STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET

October 1, 2012

TO: ALL STATE AGENCIES, SCHOOL DISTRICTS, MUNICIPALITIES, VOLUNTEER FIRE COMPANIES AND POLITICAL SUBDIVISIONS

FROM: WILLIAM W. PICKRUM
DEPUTY DIRECTOR, GOVERNMENT SUPPORT SERVICES
302-857-4501

SUBJECT: **AWARD NOTICE**
CONTRACT NO. GSS12687-INFANTFORM
Infant Formula Rebates (WSCA/WIC)

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OF
KEY CONTRACT INFORMATION

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GOVERNMENT SUPPORT SERVICES – CONTRACTING
100 ENTERPRISE PLACE – SUITE 4 – DOVER, DE 19904-8202
PHONE: (302) 857-4550 – FAX: (302) 739-3779 – GSS.OMB.DELAWARE.GOV

KEY CONTRACT INFORMATION

1. PURPOSE AND SCOPE:

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The purpose of the agreement is to establish a rebate program for physical forms (concentrated liquid, powder and Ready to Feed (RTF)) of a milk-base and soy-based infant formula that meets the requirements under 7 CFR 246.10(e) (I) (iii), and is suitable for the routine issuance to the majority of generally healthy, full term infants.

The awarded Contractors will pay a rebate for the manufacturer's entire product line for that category meeting the definition of Milk-based Contract Infant Formula and/or Soy-based Contract Infant Formula. The Contractors will pay rebates on any Contract Infant Formula subsequently added to the Contract following Award.

2. MANDATORY USE:

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REF: Title 29, Chapter 6911(d) Delaware Code. Every state department and agency within the Executive Branch and Judicial Branch of the state government shall procure all material, equipment and nonprofessional services through the statewide contracts administered by Government Support Services, Office of Management and Budget. Delaware State University, Delaware Technical and Community College, the operations funded by Public School Districts, Delaware Transit Corporation, the Legislative Branch and the Board of Pension Trustees and their consultants are specifically exempted from the requirements of this subsection.

3. CONTRACT PERIOD:

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Each contractor's contract shall be valid for a three (3) year period from October 1, 2012 through September 30, 2015. Each contract may be renewed for three (3) additional one (1) year period through negotiation between the contractor, State of Washington and Government Support Services. Negotiation may be initiated no later than ninety (90) days prior to the termination of the current agreement.

4. VENDORS:

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GSS12687-INFANTFORMV01 State of Washington Contract No. 05411 FSF ID: 0000022335 Abbot Nutrition, Abbot Laboratories 3300 Stelzer Road Columbus, OH 43219-3034 POC: Kori Stenzel, Manager, WIC Contracts Phone: 614-624-5816 Email: kori.stenzel@abbot.com Website: http://www.abbott.com	**GSS12687-INFANTFORMV02** State of Washington Contract No. 05411 FSF ID: 0000021837 Mead Johnson & Company, LLC 2400 W. Lloyd Expressway Evansville, IL 47721-5095 POC: Kathy J. Decker Phone: 812-429-8758 Fax: 812-429-8610 Email: kathy.decker@mjn.com Website: http://www.meadjohnson.com

5. SHIPPING TERMS:

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F.O.B. destination; freight pre-paid.

6. **DELAWARE WIC CONTACT:**

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Name: Joanne White
Address: WIC Director
655 Bay Rd
Suite 1-C
Dover, DE 19901-4615
Phone: 302-741-2913
Fax: 302-741-2901
Email: joanne.white@state.de.us

7. **PRICING:**

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Prices will remain firm for the term of the initial contract year.

ADDITIONAL TERMS AND CONDITIONS

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8. **BILLING:**

The successful vendor is required to "Bill as Shipped" to the respective ordering agency(s). Ordering agencies shall provide at a minimum the contract number, ship to and bill to address, contract name and phone number.

9. **PAYMENT:**

The agencies or school districts involved will authorize and process for payment each invoice within thirty (30) days after the date of receipt. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions.

10. **PRODUCT SUBSTITUTION:**

All items delivered during the life of the contract shall be of the same type and manufacture as specified unless specific approval is given by Government Support Services to do otherwise. Substitutions may require the submission of written specifications and product evaluation prior to any approvals being granted.

11. **ORDERING PROCEDURE:**

Successful contractors are required to have either a local telephone number within the (302) area code, a toll free (800) number, or agree to accept collect calls. Each agency is responsible for placing their orders and may be accomplished by written purchase order, telephone, fax or computer on-line systems. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional

check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions.

12. HOLD HARMLESS:

The contractor agrees that it shall indemnify and hold the State of Delaware and all its agencies harmless from and against any and all claims for injury, loss of life, or damage to or loss of use of property caused or alleged to be caused, by acts or omissions of the contractor, its employees, and invitees on or about the premises and which arise out of the contractor's performance, or failure to perform as specified in the Agreement.

13. NON-PERFORMANCE:

In the event the contractor does not fulfill its obligations under the terms and conditions of this contract, the ordering agency may purchase equivalent product on the open market. Any difference in cost between the contract prices herein and the price of open market product shall be the responsibility of the contractor. Under no circumstances shall monies be due the contractor in the event open market products can be obtained below contract cost. Any monies charged to the contractor may be deducted from an open invoice.

14. FORCE MAJEURE:

Neither the contractor nor the ordering agency shall be held liable for non-performance under the terms and conditions of this contract due, but not limited to, government restriction, strike, flood, fire, or unforeseen catastrophe beyond either party's control. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this contract.

15. AGENCY'S RESPONSIBLIITIES:

The Agency shall:

a. Examine and review in detail all letters, reports, drawings and other documents presented by the Contractor to the Agency and render to the Contractor in writing, findings and decisions pertaining thereto within a reasonable time so as not to delay the services of Contractor.

b. Give prompt written notice to the Contractor whenever the Agency observes or otherwise becomes aware of any development that affects the scope or timing of the Contractor's services.

c. When an ordering agency first experiences a relatively minor problem or difficulty with a vendor, the agency will contact the vendor directly and attempt to informally resolve the problem. This includes failure to perform by the date specified and any unacceptable difference(s) between the purchase order and the merchandise received. Ordering agencies should stress to vendors that they should expedite correction of the differences because failure to reply may result in an unfavorable rating in the execution of the awarded contract.

d. The state has several remedies available to resolve non-performance issues with the contractor. The Agency should refer to the Contract Terms and Conditions to view these remedies. When a default occurs, the Agency should first review the contract to confirm

that the issue is a part of the contract. If the issue is not covered by the contract, the state cannot expect the contractor to perform outside the agreement. If the issue is a part of the contract, the Agency or GSS - Contracting must then contact the contractor, discuss the reasons surrounding the default and establish a date when the contractor will resolve the non-performance issue.

e. If there is a performance deficiency, a Corrective Action Report (CAR) may be used. Complete this form to report concerns with vendors or commodities. Be sure to furnish as much detail as possible. http://gss.omb.delaware.gov/divisionwide/forms.shtml.

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