

SECTION 9

WIC VENDOR RESPONSIBILITIES AND RIGHTS

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REPORT OF CHANGES IN OWNERSHIP

The WIC Vendor must notify the WIC Services Branch not less than 15 calendar days prior to the date of ceasing operations, changing ownership or filing bankruptcy.

WIC Vendor authorization is not transferable. If there is a change in ownership, the new owner must complete an application and meet all enrollment criteria to become an authorized WIC Vendor. If the new owner would like to be authorized to accept WIC checks, please advise him/her to contact the WIC VMU at (808) 586-4776 or toll free from the neighbor islands at 1-888-820-6425.

WIC Vendors must also report any change in store name, store address, telephone number, fax number or bank account to the WIC Services Branch in writing, not less than 15 calendar days before the change takes place.

ACCEPTING INFORMATION

WIC sends out important information that can assist WIC Vendors in maintaining compliance with the WIC Vendor Agreement. Therefore, it is essential that Vendors accept/pick up faxes, mail, or email sent from WIC. Examples of items that may be sent to Vendors via fax or mail are notices of ACH payments, Agreement-related items (including some WIC TACKS), sanctions, lost/stolen WIC check notices, food update notices, and training notices.

CONFLICT OF INTEREST

The WIC Vendor ensures that no conflict of interest shall exist with either the WIC Services Branch or local agencies. A conflict of interest relates to the standard of ethical conduct that no officer or employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activity or incur any obligation of any nature which is in conflict with the discharge of a person's duties.

WIC shall have the right to cancel the WIC Vendor Agreement immediately upon notification to the parties should such conflict of interest arise after the acceptance of the Agreement by the parties.

BUSINESS INTEGRITY

The WIC Vendor and the Vendor's current owners, officers, and managers shall maintain standards of business honesty and maintain a reputation of following good business practices. WIC shall have the right to deny authorization for participation in WIC if during the last six (6) years the Vendor or any of the Vendor's current owners, officers, or managers have been convicted of or had a civil judgment entered against them for any activity indicating a lack of business integrity.

Activities indicating a lack of business integrity include fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, and obstruction of justice.

APPEAL RIGHTS AND HEARINGS

Key Definitions

Show Cause Meeting – meeting to require a party to provide reasons why a proposed action should not be taken. If Vendor does not appear or does not provide adequate reason why no action should be taken, action will be taken.

Fair Hearing – hearing held to provide a Vendor an opportunity to present reasons why a decision made on your case is wrong. Written decision will state whether the decision was right or wrong. The written decision may order a correction of the case.

Informal Settlement Conference – an opportunity for the Vendor to review the reasons for a decision and address information they feel is not properly represented. Through discussion and negotiation, it may be possible to resolve issues without a Fair Hearing.

Administrative Review – an Administrative Review by DOH may be requested in writing by a Vendor receiving an adverse action. It is an opportunity for the Vendor to appeal the adverse action by presenting its case. Witnesses may be presented and all of the State's evidence may be examined. Vendor may be represented by counsel if desired.

When WIC denies an application, or suspends or disqualifies a WIC Vendor from participating as a sanction, the Vendor is entitled to request a show cause meeting or a fair hearing to dispute WIC's decision. A Vendor applicant or current Vendor may request a fair hearing in lieu of a show cause meeting if it follows the procedures described in this Section. Expiration of a WIC Vendor Agreement does not entitle a Vendor to a show cause meeting or a fair hearing. Federal Regulations govern what situations may and may not be eligible for an administrative review (7 CFR 246.18).

Except for violations that seriously affect public health, safety or welfare, a WIC Vendor whose Agreement is suspended or terminated before the expiration of the Agreement or who is disqualified from WIC may remain a Vendor until the effective date of the final order or the date that the Vendor Agreement expires, whichever occurs first. A request for a show cause meeting or a fair hearing (including the informal settlement conference) does not extend the Vendor's Agreement beyond its expiration date nor does it require WIC to enter into a new Agreement with the Vendor. If the WIC Services Branch Chief finds that the Vendor has engaged in violations of the Agreement, Federal Regulations, State Regulations, or this Vendor Manual, and the activity affects the public health, safety or welfare, the WIC Services Branch Chief may issue an order terminating the Vendor's Agreement effective 15 calendar days from the date the Vendor receives the order. WIC shall provide the Vendor with the opportunity for a hearing. The order shall contain the hearing date and time.

APPEAL PROCEDURE

1. WIC shall provide a written notice to the Vendor Applicant of the denial of the Agreement application and to the current Vendor of suspension or disqualification and the effective date of the action. The written notice shall reflect all violations. WIC shall mail notification by certified mail to the Vendor Applicant or current Vendor at least 15 calendar days before the

effective date of the suspension or disqualification.

2. The Vendor Applicant or current Vendor can request a fair hearing, which must be in writing and postmarked within 10 calendar days of receiving the notice of denial of its WIC Vendor application or when suspension or disqualification action is taken against it. The Vendor may also request an informal settlement conference during the fair hearing process. The request for a fair hearing or informal settlement conference shall include a statement of the facts asserted and the relief sought. If the Vendor Applicant or current Vendor intends to be represented by an attorney, the name, address and phone number of the attorney should be included in the request.
3. The request for a fair hearing or informal settlement conference shall be submitted to the WIC Services Branch, Vendor Management Unit, 235 South Beretania Street, Suite 701, Honolulu, Hawaii 96813. If a Vendor Applicant or current Vendor fails to request a fair hearing within the time and in the manner established in this Section, the Vendor Applicant or current Vendor shall waive its right to any administrative review to which it may otherwise be entitled. This waiver is construed as acceptance of WIC's action. WIC shall not accept fax copies in lieu of an original document.