

Texas WIC Program

Vendor Monitoring Guide



Health and Developmental Services Section Texas Health and Human Services Commission

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Texas Health and Human Services Commission

Health and Developmental Services Section

The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) is a food and nutrition program benefiting infants, children under age 5 and pregnant, postpartum and breastfeeding women with low to moderate incomes. The National WIC Program was established on September 26, 1972, following a nutrition survey that found anemia (low levels of iron in the blood) and inadequate growth to be common among American children.

This guide is intended for use by grocery store personnel who have a current vendor agreement with the WIC Program using WIC EBT. The information is useful primarily for grocery store personnel as it deals with contracting procedures, payment systems, and monitoring of WIC operations.

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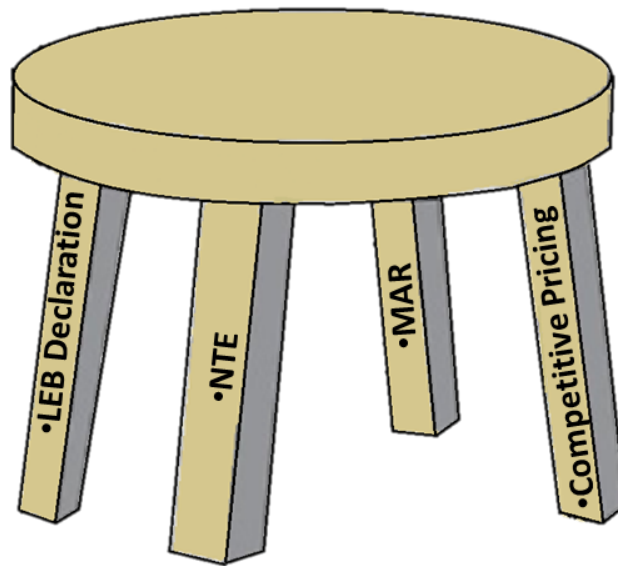
- (1) Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) Fax: (202) 690-7442; or
- (3) Email: program.intake@usda.gov.

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Cost Containment - A Four-Legged Stool



- **LEB – Least Expensive Brands**

- Vendors declare and sell their traditionally least expensive brands of milk, cheese, juice, and whole wheat bread

- **NTE – Not To Exceed**

- A prepayment price limit the State will pay for a food type by unit of measure

- **MAR – Maximum Allowable Reimbursement**

- A price limit derived monthly by the Texas WIC automated end-of-process month computer analysis of vendor claims paid

- **Competitive Pricing**

- End-of-process month comparison of a vendor's overall pricing with its peer group's pricing

Least Expensive Brand Analysis

At the time of authorization and reauthorization, all vendors shall declare the traditionally least expensive brand (LEB) for each type and size of WIC authorized milk, fluid and frozen juice, cheese, whole wheat bread, the vendor's outlet(s) shall sell when prescribed on a WIC EBT food instrument.

The State recognizes an outlet may periodically experience out-of-stock situations, therefore, at least 85% of an outlet's WIC monthly redemptions within these food types (category/subcategories) must be the vendor's declared LEB. Vendor outlets that do not have at least 85% WIC LEB redemptions in each of these food types redeemed are subject to termination of their agreements.

The State Agency (SA) may perform a review of the vendor's compliance with selling its declared LEB at any time during the term of the vendor agreement. The SA shall provide a non-compliant vendor with written notification determined from the review. The written warning of non-compliance provides the vendor the opportunity to update the store's LEB declaration form and take other measures to ensure the store is selling the declared LEBs for a minimum of 85% of the redemptions for each of the categories of foods declared. Also, the warning letter shall specify a consecutive 12-month period during which subsequent assessments will be conducted.

If the vendor fails to comply with selling the declared LEBs on a subsequent assessment within the 12-month period specified in the first warning letter, the SA shall issue the vendor a second warning notice of non-compliance. If the vendor's redemptions are again found to be non-compliant within the 12-month period specified in the first warning letter, the SA shall terminate the Vendor Agreement for a one-month period. If this happens, the vendor will have to wait six months before sending claims for WIC transactions. The State will accept a Civil Monetary Penalty (CMP) in lieu of termination of the Vendor Agreement.

If a store needs to change a declared LEB, it shall submit to the SA an LEB change request form stating the new declared LEB and UPC, as well as provide a copy of the label/nutrition content and barcode, and which product the new item is replacing. The form can be found at the following location.

<https://hhs.texas.gov/doing-business-hhs/provider-portals/wic-providers/vendor-management-operations-unit/wic-least-expensive-brand>

For more information on LEBs refer to vendor policy WV:02.0.

Not To Exceed (NTE)

All EBT claims received for a given Process Month (defined as claims electronically submitted in a given calendar month) will be processed using standard edits including adjustments for exceeding the Not-To-Exceed (NTE) amounts. The NTE edit is **NOT** the Maximum Allowable Reimbursement (MAR) for Cost Containment, but rather a statewide reasonable amount for each type of food (e.g. NTE for milk, cheese, or juice, etc.) applied at the unit level (e.g. per can for formula, per ounce for cereal, per pound for cheese, etc.) NTE edits reduce the reimbursement to the vendor prior to payment by the SA, without regard to Traditional WIC (TWIC) or Predominantly WIC (PWIC) status, and prior to the MAR pricing calculations.

At the conclusion of a Process Month, after the last claim for the month is placed onto a pay run, an end-of-month computer analysis will be initiated that will compute the average payment amount to implement the MAR component of the system.

All Vendors must sell any WIC approved item that is under the NTE amount.

For refusing to sell an authorized item in an authorized size when the price falls below the NTE amount:

- ◆ Three or more positive passes shall constitute a pattern.
- ◆ A pattern of violations shall result in disqualification for one month.
- ◆ The SA will accept a CMP in lieu of disqualification.

Maximum Allowable Reimbursement (MAR)

TWIC vendors will be held to a MAR of 125% of the average price paid by food type, for their respective Price Region (geographic parameter) and WIC sales volume band. When calculating average prices applicable to TWICs for a Price Region and WIC sales volume band, the SA may exclude prices paid to Wal-Mart and Military Commissaries.

PWIC vendors will be held to a MAR equal to the Statewide Average paid by food type to TWIC vendors. Prices paid to Wal-Mart and Military Commissaries will be included in this calculation.

The (SA) will compare the prices charged by PWIC vendors against the prices paid to TWIC vendors. The SA will ensure the prices ultimately paid (after recoupments) to PWIC vendors does not exceed the statewide average price paid for foods to TWIC vendors, irrespective of their price region or WIC sales volume band. Both TWIC and PWIC vendors will be held to a MAR derived from prices paid to TWIC stores.

Competitive Pricing

The WIC sales volume bands that shall be used for TWIC vendors within each of the State's price regions will be:

Band 1 = \$ 0.00 - \$1,999.99 WIC sales per month

Band 2 = \$2,000 - \$5,999.99 WIC sales per month

Band 3 = \$6,000 - \$19,999.99 WIC sales per month

Band 4 = \$20,000.00 or greater WIC sales per month

The end-of-process-month computer analysis described above for TWIC vendors will also be used for determining the MAR for PWIC vendors in the EBT system. PWIC vendors' prices paid for category/subcategories will be compared to the EBT Statewide average prices paid by food category/subcategory to TWIC vendors. Amounts paid to PWIC vendors for food categories/subcategories above the TWIC Statewide Average Price threshold will have a recoupment adjustment identified that will be applied against a subsequent month's claims.

Computing and application of MAR for PWIC vendors will be done without regard to price regions or sales volume bands.

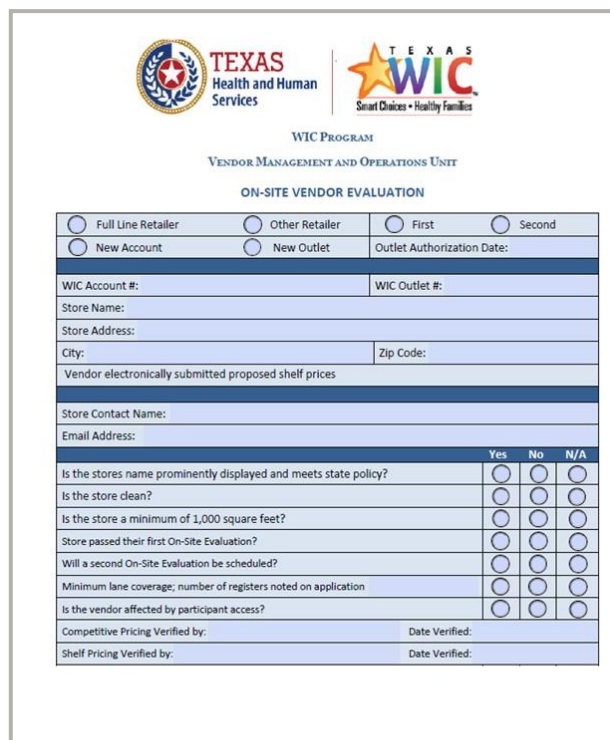
All food category/subcategories, except cash value fruits/vegetables, exempt infant formulas, and medical foods will be used in the MAR calculation process.

For more information on the calculation of cost containment refer to vendor policy WV:10.0, Section VI.

On-Site Evaluation

On-Site Evaluation: This type of evaluation is performed as part of the initial application process and your store is given two attempts to pass. This evaluation is performed by the local agency WIC staff in your area or by the State Agency staff. This evaluation will determine if your store will be allowed to accept WIC. Minimum stocking requirements and participant access are part of the Onsite Evaluation. If the evaluator identifies one or multiple issues while performing the evaluation, then the issue will be documented. One thing to note is that the evaluator is checking your prices of some WIC items by using a training card, so please ensure that your staff knows how to place the register in training mode.

- ◆ Federal Minimum Stocking Requirements
- ◆ Participant Access



The form is titled "ON-SITE VENDOR EVALUATION" and is part of the "WIC PROGRAM VENDOR MANAGEMENT AND OPERATIONS UNIT". It includes logos for "TEXAS Health and Human Services" and "TEXAS WIC Smart Choices • Healthy Families". The form contains several sections for data entry:

- Vendor Information:** Radio buttons for "Full Line Retailer", "Other Retailer", "First", "Second", "New Account", and "New Outlet". A field for "Outlet Authorization Date".
- Account and Location:** Fields for "WIC Account #:", "WIC Outlet #:", "Store Name:", "Store Address:", "City:", and "Zip Code:". A checkbox for "Vendor electronically submitted proposed shelf prices".
- Contact Information:** Fields for "Store Contact Name:" and "Email Address:".
- Evaluation Questions:** A table with columns "Yes", "No", and "N/A" for the following questions:

	Yes	No	N/A
Is the stores name prominently displayed and meets state policy?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Is the store clean?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Is the store a minimum of 1,000 square feet?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Store passed their first On-Site Evaluation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Will a second On-Site Evaluation be scheduled?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Minimum lane coverage; number of registers noted on application	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Is the vendor affected by participant access?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
- Pricing Verification:** Fields for "Competitive Pricing Verified by:", "Date Verified:", "Shelf Pricing Verified by:", and "Date Verified:".

On-Site Vendor Evaluation Form



For more information about on-site evaluations refer to vendor policy WV:01.0, Section II.

Store Review

A store review occurs after your on-site evaluation. If you are a brand new account, you can expect to have your first store review in around six months after passing your on-site evaluation.

This type of evaluation is performed by our monitoring oversight group or Office of Inspector General. The manager doesn't have to participate in the review. It's encouraged to have a staff member accompany the auditor so there are no surprises when the review is completed. The auditor will ask the manager to sign off on the report.

Nutritional Services-WIC Program
Vendor Store Review Form

Store Type: (choose) Visit Type: Routine Review Type: Initial

Vendor Name: Account & Outlet:

Address: City: Zip Code:

Visit Date: LEB Date: In: Out:

OUR MISSION: TO SERVE AS AN EDUCATIONAL RESOURCE & CONTACT FOR WIC VENDORS

KEY TERMS USED IN THIS FORM

LEB - Declared Least Expensive Brand	DNC - Do Not Carry an Item/Category of Foods
NLC - No Longer Carry an Item	MSR - Minimum Stocking Requirements
TOS - Item is Temporarily Out of Stock	DND - Did Not Declare and Item

This Outlet/Vendor has Unauthorized Signage (see attached photo): Exterior ☐ Interior ☐

MILK/BUTTERMILK - MSR 13.5 GALLONS (ANY COMBINATION INCLUDING LACTOSE FREE)
MUST HAVE QUARTS & 1/2 GALLONS

MSR not met ☐

		Observations		Prices		Labelled		Expired	
		NLC	TOS	YES	NO*	YES	NO*	YES	NO
WHOLE									
Gallon	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1/2 Gallon	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quart	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LOW-FAT (1%)									
Gallon	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1/2 Gallon	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quart	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LOW-FAT (1/2%)									
Gallon	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1/2 Gallon	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quart	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FAT-FREE/SKIM									
Gallon	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1/2 Gallon	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quart	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BUTTERMILK									
Lowfat (1% to 1 1/2%)	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1/2 Gallon	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fat-Free, 1/2 Gallon	<input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Were issues corrected during visit? Yes ☐ No ☐

Undeclared Items:

Page 1 - Milk/Buttermilk SRP Version 1.0

Store Review Form

For more information about store reviews refer to vendor policy WV:01.0, Section II. For information about appeals, refer to vendor policy WV:13.0. The WIC program shares with the Supplemental Nutrition Assistance Program.

Compliance Buy

Compliance Buy Monitoring (CBuy), is a covert in-store investigation conducted by one or more SA representatives posing as WIC clients, or the parent/guardian/proxy of WIC clients using WIC EBT food benefits to test the vendor's compliance with the Vendor Agreement, program policies, and/or rules.

The SA representative does not reveal to store personnel that he/she is a SA representative during the visit. If no sanctionable violations are detected during the first monitoring activity, a second CBuy activity is conducted.

Definition of a positive pass: A compliance buy pass and/or on-site review in which evidence of a sanctionable violation of the Vendor Agreement, program policies, and/or rules is obtained. Sanctionable violations identified during Cbuys and on-site reviews may be aggregated to constitute a pattern.

There is no minimum time interval requirement between the first non-violative CBuy activity and the second CBuy activity. If no sanctionable violations are detected on the second CBuy, the vendor is notified in writing within 60 days of the second CBuy activity and the investigation is closed.

If one or more sanctionable violations are detected during a CBuy and/or on-site review, a notice of an in-store violation will be sent to the vendor in writing within 10 business days after the monitor returns to the office, with the exception of notice of violations pertaining to trafficking in food instruments, selling/buying firearms, ammunition, explosives, controlled substances, alcohol, alcoholic beverages or tobacco products.

If one or more additional violations are subsequently detected based on the transactions submitted for reimbursement by the vendor, but prior to the completion of the investigation, no facsimile notification will be sent to the vendor. A letter will be sent to the vendor detailing the results of the CBuy whether or not a facsimile notice was sent.

If necessary, follow-up compliance monitoring activities will be conducted until two passes (Cbuys and/or on-site reviews) are conducted with no sanctionable violations or alternately, until evidence of WIC Program non-compliance is established.

All CBuy activity relevant to an investigation must be conducted within a 24 consecutive month period. Compliance monitoring activities older than 24 months will be removed from consideration and only those remaining within the open investigation can be used for the determination of a pattern and subsequent levying of a sanction. For more information on Cbuys refer to vendor policy WV:01.0, Section V.

Invoice Audit

The SA or SA Representative may request up to 12 months purchase invoices from a vendor for analysis to determine that all claims submitted by the vendor are supported by invoices. The vendor shall be given 60 days from receipt of the written request to submit purchase invoices to the SA, as time is of the essence. The 60-day period to submit purchase invoices is considered an opportunity to justify or correct a vendor overcharge or other error, as permitted by 7 CFR Section 246.12(k)(3) of WIC Program regulations.

The vendor's failure to supply purchase invoices to the SA within the 60 day period shall result in disqualification from participation in the WIC Program. The disqualification date for failure to submit purchase invoices within the 60 day period will be included in the written purchase invoice request.

Additional purchase invoices/records shall not be accepted by the SA and/or the SA representative after expiration of the 60 day period unless directed to do so by the WIC Program Director or the Office of Inspector General. For more information on invoice audits refer to vendor policy WV:01.0, Section IV.

If an applicant vendor elects to provide infant formula, the vendor shall purchase all its infant formula directly from entities listed in subparagraphs a-c below:

- a. Food wholesalers currently licensed in Texas in accordance with the Health and Safety Code, Chapter 431, the Texas Food, Drug, and Cosmetic Act, and 25 Texas Administrative Code, Chapter 229, who are Authorized Distributors of Record (ADOR) for Abbott Laboratories, Mead Johnson Nutrition Group, and/or Nestle, Inc.;
- b. food manufacturers registered with the U.S. Food and Drug Administration; or
- c. retail food stores holding permits in accordance with the Health and Safety Code, Chapter 437, that purchase infant formula directly from Abbott Laboratories, Mead Johnson Nutrition Group, and/or Nestle, Inc.
- d. All other WIC allowable food items with the exception of milk, cheese, eggs, bread, tortillas, and produce must be purchased directly from entities listed in subparagraphs a-c above.



On-Site Inspection by Health Authority

Vendor's may receive an on-site inspection by a public health authority for compliance with the Health and Safety Code. Violations may result in a disqualification from the WIC Program in addition to any other penalties as a result of non-compliance with the Health and Safety Code. For more information on health authority inspections refer to vendor policy WV:01.0, Section III.

Appeals/Fair Hearing

WIC Vendor Policy WV: 13.0 gives an applicant vendor the right to appeal when the State Agency denies an application for authorization and/or when the State takes any other adverse action affecting participation.

The expiration of the WIC Vendor Agreement is specifically excluded from the definition of "adverse action." This action cannot be appealed.

If the vendor wants to appeal an adverse action or denial to participate, they must submit a written request for a hearing within twenty (20) calendar days from the date they receive notification of the adverse action. Submit requests to:

Celeste Lunceford
Nutrition Services Section MC 4554
Texas Department of State Health Services
PO Box 149347
Austin, Texas 78714-9347

The State conducts the hearing according to the Fair Hearing Procedures of the Texas Department of State Health Services.

To view policies, go to the WIC Vendor Operations website:

<https://hhs.texas.gov/doing-business-hhs/provider-portals/wic-providers/wic-vendor-management-operations-unit>

Expiration of the Vendor Agreement is not subject to appeal.

WIC Terms

Competitive pricing – comparing the overall cost of WIC food at an outlet to the average food cost of other WIC grocers.

Maximum Allowable Reimbursement (MAR)– A price limit derived monthly by the WIC Program’s end-of-month process which varies by competitive pricing classification. 1) Traditional WIC Stores Maximum Allowable Reimbursement = 125% of the average prices paid to Traditional WIC vendors in each price region and sales volume band for the various WIC food types. 2) Predominantly WIC Stores Maximum Allowable Reimbursement = 100% of the statewide average prices charged by Traditional WIC Stores.

Not To Exceed (NTE) Amount – The price limit the state will pay for a food type (e.g. milk, juice, cereal, eggs, etc.) meant as a reasonableness amount set high enough so the food type can be purchased anywhere in the state. The NTE amount is included in the Authorized Product List (APL) sent electronically to EBT enabled vendors. The NTE amount, which is enforced by the state as a pre-payment edit, is NOT the end-of-process-month Maximum Allowable Reimbursement (MAR) limitation defined elsewhere.

Predominantly-WIC vendor (PWIC) – A vendor outlet that has or is expected to have WIC food sales that exceed 50% of the outlet’s total food sales.

Price region– A geographic area comprised of designated zip codes or one or more counties. Such areas may or may not be contiguous.

Sales Volume Band – A competitive pricing grouping determined by the SA and based on monthly WIC sales volume.

State Agency (SA)– The Texas Department of State Health Services in its role as administrator of the WIC Program.

Statewide Average Price Paid– The average price paid to TWIC stores for an EBT food category/subcategory.

Traditional WIC Vendor (TWIC)– A vendor that has, or is expected to have, WIC food sales that constitute 50 percent or less of the outlet’s total food sales.

Traditionally Least Expensive Brands (LEB)– those brands that are an outlet’s least expensive brands for the authorized types and sizes of milk, juice, cheese, dried beans/peas/lentils, whole wheat bread, brown rice, wheat and corn tortillas, 27 weeks out of the year.

Vendor – A sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one or more stores authorized by the state agency to provide authorized supplemental foods to clients under a retail food delivery system.

Vendor account – A vendor approved by the state agency with one or more vendor outlets.

Vendor agreement– The formal and legally binding agreement between the Department of State Health Services and a vendor authorized to redeem WIC Program EBT food instruments. One or more authorized store locations may be included under the same agreement.

Vendor outlet– An individual store which operates and transacts WIC food instruments at a fixed location, has an electric utility hook-up, is a store structure situated on a cement or pier-and-beam foundation that is not used simultaneously as a residence, has a minimum business area of 1,000 square feet, has clearly identifying signage that closely matches the vendor outlet name (abbreviated version acceptable) listed on the WIC Vendor Profile Application, and is walk-in accessible directly from the street or parking lot.

WIC Contact and Website Information

The WIC State Agency encourages vendors to contact us with any questions or concerns, and to visit the WIC Vendor Operations website at:

<https://hhs.texas.gov/doing-business-hhs/provider-portals/wic-providers/wic-vendor-management-operations-unit>

Type of Inquiry	Contact
General/All Other Questions	WICVendorInfo@hhs.texas.gov or 1-800-252-9629
Fax Number	1-512-341-4460
Information Packet Change of Ownership	WICVendorRelations@hhs.texas.gov
Authorization Status Contract Termination	WICVendorRelations@hhs.texas.gov
Supplies – Brochures, Pamphlets, Posters and Pink WIC Approved Item Stickers, EBT Lane Stickers	https://txhhs.force.com/WICVendorForm/s/
Competitive Pricing Status	WICVendorRelations@hhs.texas.gov
Claim Payment Inquiries	WICEBTSupport@hhs.texas.gov
Claim Reduction Inquiries	EBTSupport@hhs.texas.gov
Late Submission Appeals	WICEBTVendorRedemptions@hhs.texas.gov
Claim Submission Problems	WICEBTSupport@hhs.texas.gov
Training	WICVendorInfo@hhs.texas.gov
General EBT Support	WICEBTSupport@hhs.texas.gov
Contract Status/Amendment Status	WICVendorRelations@hhs.texas.gov

