 4.3.h, Product or Service Requirement	Please replace "same net wholesale cost per ounce" with "same percent discount."	This will not be amended.
38.	IFB, page 14, Section 4.3.j, Product or Service Requirement	Please replace "same net wholesale cost per ounce" with "same percent discount."	This will not be amended.
39.	IFB, page 14, Section 4.3.l, Product or Service Requirement	<p>FNS Memo WIC 1996-6 - Section (2) Billing Discrepancies states that the IFB and contract should establish a reasonable time period in which each party must alert the other to any billing discrepancies. Please correct this section to allow both parties the same amount of reasonable time to alert the other party of a dispute or billing error.</p> <ul style="list-style-type: none"> a. If the above is not confirmed, please describe why this section of the FNS memo is not being adhered to. b. Please allow 90 days for this established time frame to raise disputes. c. If 90 days is not permissible, please confirm that the 30-day time limit for raising disputes does not begin until the contractor's receipt of invoice and associated data files. d. Please confirm that the 30-day limit on disputes does not apply to disputes arising from fraud or other illegal activity that prevents the Contractor from being able to identify the incorrect billing earlier and the time limit begin when the fraud or illegal activity is detected. 	<ul style="list-style-type: none"> a. This is amended. See IFB Amendment #2 for revised language. b. This is not amended. c. This is only confirmed with regard to the date on which an invoice is received by the Contractor. Subsequent demands for "associated data files" will not delay the 30-day time limit for raising disputes. d. Disputes arising from allegations of fraud or illegal activity are subject to the New York State Civil Practice Laws and Rules (CPLR) statute of limitations applicable to the type of claim commenced in a court of competent jurisdiction.

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40.	IFB, page 15, Section 4.3.o, Product or Service Requirement	Please confirm that all communications regarding wholesale price increases, unit size changes, reformulations, new products, or cessations in the production of any formula can be communicated to the Department via email, as opposed to physically mailed, to ensure timely communication and delivery.	This is confirmed.
41.	IFB, page 15, Section 4.3.q, Product or Service Requirement	<ul style="list-style-type: none"> a. In the event of a recall, please confirm that the State would substitute an appropriate alternate brand, form or size of the Contractor's product lines prior to issuing a non- contract brand. b. If not confirmed, please list all of the reasons why the State will not substitute an appropriate alternate brand of the contracted infant formula prior to issuing a non- contract brand. c. The State provides no provisions around notifications to the contractor should any alternative issuance measures be deployed in the event of an emergency. Please detail the notification and alignment procedures the State would follow to communicate any deviation in standard issuance processes with the awarded Contractor. 	<ul style="list-style-type: none"> a. If the primary contract infant formula is unavailable, the Department will first seek to issue another form of the primary contract infant formula or another appropriate contract infant formula prior to making another company's infant formula available. See IFB Amendment #2 update to Section 4.3.j. b. Not applicable. c. The State will work closely with the contractor and communicate as needed prior to any deviation in standard issuance process.
42.	4.4 New York State Product and Service Requirements, b., Page 16	Under what circumstances would the State change its position and begin offering a non-contract, non-exempt formulas?	The State will not speculate on the circumstances that would dictate a change in policy.
43.	IFB, page 16, Section 4.4.f, New York State Product and Service Requirements	<p>Monthly data files are necessary in order for the Contractor to validate invoices with accuracy and integrity.</p> <ul style="list-style-type: none"> a. Please confirm that the details of all EBT transactions for which rebates are being invoiced through the monthly invoice process are provided each month through an electronic data file including EBT transaction number, family ID or eWIC card number (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, 	<ul style="list-style-type: none"> a. The State will provide records directly related to the monthly billings that will include the data elements listed in IFB section 4.4.e. b. Not applicable. The Contractor has no authority under the contract to scrutinize individualized benefits administration.

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		<p>Partially Breastfed), and vendor ID or pseudo vendor ID.</p> <p>b. If no unique identifier per family (e.g. pseudo family ID or eWIC card number) is provided and multiple EBT transactions are allowed for one month's worth of benefits, please detail how the Contractor would be able to sum up the total number of infant formula cans redeemed by a single participant for the month to ensure that total cans issued did not exceed the federally regulated monthly maximums.</p>	
44.	IFB, page 16, Section 4.4.f, New York State Product and Service Requirements	<p>a. Please confirm that the Contractor will be allowed to audit the records, policies and procedures relevant to the infant formula rebate process.</p> <p>b. Please confirm that documents and/or information regarding policies, procedures and operations of the State's WIC Program and infant formula monthly issuance allotments by brand and can size, infant age category and feeding method will be provided based on the State's open records law.</p> <p>c. Please confirm the State will provide the contractor a way to validate, by family, that rebates on infant formula were not paid in excess of the federal monthly maximums. If not confirmed, please describe what process is in place for the Contractor to validate issuance/redemption and program compliance.</p>	<p>a. This is confirmed, provided that the State will have sole discretion to determine both a reasonable audit timeframe, the schedule for its records production, and deadlines for Contractor submission of audit results. Additionally, on the condition note that the cost of any approved records production aside from the regular documentation provided by the State to facilitate performance will be borne exclusively by the Contractor.</p> <p>b. This is confirmed.</p> <p>c. The Contractor has no authority under the contract to scrutinize individualized benefits administration. Per section 4.4 e. of the IFB, the Department will supply records directly related to the monthly billings to the Contractor for review. This review shall be limited to books, records, and documents related to the generation of monthly invoices and shall include and be limited to the following data elements:</p> <ul style="list-style-type: none"> • Transaction Identifier • Category • Subcategory • UPC • Product Name • Benefit Start Date • Redemption Date

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			<ul style="list-style-type: none"> • Number of Units Redeemed
45.	4.6 Payment, Page 17-18	If the thirtieth day falls on a Sunday or a banking holiday, please confirm payment made the following business day will not constitute a late payment or a penalizing the contractor. Many other WIC contracts have this provision.	This is confirmed.
46.	IFB, page 18, Section 4.6, Payment, Paragraph 2	Please revise this section to state that payments should be made within thirty (30) days of receipt of invoice.	This is not amended.
47.	IFB, page 19, Section 5.3, Right to Modify IFB	If any amendments or modifications are made to the IFB, please ensure 10 business days remain between the date of the published amendment and the bid due date.	This is confirmed. Any change to the IFB including changes to the Calendar of Events will be published via amendment to the IFB.
48.	IFB, page 20, Section 5.4.12, DOH's Reserved Rights	<ol style="list-style-type: none"> a. This section should be removed since all bids will be opened and read aloud at a public bid opening. It would be unfair to allow bidders to negotiate terms and pricing after being made aware of prices submitted by other bidders. b. If this section is not removed, please explain the steps the State will take to prevent this unfairness. 	<ol style="list-style-type: none"> a. This is not amended. b. The bidder that meets the Bid Requirements per IFB Section 4.2 and offers the lowest total monthly net wholesale cost to the Department is considered the Successful Bidder. The State reserves the right to negotiate with the Successful Bidder in the best interests of the Department. Such negotiation has no impact on other bidders.
49.	IFB, page 20, Section 5.4.25, DOH'S Reserved Rights	<ol style="list-style-type: none"> a. We request the State amend this paragraph by changing 365 days to 90 days. Especially in this current economic climate, requesting Bidders to maintain a firm price for an entire year is excessively burdensome and unreasonable. We urge the State to amend this section. b. This section references UCC §2-205 which provides that a period of irrevocability should not exceed 3 months. If this provision is not amended to change from 365 days to 90 days, what is the intent of the State in including the phrase "to the extent not inconsistent with Section 2-205 of the uniform commercial code" in this section? 	<ol style="list-style-type: none"> a. This section is not amended. b. This section is not amended. UCC section 2-205 addresses "[a]n offer by a merchant to buy or sell goods," and a contract for rebates on documented sales by retailers to public assistance beneficiaries does not constitute a sale of goods to the State. Therefore, the 3-month cap on irrevocable offers under 2-205 does not apply to this contract.
50.	5.5 Freedom of Information Law ("FOIL"), Page 20	Please explain when all bids received by the States will be able to be viewed by all bidders.	Pursuant to the requirements of New York State Finance Law Article 9, copies of the bid packages opened by the Department may be requested only

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			after the execution of the contract by writing to the following electronic mail address: FOIL@health.ny.gov.
51.	IFB, page 20, Section 5.7, Protest Procedures	In the event of a protest, please confirm that all bidders will be made aware via email.	This is not confirmed.
52.	5.7 Protest Procedures, Page 20	Please describe the pre-bid protest procedures and post-proposal due date protest procedures governing this RFP, including relevant time frames for submitting a protest.	<p>There are no pre-bid protest procedures or post-proposal due date protest procedures governing this IFB. The State will follow Protest Procedures established under 2 NYCRR section 24 "Contract Award Protest Procedure for Contract Awards Subject to the Comptroller's Approval." These procedures are also memorialized in Chapter XI Section 17 of the Office of the State Comptroller's Guide to Financial Operations (GFO). Available online at:</p> <p>http://www.osc.state.ny.us/agencies/guide/MyWebHelp/.</p>
53.	5.7 Protest Procedures, Page 20	Please confirm all bidders will be notified if a protest is filed either prior to the bid proposal due date or after issuance of an award recommendation.	This is not confirmed.
54.	IFB, page 21, Section 5.8, Piggybacking	<ul style="list-style-type: none"> a. Please remove this provision, as it is not applicable since this is a rebate contract and since the New York State Department of Health is the only State agency authorized to administer the WIC Program in New York. b. If not removed, please indicate which other agencies would be eligible to participate in the Contract entered into pursuant to this IFB. 	<ul style="list-style-type: none"> a. This is not amended. b. The State will not speculate on whether other agencies would be eligible to participate in the Contract(s) entered into pursuant to this IFB.
55.	6.1.3 Bidder's Certified Statements, Page 23	Is a Certificate of Incumbency sufficient to prove that the person signing the bid is an authorized company representative?	The State does not require that a Certificate of Incumbency be submitted along with the bid but may request such a Certificate to verify that the signatory is authorized company representative before a contract is finalized.

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56.	6.1.4. National Wholesale Price List, Page 23	Is the entire Pediatric Wholesale Price list to be included with the IFB or are the products being bid upon sufficient?	Bidders must include with their bid their national wholesale price list(s) showing all weight tiers available effective the date of bid submission for the items being bid.
57.	IFB, page 24, Section 6.2.6, Encouraging Use of New York Businesses in Contract Performance	<ul style="list-style-type: none"> a. Please confirm that this form is not applicable to a contract where the Manufacturer is paying a rebate to the State. b. If confirmed, please remove this Attachment 6 as a Bid Requirement in Attachment A, Bid Package Checklist. 	<ul style="list-style-type: none"> a. The State requests all Bidders submit Attachment 6 as part of the bid submission package. b. Not applicable.
58.	IFB, page 24, Section 6.2.7, State Finance Law Consultant Disclosure Provisions	<ul style="list-style-type: none"> a. Please confirm that State Consultant Services forms A and B are not applicable to a contract where the Manufacturer is paying a rebate to the State. b. Please also confirm that Forms A and B are not required for bid submission. c. If required for bid submission, can the State please provide all appropriate responses in the first box of information requested in Form A (State Agency Name, State Agency Business Unit, State Agency Department ID, etc) as this information is not included in the IFB. d. If required for bid submission, can the State please provide all appropriate responses in the first and second boxes of information requested in Form B (State Agency Details as well as Scope of Contract) as this information is not included in the IFB. e. If neither form is required for submission of this bid, please remove the State Finance Law and Consultant Disclosure section from the Other Bid Documents listed in Attachment A, Bid Package Checklist. 	<ul style="list-style-type: none"> a. State Consultant Services Form A and Form B are not required for this IFB. b. This is confirmed. c. Not applicable. d. Not applicable. e. This is amended. See IFB Amendment #2 and revised Attachment A.
59.	IFB, page 25, Section 6.2.8, Sales and Compensating Use Tax Certification	<ul style="list-style-type: none"> a. Please confirm that forms ST-220 CA and ST-220 TD are not applicable to a contract where the Manufacturer is paying a rebate to the State. b. Please confirm that completion of forms ST-220 CA and ST-220 TD are not required for bid submission and would only be required of the awarded Manufacturer. 	<ul style="list-style-type: none"> a. This is not confirmed. b. These forms are not required for bid submission. The Successful Bidder(s) must file a properly completed Form ST-220-CA with the Department of Health and Form ST-220-TD with the Department of Tax and Finance. These

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		<p>c. If neither form is required for submission of this bid, please remove the Sales and Compensating Use Tax Certification section from the Other Bid Documents listed in Attachment A, Bid Package Checklist.</p>	<p>requirements must be met before a contract may be executed. c. Not applicable.</p>
60.	7. Bid Submission, Page 25	We urge the State to strike the option of an email submission due to inherent security issues and allow paper bid submission (and/or submission via a secure online portal).	The State will allow either paper or electronic bid submission. See IFB Amendment #2.
61.	7. Bid Submission, Page 25	<p>We urge the State to consider allowing bidders to submit a hard copy of their bid instead of an email/online submission. If confirmed that bidders can submit a paper bid, please provide the following information:</p> <ul style="list-style-type: none"> a. How many originals and copies would be required for submission. b. The complete name and delivery address and any specific delivery instructions If a bidder chooses to submit a hard copy bid via hand delivery and/or FedEx/UPS. c. Detailed instruction on how the hard copy bid should be formatted, what is required to be included and if there are any specifics around compiling the bid package. d. The contact information for someone at the lead State who a bidder can reach out to for confirming receipt of the bid package. e. Please explain how hard copy bid packages received via hand delivery and/or FedEx/UPS will be kept secure prior to the public bid opening. f. Please confirm that any hard copy bid received via hand delivery and/or FedEx/UPS will not be opened until the public bid opening so those in attendance can witness the opening of the bid package. 	<ul style="list-style-type: none"> a. Bidders electing to submit a paper bid must submit one hardcopy bid submission. Copies are not required. b. Bidders electing to submit a paper bid shall address bids to the IFB Permissible Subject Matter Contact: Cheryl Nary New York State Department of Health Bureau of Supplemental Food Programs 150 Broadway, Suite 600 Albany, NY 12204 c. Formatting instructions are described in IFB Section 7. d. Questions regarding bid receipt should be directed to the IFB Permissible Subject Matter Contact: Cheryl Nary New York State Department of Health Bureau of Supplemental Food Programs 150 Broadway, Suite 600 Albany, NY 12204 Phone: (518) 402-7094 Email Address: BSFP-FMS.Procure@health.ny.gov e. Hard copy bid packages will be stored in a locked and secure location prior to the public bid opening. f. This is confirmed.

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62.	7. Bid Submission, Page 25	<p>If the State will not accept paper bid submissions, please advise on the following:</p> <ol style="list-style-type: none"> How the State will guarantee emailed/online bid submissions will not be opened until the public bid opening and kept confidential from the receipt of the emailed bid. How the State will comply with Federal Regulations and "publicly open" electronic/emailed bid submissions. Please identify everyone who has access to bids once they have been submitted via email/online, prior to the official bid submission deadline. Please explain the steps taken to restrict access to bids to those persons identified in response to the question above. What procedures does the State have in place to make sure bids are kept unopened and confidential? 	<ol style="list-style-type: none"> Not applicable. Not applicable. Not applicable. Not applicable. Not applicable.
63.	7. Bid Submission, Page 25	Will the State please provide a specific contact (phone number and email address) that can provide written confirmation of bid receipt?	<p>Written confirmation of bid receipt will be sent by email from. BSFP-FMS.WICBidSubmissions@health.ny.gov. Confirmation will not be provided by phone.</p>
64.	IFB, page 25&26, Section 7, Bid Submission	<p>According to the Federal Regulation §246.16a - "Infant formula and authorized foods cost containment" section (c)(ii) in a single-supplier competitive bid system for infant formula rebate contracts, the State Agency must "Publicly open and read all bids aloud on the day the bids are due."</p> <ol style="list-style-type: none"> It is concerning that a hard copy of bid documents could be requested up to two days after a failed attempt at opening an electronic file. Please confirm that bidders can submit a hardcopy sealed bid in lieu of an electronic submission. If confirmed, please advise the number of originals and copies of the bid that are required. If an electronic version only is required: Please confirm that no bids amounts will be read aloud at the Public Opening until the State can confirm successful opening of all electronic bid 	<ol style="list-style-type: none"> This is confirmed. See IFB Amendment #2. Bidders electing to submit a paper bid must submit one hardcopy bid submission. Copies are not required. Not applicable. The State will show bidders the email containing the bid submission, noting the date and time, using a screen-sharing function during the public bid opening conference. The Procurement Coordinator is authorized to correspond through the bid submission email address and will have access to electronic bids submitted by email prior to the official bid submission deadline.

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		<p>document submissions, so as not to reveal any one manufacturer's bid amounts to another manufacturer if any documents are unable to be opened/read.</p> <p>d. Please advise how the State will comply with Federal Regulations and "publicly open" electronic bid submissions.</p> <p>e. Please identify everyone who has access to bids once they have been submitted by e-mail, prior to the official bid submission deadline.</p> <p>f. Please explain the steps taken to restrict access to bids to those persons identified in response to the question above.</p> <p>g. Please indicate any file size restrictions for the PDF version of the bid.</p> <p>h. Please advise what processes the State will follow if the submitted files cannot be accessed or viewed during the public bid opening.</p> <p>i. Please provide more detailed instructions for including a separate cover for the protected file password. Should this be sent in an additional PDF with a cover page of its own?</p> <p>j. There is a specification for size eleven (11) or larger font to be used for the bid submission package. Our Nationally Published Price List is not published in size 11 font. I just want to make sure that publishing our price list as-is will be permitted.</p>	<p>f. Only the Procurement Coordinator is authorized and has access to the electronic bids submitted by email. Please note electronic bid submissions should be sent to BSFP-FMS.WICBidSubmissions@health.ny.gov as noted in IFB Amendment #2.</p> <p>g. The file size restriction for electronic bid submission is 10 megabytes per email. Electronic bid submissions exceeding this restriction may be submitted in multiple emails.</p> <p>h. If a bid submission is inaccessible or unreadable to the degree that conformance to the essential requirements of the IFB cannot be ascertained, the State will notify the bidder immediately following discovery that the bid will be rejected unless the bidder provides clear and convincing evidence of the content of the bid as originally submitted within 2 business days.</p> <p>i. No. The password must be included in a separate email from the one containing the protected PDF file.</p> <p>j. The IFB states size eleven (11) or larger font should be used, however this is not required to bid.</p>
65.	IFB, page 27, Section 8, Method of Award	<p>a. This section should be removed since all bids will be opened and read aloud at a public bid opening. It would be unfair to allow bidders to submit best and final pricing after being made aware of prices submitted by other bidders.</p> <p>b. Please clarify and confirm that in the event of a tie, the winning bidder will be decided via coin toss.</p> <p>c. If not confirmed, please explain how the bidder will be determined in the event of a tie.</p>	<p>a. This is not amended. Bidders are only permitted to submit best and final pricing in the event of a tie for the best bid.</p> <p>b. This is not confirmed. In the event of a true tie, only those Bidders tied would be offered an opportunity to submit a lower bid. A second public bid opening would be conducted, whereas all Bidders could attend, but only the Bidders initially tied would have their best and final bids read.</p>

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			c. See response to Question 65(b).
66.	8. Method of Award, Page 27	Does the State intend to publish an intent to award? Please provide the exact link to where the Intent to Award will be posted.	Bid opening results will be Posted in the New York State Contract Reporter.
67.	Attachment A, Page 29	Please confirm this is a complete and comprehensive checklist of documents and information that must be submitted for a responsive bid. <ul style="list-style-type: none"> a. Some of these checklist items contain more than one attachment, would the State consider listing all required attachments for a responsive bid. b. Please confirm that only the top section labeled 'for the mandatory bid requirements' is required to a responsive bid. Additionally, please confirm that the documents labeled 'other bid documents' are required upon request for the successful manufacturer post bid award. 	This is confirmed. See IFB Amendment #2 for revised Attachment A. <ul style="list-style-type: none"> a. This is not amended. b. All documents in Attachment A are required for bid submission. See IFB Amendment #2 for revised Attachment A.
68.	Attachment A, Page 29	Please confirm all the pages of the bid that need to be notarized.	No pages of the bid require notarization.
69.	Attachment A, Page 29	Please confirm a copy of the IFB is not required to be submitted as part of a bid response?	This is confirmed.
70.	IFB, Page 29, Attachment A, Bid Package Checklist	<ul style="list-style-type: none"> a. Please advise if a copy of the bid checklist should be completed and submitted with the bid response. b. If a copy of the completed bid checklist is required, please ensure that it is added to the required documents in the bid checklist, itself. c. Please indicate if the list of Other Bid Documents are considered Mandatory Bid Requirements, or if submission of some or all of the other bid documents is optional. d. Please remove the State Finance Law Consultant Disclosure and Sales and Compensating Use Tax Certification items from the Bid Checklist if these forms are intended to be completed by the winning (contracted) bidder and not submitted with this bid. 	<ul style="list-style-type: none"> a. A completed checklist is recommended but not required as part of the bid submission package. b. Not applicable. c. The Other Bid Documents are mandatory for bid submission. d. The State Finance Law Consultant Disclosure has been removed, please see IFB Amendment #2. The proposed removal of Sales and Compensating Use Tax Certification is not amended.
71.	Attachments C & D	Milk-based and Soy-based Infant Formula Bid Sheets (Page): The Regulation citation referenced in the	This is amended. See IFB Amendment #2.

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		footnotes for this page appears to be incorrect and should not include an (i) at the end. Please correct both bid sheets with the appropriate citation.	
72.	Attachment F, Page 33	Please provide the latest 6 months of invoices to align with the 6-month averages provided in the bid sheet. Currently, the information provided only includes the month of May 2024.	This is not needed for purposes of the IFB.
73.	Attachment G, Page 35	Please confirm this bid will be awarded to the lowest net wholesale cost to the State, and no preferences will be used.	This is confirmed.
74.	IFB, Page 34-36, Attachment G, Bidder's Certified Statement	Does a Certificate of Good Standing with the State of New York need to be provided within the bid submission?	A Certificate of Good Standing is not required. The State requests all Bidders submit Attachment 1 and Attachment 3 as part of the Bid submission package.
75.	Attachment 1, Procurement Lobbying Restrictions and Offerer's Certification of Adherence to New York Finance Law	Please indicate what should be populated for the Contract # at the top of all 3 pages of this document.	The Contract number can be left blank as one will be provided after an award is made.
76.	Attachment 4, Offerer Assurance of No Conflict of Interest	Please indicate what should be populated for the Contract # at the top of this document.	The Contract number can be left blank as one will be provided after an award is made.
77.	Attachment 8, Standard Contract	Is Attachment 8, or any forms included within Attachment 8 required for bid submission?	Attachment 8 is not required for bid submission.
78.	Attachment 8, Appendix X, Page 1, Section I.C, General Terms and Conditions	This section mentions that a contract may be renewed for an additional period, but there is no extension period outlined in the IFB. Please specify any extension terms that may be exercised, and the precise length and agreement of those terms.	There is no extension included in the IFB.
79.	Attachment 8, Appendix X, Page 3, Part II, Payment and Reporting	Please confirm that this section in its entirety is not applicable to a contract where the Manufacturer is paying a rebate to the State.	This is not confirmed.
80.	Attachment 8, Appendix X, Page 4, Part III.C, Term and Termination	Please allow termination rights for contractors upon 18 months' notice. If not allowed, please describe all the reasons why the State is allowed to terminate the contract, but the contractor is not afforded the same rights.	This is not amended.
81.	Attachment 8, Appendix X, Page 4, Part III. F	Please consider extending the minimum notice of 30 days, as this is a very aggressive time frame to	This is not amended.

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		accommodate market distribution in the event of contractor ownership change.	
82.	Attachment 8, Appendix X, Pages 5-10, Part IV, Specific Coverages and Limits	<ul style="list-style-type: none"> a. Please advise if the Workers' Compensation, Disability Benefits and Commercial General Liability forms are required in the contract, as all 3 items indicate insurance coverage for work performed in the state of New York, and none of the potential bidders reside in the State of New York. b. Please confirm the insurance requirements detailed in this section are not applicable to an infant formula rebate contract in which the contractor is paying the State. c. If not confirmed, please detail why the State would require automotive liability insurance for an infant formula rebate contract. 	<ul style="list-style-type: none"> a. The successful Bidder must comply with the terms outlined in Attachment 8, New York State Department of Health Appendix, Section IV, Part C – Specific Coverages and Limits. Proof of Insurance requirements are applicable based on the necessity of contractor performance in New York, not on the contractor's state of incorporation or corporate residence. b. This is not confirmed. All contractors must comply with the terms outlined in Attachment 8, New York State Department of Health Appendix, Section IV. c. The specific language in this provision clarifies that the necessity of automotive liability coverage is required contingent on the contractor's need to deploy commercial vehicles to fulfil its obligation under the contract.
83.	Attachment 8, Appendix X, Page 12, Part VIII, Subcontracting	Please confirm this section is not applicable to this contract, as part 4.7 of the IFB states that the bidder may not propose any use of a subcontractor.	This is confirmed.
84.	Attachment 8, Appendix M, Participation by Minority and Women-Owned Business Enterprises	Please confirm that this Appendix is not applicable to a contract where the Manufacturer is paying a rebate to the State.	This is not confirmed.
85.	Attachment 8, Appendix B, Scope of Work	Please provide a detailed list for the items to be included within the scope of work for this contract.	IFB Section 4 details the scope of work for this contract.
86.	Attachment 8: DOH Agreement – III. Term and Termination, Page 4: F	Would the State consider adding: The contract may be cancelled at any time by the contractor with 12 months advance notice.	This is not amended.
87.	Attachment 8 DOH Agreement – L.1 Force Majeure, Page 18	Please add epidemic to this list.	This is not amended.
88.	Attachment 10, Diversity Practices Questionnaire	Please advise if a completed version of this attachment is required for bid submission.	This form is not required for bid submission.

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89.	Attachment 11, Offerer's Certification of Adherence to Executive Order 177	Please indicate what should be populated for the Contract # at the top of this document.	The Contract number can be left blank as one will be provided after an award is made.
90.	Attachment 12, Offerer's Certification of Adherence to Executive Order No. 16 Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia	Please indicate what should be populated for the Contract # at the top of this document.	The Contract number can be left blank as one will be provided after an award is made.