



Food and
Nutrition
Service

October 7, 2019

Park Office
Center

SUBJECT: Informational Memorandum: WIC Infant Formula Rebate Solicitations –
Bidding on Single Milk- and Soy-Based Infant Formula

3101 Park
Center Drive
Alexandria
VA 22302

TO: Regional Directors
Special Nutrition Programs
All Regional Offices

WIC State Agency Directors
All WIC State Agencies

Recently, FNS has received questions about the definition of single milk-based infant formula, including questions related to the allowability of bidding on multiple product lines or formulations in response to a single solicitation. The purpose of this memorandum is to ensure that all stakeholders are aware of the federal regulatory scheme related to bidding on single milk- and soy-based infant formula rebate contracts.

WIC regulations at 7 C.F.R. 246.16a(c)(4) require bidders for infant formula rebate solicitations to specify the brand name of the single milk-based infant formula and single soy-based infant formula for which the rebate is being specified in all three physical forms of infant formula (concentrated liquid, powdered, and ready-to-feed). The terms “single milk-based” and “single soy-based” infant formula are not defined in regulation. Additionally there are no federal requirements that infant formula manufacturers must bid using the exact same product line or formulation for all three physical forms of milk- or soy-based infant formula in response to a single solicitation.

Pursuant to the Congressional Review Act (5 U.S.C. § 801 et seq.), the Office of Information and Regulatory Affairs designated this notice as ‘not major’, as defined by 5 U.S.C. § 804(2).

If you have any questions about this memorandum, please contact Amy Herring, Chief of WIC Program Integrity at amy.herring@usda.gov.

Sincerely,

SARAH WIDOR
Director
Supplemental Food Programs Division