

State of Oregon



INVITATION TO BID (ITB)

COVER PAGE

THE STATE OF OREGON (“STATE”), ACTING BY AND THROUGH ITS
DEPARTMENT OF ADMINISTRATIVE SERVICES, PROCUREMENT SERVICES
 (“DAS PS”), on behalf of the member states of the NASPO ValuePoint

NASPO ValuePoint Formula Rebates for Women, Infants and Children (WIC)

ITB NUMBER (DAS PS-2205-18)

Date of Issue: May 24, 2018

Closing: August 7, 2018, 3:00:00 PM (Pacific)

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SECTION 1: GENERAL INFORMATION

1.1 SUMMARY OVERVIEW:

The State of Oregon (“State”), acting by and through its Department of Administrative Services, Procurement Services (“DAS PS”), on behalf of the member states of the NASPO ValuePoint (“NVP”), issues this Invitation to Bid (“ITB”) to establish a permissive cooperative Master Agreement(s) with qualified vendors to provide Infant Formula Rebates for WIC (Women, Infant and Children).

The purpose of this ITB is to solicit and evaluate rebates for physical forms of infant formula that meet the requirements under 7 CFR 246.10(e) (1) (iii) and (2) (iii), and are suitable for the routine issuance to the majority of infants.

1.1.2 Scope. The State of Oregon, Department of Administrative Services (DAS), Procurement Services (PS) is taking over the re-bid for the State of Washington on behalf of NASPO ValuePoint. The existing of Contract No. 05411 for Milk-Based Infant Formula Rebates and Contract No. 02715 for Soy-Based Infant Formula Rebates which will both expire on September 30, 2018.

1.1.2.1 This Invitation to Bid and resulting Master Agreement(s) will be governed by the State of Oregon laws see Section 2.1 Procurement Authority, as well as the federal solicitation requirements outlined in 7 CFR 246.16a, Infant Formula Cost Containment.

1.1.3 PERMISSIVE COOPERATIVE PROCUREMENT; MASTER AGREEMENT(S)

DAS PS is proceeding with a permissive cooperative solicitation for the Participating States of NASPO ValuePoint and other participants as defined in the Master Agreement attached hereto as Attachment B and more specifically in the NASPO ValuePoint Master Agreement Terms and Conditions, attached hereto as Attachment B. As part of this solicitation, DAS PS and NVP Participants have incorporated requirements which are intended to assist in tracking spend, savings, small business or state-specific requirements, in order to effectively communicate these results. The goal is to provide increased focus on financial accountability and transparency.

Through this solicitation, DAS PS and NVP will have the opportunity to reach an audience of Purchasing Entities that seek not only competitive prices, but also best value, performance, convenient ordering, reliable delivery and reliable sustainable products, packaging and transportation practices.

1.1.3.1 NASPO ValuePoint. NASPO ValuePoint is a cooperative purchasing program comprised of all 50 states, the District of Columbia and the territories of the United States. The Program is facilitated by the NASPO Cooperative Purchasing Organization LLC, a nonprofit subsidiary of the National Association of State Procurement Officials (NASPO), doing business as NASPO ValuePoint. NASPO is a non-profit association dedicated to strengthening the procurement community through education, research, and communication. The association consists of the directors of the central purchasing offices in each of the 50 states, the District of Columbia and the territories of the United States. NASPO ValuePoint facilitates administration of the cooperative contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. For more information, visit the following websites www.naspovaluepoint.org and www.naspo.org.

1.1.3.2 NASPO ValuePoint/WIC Alliance Infant Formula Alliance. The NASPO ValuePoint/WIC alliance of states and tribes contracting for WIC infant formula rebates was first formed in 1992. The State of Oregon is the lead state for this infant formula rebate contract. As lead state, the State of Oregon, DAS PS is responsible for the solicitation process and contract management. Twenty-three other states and eligible organizations have elected to participate by signing an Intent to Participate.

1.1.3.3 . A sample Participating Addendum is attached to this ITB as Attachment B, Exhibit 3. -Attachment F provides the specific Terms and Conditions for the States of Oregon as the lead state. Entities electing to enter into an agreement with Contractor(s) for the Goods may also negotiate their own entity-specific

terms and conditions through use of a Participating Addendum upon approval by the applicable Procurement Official as set out in the NVP Master Agreement Terms and Conditions attached hereto as Attachment B

1.1.4 Reserved

1.1.5 WIC Program/Infant Formula Rebates. The Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program) is a federally funded program carried out pursuant to the Child Nutrition Act of 1966. The program is funded primarily through the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA). State and local government funds are also used in some states.

1.1.5.1 WIC nutrition services are provided to participants at locally based WIC clinics. WIC nutrition services include health and nutrition assessment, nutrition education, breastfeeding promotion and support, a prescribed supplemental food package, and referral to social and health services. Eligibility is based on category (pregnant, breastfeeding and postpartum women, infants and children to five years of age), income at or below 185% of the federal poverty level, and the presence of health or nutrition risk factors.

1.1.5.2 The state of Oregon, in coordination with NASPO Value Point, is releasing this solicitation on behalf of Alaska, American Samoa, Arizona, Commonwealth of the Northern Mariana Islands (CNMI), Delaware, District of Columbia, Guam, Hawaii, Idaho, Inter Tribal Council of Arizona (ITCA), Inter-Tribal Council of Nevada (ITCN), Kansas, Maryland, Montana, Navajo Nation, Nevada, Oregon, Osage Nation, Pueblo of Isleta, Utah, U.S. Virgin Islands, Washington, West Virginia and Wyoming, hereafter referred to as the Participating Entities. Per federal regulations, no state or eligible organization can be added after this solicitation is released. This requirement shall remain in effect through the life of resulting contract.

1.1.5.3 This ITB consists of two categories, one category for rebates for Milk-Based, non-exempt infant formula and the other category is for rebates for Soy-Based, non-exempt infant formula. Each category will be awarded separately. As required by federal law, the Milk-Based infant formula specified by the Bidder awarded the Master Agreement will be the first choice of issuance to infants utilizing Milk-Based formula. Similarly, the Soy-Based infant formula specified by the Bidder who is awarded the Master Agreement will be the first choice of issuance to infants utilizing Soy-Based infant formula.

1.1.5.4 The awarded Contractor(s) will pay a rebate for the manufacturer's entire product line for the category meeting the definition of Milk-Based Contract Infant Formula and/or Soy-Based Contract Infant Formula. Respectively, the same percent discount by physical form awarded for their Primary Contract Infant

Formula will be applied. The Contractor will also pay rebates on any Contract Infant Formula subsequently added to the Master Agreement following award.

1.1.5.5 The Participating Entities will continue to purchase and/or distribute infant formula through their existing retail food delivery systems. Participating Entities will provide guidance to local WIC clinic staff regarding policies/protocols for using Primary Contract Infant Formula as the first choice of issuance. Current policies and/or protocols for each Participating Entity are detailed in Exhibit E. Participating Entities reserve the right to revise policies/protocols with the award of a new Master Agreement. If revised, policies/protocols will be subject to United States Department of Agriculture (USDA), Food and Nutrition Services (FNS) approval.

1.1.6 Master Agreement(s). The form of the Master Agreement that will be awarded as a result of this ITB is attached as Attachment B, Master Agreement.

Master Agreement Term. As set forth in the attached Master Agreement for this ITB, the initial Master Agreement term is three (3) years October 1, 2018 through September 30, 2021. These Dates are not negotiable.

- The Master Agreements may be extended up to three additional years in 1-year, 2-year or 3-year terms.
- Total Master Agreement period with extensions will not exceed six (6) years.
- Master Agreements extensions are subject to mutual agreement by DAS PS, Participating Entities and the Contractor, and will be processed approximately one year in advance of contract expiration date.

1.1.7 Estimated Sales. Based on past usage, it is estimated that rebates paid to the Participating Entities over the three year term of the Master Agreement is approximately \$600 million. This estimate is provided solely for the purpose of assisting Bidders in preparing their Bid. The State of Oregon does not represent or guarantee any minimum usage. Estimated usage data, as stated herein, is not binding. Estimates are based on past usage and are not guaranteed.

1.2 SCHEDULE OF EVENTS:

Event	Date	Time (Pacific Time)
ITB Release	May 23, 2018	See ORPIN System
Pre-Offer Conference	N/A	<input type="checkbox"/> AM <input type="checkbox"/> PM
Due Date for Questions/Clarifications	June 13, 2018	12:00 Noon
Due Date for Protests of ITB	July 13, 2018	12:00 Noon
Closing (Due date and time to submit Offers)	August 7, 2018	3:00 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM
Posting of Notice of Intent to Award (approximate)	TBD	
Due Date for Protests of Award	7 days from Notice of	12:00 Noon

Event	Date	Time (Pacific Time)
	Intent to Award	
Contract Execution (approximate)	TBD	

Please note that the DAS PS operating hours are:

Monday through Friday 8:00 AM to 12:00 PM noon and 1:00 PM to 5:00 PM except for state holidays and State approved closures, including those for inclement weather and mandatory furlough days.

1.3 DEFINITION OF TERMS: For the purposes of this ITB, the following definitions will be used.

"Addendum" or "Addenda" means an addition, deletion from, a material change in, or clarification of, the ITB. Addendum or Addenda shall be labeled as such, issued by DAS PS, and shall be made available to all interested prospective Offerors as set forth in this ITB.

"Bid" means a response to an Invitation to Bid (ITB)

"Bidder" means a Person who submits a Bid in response to an Invitation to Bid. Bidder is used interchangeably with "Offeror".

"Closing" means the date and time on or before all Offers must be received at the location identified on the cover page of this ITB to be considered.

"DAS PS" means the State of Oregon acting by and through its Department of Administrative Services, Procurement Services office.

"Exempt Infant Formula" means an infant formula that meets the exempt specifications under section 412(h) of the federal Food, Drug and Cosmetic Act (21 U.S.C. 350 a(h)) and the regulations of 21 CFR parts 106 and 107.

"Food Instruments (FI)" means documents such as checks, drafts, vouchers, coupons or electronic benefits transfer cards (EBT), used by WIC participants to obtain WIC supplemental foods. Federal regulations allow a WIC FI to be valid up to ninety (90) days after the date the FI was issued to a WIC participant. Some Participating Entities use a shortened time period (e.g. 60 days).

"Infant Formula" means a food that meets the definition of an infant formula in Section 201(z) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(z)) and the requirements for an infant formula under section 412 of the federal Food, Drug and Cosmetic Act (21 U.S.C. 350a) and the regulations of 21 CFR parts 106 and 107.

"Invitation to Bid" or "ITB" is defined in ORS 279B.005 and means all documents, whether attached or incorporated by reference, and any Addenda thereto, used for soliciting Bids in accordance with ORS 279B.

"Master Agreement" means the underlying agreement executed by and between the Lead State, acting on behalf of the member states of NVP, and the Contractor, as now or hereafter amended.

"Milk-Based Contract Infant Formula" means all milk-based infant formulas (except exempt infant formulas) produced by the manufacturer awarded this rebate contract. This includes lactose reduced and protein modified formulas.

"Opening" means the date, time and place announced in the ITB for the public opening of Written sealed Offers.

"Offer" means Bid.

"Offeror" means Bidder.

"ORCCP" means the Oregon Cooperative Purchasing Program, whose members include but are not limited to: State Agencies not subjects to DAS PS purchasing authority, cities, counties, school districts, special districts, Qualified Rehabilitation Facilities (QRF), residential programs under contract with the Oregon Department of Human Services, United States governmental agencies, and American Indian tribes or agencies

"ORPIN" means the Oregon Procurement Information Network, further defined in OAR 125-246-0500, which is the State of Oregon's automated procurement system and can be found at <http://orpin.oregon.gov/open.dll/welcome>.

"Participating Addendum" means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements, e.g. ordering procedures specific to the Participating Entity, other terms and conditions. The form Participating Addendum is attached hereto as Attachment G.

"Participating Entity" means a state, or other legal entity, properly authorized to enter into a Participating Addendum.

"Percent Discount" means the percent discount is the "rebate per unit" divided by the "wholesale price" as displayed on Bid Price Sheets, Attachments I (A) and I (B). A percent discount is established for each physical form of the Primary Contract Infant Formulas. The percent discount is then applied to the bidder's milk-based contract infant formulas and/or soy-based contract infant formulas (except exempt infant formulas) by physical form to establish the rebate amount for each of the bidder's products.

"Primary Contract Infant Formula" means the milk-based infant formula and/or the soy-based infant formula for which a bid was submitted and a contract awarded. There is

one primary milk-based contract infant formula and one primary soy-based contract infant formula under the contract. They are the first choice for issuance to WIC infants.

“Rebate” means the amount of money refunded under cost containment procedures to a Participating State Entity from the infant formula manufacturer in accordance with 7 CFR 246, this ITB and the Contract.

“Responsible Bidder” means a Bidder who is registered with the Secretary of Health and Human Services under the Food, Drug, and Cosmetic Act. The Bidder must certify to the Purchasing Authority that its infant formulas comply with all Food and Drug Administration (FDA) requirements and meets other responsibility criteria as noted herein.

“Soy-Based Contract Infant Formula” means all soy-based infant formulas (except exempt infant formulas) produced by the manufacturer awarded this rebate contract.

“Sourcing Team” means the Evaluation Committee.

“State” means the State of Oregon.

“Successful Bidder” means the person, organization or governmental entity to which the notice of intent to award is made.

“Total Net Cost Per Month” equals the sum of the Bidder’s individual Monthly Net Cost for each unit size and physical form of the Bidders Milk-Based and/or Soy-Based Primary Contract Infant Formula as specified in Attachments I (A) and I (B). Lowest net cost is based on the manufacturers’ lowest national wholesale price per unit for a full truckload on the date of bid submittal and opening.

“Unit” means a container, generally a can or bottle, which holds liquid concentrate, powdered concentrate and/or ready-to-feed infant formula.

“Vendor” means Bidder.

“WIC-Eligible Medical Foods” are enteral products that are formulated to provide nutritional support for individuals with a diagnosed medical condition, when the use of conventional foods is precluded, restricted or inadequate. WIC-Eligible Medical Foods may be nutritionally complete or incomplete, but they must serve the purpose of a food, provide a source of calories and one or more nutrients, and be designed for enteral digestion via an oral or tube feeding. WIC-Eligible Medical Foods include many, but not all, products that meet the definition of medical food in section 5(b)(3) of the Orphan Drug Act (21 U.S.C. 360 ee (b)(3)).

“Wholesale Price” is the bidder’s dated and nationally published best full truckload wholesale price for a unit of the Bidder’s milk-based and/or soy-based Primary infant formula offered as a Rebate under this ITB and Contract.

1.4 SINGLE POINT OF CONTACT: All questions or protests about any component of this ITB, including the technical requirements, contractual requirements, and the procurement process must be directed to the Single Point of Contact identified on the cover page of this ITB.

SECTION 2: ITB PROCESS

2.1 PROCUREMENT AUTHORITY: DAS PS is conducting this ITB pursuant to its authority under OAR 125-246-0170(3), ORS 279A.210, and OAR 125-246-0400(2)(E).

2.2 PROCUREMENT METHOD: DAS PS intends to use the competitive sealed bidding method, pursuant to ORS 279B.055 and OAR 125-247-0255.

2.3. PRE-BID CONFERENCE:

Not Applicable

2.4 ORPIN SYSTEM:

2.4.1 The ITB, including all Addenda, attachments, and exhibits, is posted on the Oregon Procurement Information Network (ORPIN System) and will not be mailed to prospective Offerors. Prospective Offerors without access to the ORPIN System may download copies at DAS PS, 1225 Ferry St. SE – U140, Salem, Oregon.

2.4.2 ADDENDA, ATTACHMENTS and EXHIBITS:

If an exhibit, attachment or Addendum is used that cannot be viewed or downloaded through the ORPIN System, the ITB will include instructions on how to obtain these documents. Prospective Offerors may also order hard copies from DAS PS for a fee.

2.4.3 ORPIN SYSTEM USAGE:

Prospective Offerors unfamiliar with the ORPIN System may contact DAS PS at 1225 Ferry St. SE - U140, Salem, OR 97301-4285; telephone number (503) 378-4642.

2.4.4 ORPIN SYSTEM REGISTRATION INFORMATION:

Prospective Offerors are responsible for ensuring that their registration information is current and correct. DAS PS accepts no responsibility for missing or incorrect information contained in Prospective Offerors' registration information in the ORPIN System.

2.5 REQUESTS FOR CLARIFICATIONS/QUESTIONS:

All inquiries, whether relating to the ITB process, administration, deadline or award, or to the intent or technical aspects of the services must be submitted, in writing, to the Single Point of Contact on the cover page of this ITB (mail, fax or email are acceptable) by the deadline identified in Section 1.2. **No telephone questions will be accepted or considered.**

Requests for clarification and questions must include:

- Identify the prospective Offeror's name and be signed by its authorized representative;
- Clearly reference this ITB Number DASPS-2205-18
- Refer to the specific ITB paragraph number and page and should quote the passage being questioned.
- Be received as described above by the deadline identified in the Schedule of Events, Section 1.2.

When appropriate as determined by DAS PS, in its sole discretion, revisions, substitutions, or clarifications of the ITB or attached terms and conditions will be issued by Addendum to this ITB.

Interpretations, corrections or changes to this ITB will be made by written Addendum, and posted to the ORPIN System. Interpretations, corrections or changes to this ITB made in any other manner are not binding on the State of Oregon.

2.6 PROTEST OF ITB:

This is the prospective Offeror's only opportunity to protest the provisions of this ITB, including but not limited to, the ITB process and contract terms and conditions.

Prospective Offerors may submit a written protest of anything contained in the ITB. Prospective Offeror must submit protests to the Single Point of Contact on the cover page of this ITB by the deadline specified in Section 1.2 of this ITB. DAS PS will not consider any ITB protest received after this deadline.

Protests must include:

- The identity of the prospective Offeror;
- A clear reference to this ITB #DASPS-2205-18;
- Reason for the protest including the grounds that demonstrate how the procurement process is contrary to law or how the ITB is unnecessarily restrictive, is legally flawed or improperly specifies a brand name and evidence or supporting documentation that supports the grounds on which the protest is based;
- Proposed changes to the ITB provisions, including Statement of Work or Master Agreement Terms and Conditions or other relief sought,

DAS PS will address all timely submitted protests within a reasonable time following DAS PS's receipt of the protest and will issue a written decision to the prospective Offeror who submitted the protest. Protests that do not include the required information may not be considered by DAS PS. DAS PS will receive protests in the following forms:

- Faxed protests submitted to the Single Point of Contact identified on the cover page of this ITB.
- Emailed protests submitted to the Single Point of Contact identified on the cover page of this ITB.
- Protests submitted in hard copy by delivery service (postal, courier or other in-person delivery) to the Single Point of Contact identified on the cover page of this ITB.

2.7 ADDENDA:

Unless otherwise stated in the ITB, DAS PS shall advertise Addenda only on the ORPIN System. Prospective Offerors are responsible for checking the ORPIN System to determine whether an Addendum has been issued.

Addenda are incorporated into the ITB by this reference and can be viewed and downloaded by interested parties registered in the ORPIN System. Prospective Offerors should consult the ORPIN System regularly until ITB Closing to assure that they have not missed any Addendum announcements. DAS PS is not responsible for sending Addenda to any potential prospective Offerors, whether requested or not.

2.8 PROTEST OF ADDENDUM:

Unless a different deadline is set forth in the Addendum, prospective Offerors may submit a protest of the Addendum by the close of the next business day after the issuance of the Addendum, or no later than 5:00 PM Pacific Time on the last day allowed to submit an ITB protest under OAR 125-247-0430, whichever is later. The Addendum protest must be submitted in the same manner as a protest of the ITB under Section 2.6.

SECTION 3. INSTRUCTIONS TO PROSPECTIVE OFFERORS

3.1 OFFERS ARE FIRM OFFERS:

Any Offer submitted in response to this ITB constitutes a firm Offer by the Offeror. Any Offer received may result in a Master Agreement where the Offeror is bound by the terms and conditions set forth in this ITB. A resulting Master Agreement is enforceable for the period stated in the Master Agreement and notwithstanding ORS 72.2050, obligations hereunder are not revocable by the Contractor. See ORS 279B.140.

3.2 OFFER REQUIREMENTS (GENERAL):

3.2.1 OFFER FORMAT:

Offeror should describe in detail how they will meet the requirements of this ITB and may provide additional related information with their Offer. The Offer should be presented in a format that corresponds to, and references, the sections contained in the specifications or statement of work Exhibit A and should be presented in the same order. Responses to each section and subsection should be labeled to indicate which item is being addressed.

DAS PS prefers to receive Offers in appropriately sized three-ring binders with an index and tabs identifying separate sections.

3.2.2 QUANTITY OF OFFERS TO BE SUBMITTED:

One (1) Offer with original signature, identified as the “master” and 1 copy of the Offer and all required supporting information and documents must be submitted on or before Closing (date and time). Offeror shall also submit the offer on a USB drive, DVD, or CD and must be formatted using Adobe Acrobat (pdf), Microsoft Word (docx), or Microsoft Excel (xlsx). Envelopes, packages or boxes containing the master and the copies should be marked in accordance with Section 3.2.3. If discrepancies are found between the copies, or between the master and copy or copies, the master will be the basis of resolving discrepancies. If one document is not clearly marked “master,” DAS PS reserves the right to use the Offer with an original signature as the master. If no document can be identified as having an original signature, Offeror’s Offer will be rejected.

3.2.3 ENVELOPE, PACKAGE OR BOX LABEL:

Offers must be clearly labeled and submitted in a sealed envelope, package, or box bearing the following information:

- Name of Offeror
- ITB Number
- Closing (date and time)
- Single Point of Contact

Offeror is solely responsible for ensuring that their Offers are received by DAS PS in accordance with the ITB requirements, before the Closing, as identified in Section 1.2, Schedule of Events, and at the place specified on the cover page of this ITB. DAS PS shall not be responsible for any delays in mail or by common carriers or by transmission errors or delays or mistaken delivery. Offer deliveries made to another location other than to the address identified on the cover page of this ITB will be considered non-responsive unless re-delivery is made to the address identified on the cover page of this ITB before the Closing Date and Time. **Offers submitted by facsimile (fax), Email or other electronic means will be rejected.**

3.2.4 OFFER MODIFICATION:

It is the responsibility of the Offeror to ensure that modified Offers are submitted before the Closing Date and Time. All modifications made to an Offer before submission must be made in ink and must be properly initialed by Offeror's authorized representative. Offers that contain omissions or improper erasures or irregularities may be rejected.

Any Offeror who wishes to make modifications to an Offer already received by DAS PS must first withdraw its Offer in order to make the modification. Withdrawals must be made in accordance with Section 3.2.5. The revised Offer may then be resubmitted in accordance with the provisions of this ITB.

No oral, electronic, telegraphic, or telephonic Offers or modifications will be considered. **Offers or modifications to an Offer may NOT be submitted by facsimile.**

3.2.5 OFFER WITHDRAWALS:

If an Offeror wishes to withdraw a submitted Offer, it must do so prior to the Closing (date and time), as identified in Section 1.2. The Offeror must submit a written notice to withdraw, signed by the authorized representative and submitted to the Single Point of Contact identified on the cover page of this ITB.

3.2.6 LATE OFFERS:

Closing, as identified in Section 1.2, or as modified by Addenda, is FIRM. Offers will **NOT** be accepted for consideration in the evaluation process after the Closing (date and time) and late Offers will be returned to the Offeror.

3.2.7 OPENING OF OFFERS:

All offers properly and timely received according to the ITB as identified in Section 1.2. Offers will be opened at the DAS PS, General Service Building in the Neahkahnie Conference Room on the First Floor of , 1225 Ferry Street SE, Salem, Oregon. The pertinent information read at the offer opening will consist of Offeror's name, product name being bid, physical form, unit size, Manufacturer's Lowest Wholesale Full Truckload Price, rebate bid per unit, net cost per unit, and total net cost per month as found on the Offeror's Bid Price Sheets for milk-based infant formula and soy-based infant formula. For those Bidders who would like to attend by calling in you may use **join by calling in:**

Please join our meeting from your computer, tablet or smartphone.
<https://global.gotomeeting.com/join/693924157>

Join the conference call:
Phone: **(866) 546-3377** Access Code: **583-957#**

Joining from a video-conferencing room or system?
Dial: 67.217.95.2##693924157
Cisco devices: [693924157@67.217.95.2](https://www.cisco.com/c/en/us/td/docs/voice/ipvoice/gotomeeting/gotomeeting_briefing.html)

First GoToMeeting? Let's do a quick system check:
<https://link.gotomeeting.com/system-check>

3.3 OFFER REQUIREMENTS (PASS/FAIL)

Each Offer must comply with the following requirements, which will be evaluated on a Pass/Fail basis. Failure to provide any of the information or comply with any of the requirements in this section **WILL** result in rejection of the Offer. DAS PS reserves the right to determine which Offers meet the Offer Submission Requirements of this ITB.

However, DAS PS may waive minor informalities and irregularities, and may seek clarification from Offerors of any response that, in its sole discretion, it deems necessary or advisable.

3.3.1 CLOSING (Due Date and Time by which Proposals must be received by DAS PS):

Offers must be submitted before the Closing (the due date and time identified in Section 1.2 by which Offers must be received at the location identified on the cover page) to be considered. Offers will **NOT** be accepted after the Closing and late Offers will be returned to the Offeror. DAS PS reserves the right to extend the Closing Date and Time when it is in the best interest of the State.

3.3.2 OFFER COVER SHEET:

The Offeror **must** include in their Offer Submission the attached Offer cover sheet (Attachment A) signed by a duly authorized representative empowered to legally bind the Offeror to the Offer submission.

3.3.3 AUTHORIZED SIGNATURE:

Every Offer must be signed by the person or persons legally authorized to bind the Offeror to the Offer and the Master Agreement resulting from this ITB. Upon request by DAS PS, any representative submitting an Offer on behalf of the Offeror shall provide a current power of attorney or other document certifying the representative's authority to bind the Offeror. Upon request of DAS PS, a corporation shall provide a certified copy of the bylaws or resolution of the board of directors showing the authority of the officer signing the Offer to execute Master Agreement on behalf of the entity.

3.3.4 RESPONSIBILITY INQUIRY

The Offeror must include in the Offer Submission the attached Responsibility Inquiry (Attachment E).

3.3.5 JOINT VENTURES/PARTNERSHIPS: When an Offeror is a partnership or joint venture, Offeror shall supply, with Offer submission, the name of the contact person for the partnership or joint venture. Prior to award, joint ventures and partnerships

submitting Offers must provide a copy of the joint venture agreement or partnership agreement evidencing authority to Offer and to enter into the resulting Master Agreement that may be awarded and Contracts resulting there from, together with corporate resolutions (if applicable) evidencing corporate authority to participate as a joint venture or partner. Such Offeror must also designate a contact person for purposes of receiving all notices and communications under the Price Agreement and resulting Contracts. All partners and joint ventures will be required to sign the awarded Master Agreement.

3.3.6 FORMS:

The Forms listed below have Required stated next to the form proposers must submit that form with its proposal. Offer submissions must be submitted on preprinted forms supplied by DAS PS as listed below:

- ATTACHMENT A – BIDDER COVER SHEET (REQUIRED)**
- ATTACHMENT B –MASTER AGREEMENT (REQUIRED)**
- ATTACHMENT B, EXHIBIT 1 - SPECIFICATIONS AND ADDITIONAL TERMS. (REQUIRED)**
- ATTACHMENT B, EXHIBIT 2 (A) - BID PRICE SHEET- MILK-BASED FORMULA (SEE SECTION 3.7) (REQUIRED)**
- ATTACHMENT B, EXHIBIT 2 (B) - BID PRICE SHEET- SOY-BASED FORMULA (SEE SECTION 3.7) (REQUIRED)**
- ATTACHMENT B, EXHIBIT 3– SAMPLE PARTICIPATING ADDENDUM (FILL OUT FIRM’S INFORMATION)**
- ATTACHMENT B, EXHIBIT 4- USDA DEBARMENT CERTIFICATION (REQUIRED)**
- ATTACHMENT B, EXHIBIT 5 - CERTIFIED DISADVANTAGED BUSINESS OUTREACH PLAN (REQUIRED)**
- ATTACHMENT C - AFFIDAVIT OF TRADE SECRETS (REQUIRED)**
- ATTACHMENT D - PROPOSER INFORMATION AND CERTIFICATION SHEET (REQUIRED)**
- ATTACHMENT E - RESPONSIBILITY INQUIRY (REQUIRED)**
- ATTACHMENT F – STATE OF OREGON PARTICIPATING ADDENDUM (REQUIRED)**

BIDDER INFORMATION ONLY

These exhibits are for informational purposes only and the data does not necessarily reflect actual issuance and redemption that will occur under the new Master Agreements. See Attached Exhibits:

- EXHIBIT A-1 NUMBER OF INFANTS USING MILK-BASED INFANT FORMULA BY PHYSICAL FORM**
- EXHIBIT A-2 NUMBER OF INFANTS USING SOY-BASED INFANT FORMULA BY PHYSICAL FORM**
- EXHIBIT B NUMBER OF INFANTS PARTICIPATING, NUMBER OF INFANTS EXCLUSIVELY BREASTFEEDING AND NUMBER OF INFANTS ISSUED EXEMPT INFANT FORMULA**
- EXHIBIT C-1 ESTIMATES OF MILK BASED INFANT FORMULA UNITS ISSUED BY PARTICIPATING ENTITIES:** Data for each Participating Entity on the number of units of standard milk-based infant formula that they use for a six-month period, including the monthly average, and what the estimated units would be for 3-year contract term for each physical form.
- EXHIBIT C-2 ESTIMATES OF SOY-BASED INFANT FORMULA ISSUED BY PARTICIPATING ENTITIES.** Data for each Participating Entity on the number of units of standard milk-based infant formula that they use for a six-month period, including the monthly average, and what the estimated units would be for 3-year contract term for each physical form.
- Exhibit D USDA Code of Federal Regulations**
- Exhibit E-1 Oregon, Exhibit E-2 Wyoming, Exhibit E-3 Alaska, Exhibit E-4 AmerSamoa, Exhibit E-5 Arizona, Exhibit E-6 CNMI, Exhibit E – 7 Delaware, Exhibit E-8 Dist Columbia, Exhibit E-9 Guam, Exhibit E-10 Hawaii, Exhibit E-11 Idaho, Exhibit E-12 ITCA, Exhibit 13 ITCN, Exhibit E-14 Kansas, Exhibit E-15 Maryland, Exhibit E-16 Montana, Exhibit E-18 Nevada, Exhibit E-19 OsageNation, Exhibit E-20 PuebloIsleta, Exhibit 21 Utah, Exhibit E-22 VirginIsland, Exhibit E-23 Washington, Exhibit E-24 WestVirginia, Exhibit E-25 Wyoming**

Consist of individual information about each Participating Entity (PE) in the NASPO ValuePoint Infant Formula Rebate Alliance. There are 24 Participating Entities. Each PE's Exhibit E includes the following information:

- Participating Entity's Contact Information
- Participating Entity's methodology used to determine what number of units qualify for a rebate.
- Participating Entity's rebate invoice billing procedures.
- Six months of milk-based and soy-based infant formula rebate invoices.
- Policy chapter(s) on assigning food packages.
- Policy chapter(s) on using infant formula.
- List of authorized WIC vendors (grocery stores).
- The minimum stocking requirements for contract formulas.
- The PE's status on their implementation of their Electronic Benefit Transfer (EBT) system.

3.3.7 METHOD OF BIDDING: The state of Oregon is seeking a per unit rebate for soy-based and milk-based infant formulas that qualify for a rebate under the provisions described in this Attachment B, Exhibit 1. The State of Oregon will issue a Master Agreement on behalf of the Participating Entities with the Responsive and Responsible Bidder offering the lowest Total Monthly Net Cost for milk-based and/or soy-based infant formulas, as specified in Attachment B, Exhibit 2(A) and Attachment B, Exhibit 2 (B) Bid Price Sheets.

3.3.7.1 PRICING. Bid prices must include all cost components needed for the delivery of the goods and/or services as described in this ITB. See Attachment B, Exhibit 2 (A) and Attachment B, Exhibit 2 (B) Bid Price Sheets. A bidder's failure to identify all costs in a manner consistent with the instructions in this ITB is sufficient grounds for disqualification.

3.3.7.1.1 Inclusive Pricing: Bidders must identify and include all cost elements in their pricing. In the event that bidder is awarded a Master Agreement, the total price for the goods and/or services shall be bidder's price as submitted. Except as provided in the Master Agreement, there shall be no additional costs of any kind.

3.3.7.2 PRICING SHEET INFORMATION AND INSTRUCTIONS: Instructions apply to both Attachment B, Exhibit 2 (A), Bid Sheet for Milk-Based infant formula and Attachment B, Exhibit 2 (B), Bid Price Sheet for Soy-Based infant formula. All Bid Price Sheets are password protected.

The data in the Bid Price Sheets provides the standardized number of units of infant formula, by physical form (liquid concentrate, powdered, and ready-to-feed). The data is equivalent to the total number of reconstituted ounces, by physical form, needed to issue the maximum monthly allowance of infant formula to infants by infant food package for the Participating Entities. These numbers do not reflect the actual usage that will occur over the term of the Contract. Participating Entities do not guarantee the quantity, unit size, and/or physical form of infant form

Bidder must submit the most favorable and complete Bid for evaluation purposes by the Bid response deadline. The Purchasing Activity is not obligated to ask for or accept, after the closing date, data that is essential for a complete and thorough evaluation.

Fill in the Bidder's company name, the Primary Contract Milk-Based and/or Soy-Based Infant Formula for which the rebate is being offered, and the dollar values, as requested in the instructions on the Infant Formula Bid Price Sheets.

The Bid Price Sheet will automatically sum column N on page 2 to arrive at Total Net Cost Per Month.

Sign in blue ink and date the Bid Price Sheet(s). The signature must be that of a representative of the Bidder's company authorized to make the Rebate offer.

3.3.7.3 Bid Price Sheet - Page 1: - Must be completely filled out, signed and returned with Bid submittal.

The prices entered in column H (on Bid Price Sheet - Page 1) must be taken from the Bidder's nationally published best full truckload wholesale price list in effect at the time of Bid submittal. A USB dated copy of this price list must be provided with the Bid.

Values entered in columns H, I, J and K on Bid Price Sheet - Page 1 must be carried out three places past the decimal.

Data entry fields are in the yellow sections. Use the tab or arrow keys to move between the fields. Fill in only one unit size for each physical form.

- Step 1 – The Bidder is to fill in the manufacturer's name, product name, UPC code, unit size, and reconstituted ounce per unit.
- Step 2 – The Bidder is to fill in the Manufacturer's Lowest National Wholesale Full Truckload Price.
- Step 3 – The Bidder is to fill in the Rebate Bid per Unit.
- Step 4 – The Net Cost per Unit will automatically calculate and populate, using the following formula: Manufacturer's Lowest National Wholesale Full Truckload Price minus Rebate Bid per Unit.
- Step 5 – The Percent Rebate will automatically calculate and populate, using the following formula: Rebate Bid per Unit divided by Manufacturer's Lowest National Wholesale Full Truckload Price.

Step 6 – The Bidder is to sign the Bid Price Sheet and have it notarized on Page 1.

3.3.7.4 Bid Price Sheet - Page 2: Must be completely filled out and returned with Bid submittal.

All bolded cells will automatically populate from the information entered on page #1 of the bid sheet. The values listed on the Infant Formula Bid Sheets and data sources for those values are explained as follows:

- Column A: Row headers only.
- Column B: The unit size and physical form of infant formula for which Bids are being requested. Values in this column are carried over from data entered on page #1, column D, Product Name Being Bid and column F, Unit Size (powdered only).
- Column C: The reconstituted number of ounces per unit. For powdered only, value in this column is carried over from data enter on page #1, column G, Reconstituted Ounce per Unit.
- Columns D, E and F: The information in these cells is from 7 CFR 246.10(e) (9)(Table 1).
- Columns G and H: The monthly average number of infants in the Participating Entities by formula type and physical form, excluding exclusively breastfed infants and infants using Exempt infant formula. Exhibits A-1 and A-2 list the six-month average number of infants using each formula type and physical form. The months averaged are March 2017 through August 2017.
- Column I: Values in this column are the standardized number of total monthly reconstituted ounces by physical form for evaluation purposes.
- Column J: Values in this column are the standardized total number of monthly units by physical form for evaluation purposes.
- Column K: Bidder's nationally published best full truckload wholesale price per unit, at the time of bid opening, for each unit size and physical form of the infant formula for which a rebate is being offered. Values in this column are carried over from data entered on page #1, column H, Manufacturer's Lowest National Wholesale Price.
- Column L: Rebate offered for the formula type and physical form that applies. Values in this column are carried over from data enter on page #1, column I, Rebate Bid per Unit.
- Column M: Values in column K less the values in column L.
- Column N: Values in column M multiplied by the values in column J for each formula type and physical form that applies. The column is totaled to determine the total net cost per month for evaluation.

SECTION 4: EVALUATION

4.1 OFFER EVALUATION CRITERIA: DAS PS shall award the Master Agreement(s) to the lowest Responsible Bidder whose bid substantially complies with the minimum specifications set forth in the ITB.

4.1.1 RESPONSIVENESS: To be considered responsive, the Offer must substantially comply with all requirements of the ITB and all prescribed public solicitation procedures.

In making such valuation, DAS PS may waive minor formalities and irregularities. (See OAR 125-247-0470)

4.1.2 RESPONSIBILITY: Prior to award of a Price Agreement, DAS PS will evaluate whether the apparent successful Offeror meets the applicable standards of responsibility identified in OAR 125-247-0500. In doing so, DAS PS may investigate Offeror and request information in addition to that already required in the ITB, when DAS PS, in its sole discretion, considers it necessary or advisable.

4.1.3 RESERVED

4.2 PROCESSING OF OFFERS: Neither the release of a Bid bond, the return of a Offer, nor acknowledgment that the selection process is complete (whether by posting of a Bid tabulation sheet, issuance of notice of intent to award, or otherwise), shall operate as a representation by DAS PS that any Offer submitted was complete, sufficient, lawful in any respect, or otherwise in substantial compliance with the ITB requirements.

4.3 METHOD OF AWARD: DAS PS shall award the Master Agreement(s) based on the responsiveness of the Bid, the total net cost per month offered for Milk-Based infant formula or Soy-Based infant formula, to the responsible Offeror submitting the lowest responsive Offer, The evaluation methodology and collection of Bid information are consistent with those required by USDA-FNS in 7 CFR 246.16a.

4.3.1 The State of Oregon will enter into a Master Agreement for milk-based infant formula rebates and a Master Agreement for soy-based infant formula rebates, as set forth in Attachment B Master Agreement Terms and Conditions.

4.3.2 An award, in part or full, is made and a Master Agreement is formed by signature of the State of Oregon and awarded bidder(s) on the Master Agreement.

SECTION 5: INTENT-TO-AWARD

5.1 AWARD NOTIFICATION:

After a final selection is made, DAS PS will issue a notice of intent- to-award announcement on its ORPIN System. Offer files are public records and available for review at DAS PS by appointment.

5.2 AWARD PROTEST:

Award protest must be submitted to the Single Point of Contact at the location identified in the cover page of this ITB and must be received within seven (7) calendar days after the date of the notice of intent to award. Award protests must meet the requirements of ORS 279B.410 to be considered. DAS PS will not consider any protests that are received after this deadline.

DAS PS will address all timely submitted protests that are in accordance with ORS 279B.410 within a reasonable time following its receipt of the protest and will issue a written decision to the Offeror who submitted the protest. DAS PS is not permitted to consider award protests that do not include the required information pursuant to ORS 279B.410 may not be considered by DAS PS.

DAS PS will receive protests in the following forms:

- Faxed Protests submitted to Single Point of Contact on the cover page of this ITB.
- Emailed Protests submitted to Single Point of Contact on the cover page of this ITB.
- Letter submitted in hard copy by delivery service (postal, courier or other in-person delivery) to Single Point of Contact identified on the cover page of this ITB.

5.3 AWARD:

After expiration of the seven (7) calendar-day file review and intent-to-award protest period, and resolution of all properly-submitted protests, DAS PS will proceed with final award. (If DAS PS receives only one Offer, DAS PS may dispense with the intent-to-award protest period and proceed with award of the Master Agreements.)

5.4 BID RESULTS: After awards are completed, Offerors may download a tabulation of Bid results from the ORPIN system. Alternatively, Offerors may submit a written request to DAS PS for a paper copy of the tabulation for a fee.

5.5 REVIEW OF AWARDED BID FILES: Most information contained in Bid files are public records and available for review at the DAS PS office by appointment.

SECTION 6: MASTER AGREEMENT EXECUTION

The successful Offeror(s) will be required to provide Certificates of Insurance to DAS PS for levels of Insurance coverage shown in Attachment B Master Agreement within seven (7) calendar days of notification of intent to award.

After submission of the required information and insurances identified in the ITB by the awardee and obtaining all requisite approvals required, DAS PS will proceed with the final award pursuant to the Master Agreement provided as Attachment B. The length or number of term extension periods, rebate amounts that apply to the contract and any extension period(s), and the method by which the rebates will be calculated may not be negotiated.

Contractor shall not commence work under the Master Agreement until the Master Agreement has been executed.

SECTION 7: ADDITIONAL INFORMATION FOR OFFEROR

7.1 RESERVED

7.2 RESERVED

7.3 GOVERNMENTAL ENTITIES: Government bodies subject to ORS Chapter 190 do not bid or compete on the same basis as private-sector Offeror, however, DAS PS will initially review Offers from government bodies according to the same evaluation criteria described in this ITB. Government bodies, submitting Offers must comply with all applicable Offer requirements described in this ITB. In addition to any other Offeror selection, DAS PS reserves the right to enter into an ORS Chapter 190 agreement with any government body for the services or work. Alternatively, DAS PS reserves the right to cancel this ITB if it would be in the public interest as determined by DAS PS, and enter into an ORS Chapter 190 agreement with a government body.

7.4 OWNERSHIP/PERMISSION TO USE MATERIALS: All Offers submitted in response to this ITB become the property of DAS PS. By submitting an Offer in response to this ITB, Offeror grants the State a non-exclusive, perpetual, irrevocable, royalty-free license for the rights to copy, distribute, display, prepare derivative works of and transmit the Offer solely for the purpose of evaluating the Offer, awarding a Master Agreement, if awarded to Offeror, or as otherwise needed to administer the ITB process, and to fulfill obligations under Oregon Public Records Laws. Offers, including supporting materials, will not be returned to Offeror unless the Offer is submitted late.

7.5 COST OF OFFERING: Offerors must pay all costs of offering, including, but not limited to, the cost to prepare and submit Offers, including, but not limited to any Offer requirements, such as samples and other supporting materials, or to participate in demonstrations, if required by this ITB.

7.6 CANCELLATION AND/OR REJECTION OF OFFERS/DAMAGES: Pursuant to ORS 279B.100, DAS PS reserves the right to reject any or all Offers in-whole or in-part, and reserves the right to cancel this ITB at anytime when the rejection or cancellation is in the best interest of the State, or any agency on whose behalf DAS PS may have issued the ITB, as determined by the DAS PS or that agency. DAS PS, the State, or the agency, if any, are not liable to any Offeror for any loss or expense caused by or resulting from the delay, suspension, or cancellation of the ITB, Offer, or award, or rejection of a Offer. All Offers will become part of the public record without obligation to DAS PS.

7.7 CONFIDENTIAL OR PROPRIETARY INFORMATION: Following the award of a Price Agreement/Contract, responses to this ITB are subject to release as public information unless the response or specific information contained therein is identified as exempt from public disclosure. Offeror is advised to consult with legal counsel regarding disclosure issues.

If an Offeror believes that any portion of an Offer contains any information that is considered a trade secret or otherwise is exempt from disclosure under the Oregon Public Records Law, ORS 192.311 through 192.478, each page containing such information must include the following:

“This data is exempt from disclosure under the Oregon Public Records Law pursuant to ORS 192, and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS 192.311 through 192.478.”

Identifying the Offer, in whole, as exempt from disclosure is not acceptable. Offerors are cautioned that cost information submitted in response to an ITB is generally not considered a trade secret under Oregon Public Records Law. If Offer fails to identify the portions of the Offer that Offeror claims are exempt from disclosure, Offeror is deemed to have waived any future claim of non-disclosure of that information.

Pursuant to ORS 279B.060(6)(a) and OAR 125-247-0630, DAS PS's business practice is to schedule requests for inspection of any ITB file after Offerors have been notified of the intent to award.

7.8 STATEWIDE E-WASTE/RECOVERY POLICY: If applicable, Offeror must include information in its Offer that demonstrates compliance with this policy effective January 1, 2007.

7.9 NOTICE OF MASTER AGREEMENT AMENDMENTS: DAS PS reserves the right to amend the Master Agreement resulting from this ITB. All amendments must be in writing and signed by all approving parties before becoming effective. Only DAS PS has the final authority to execute changes, notices or amendments to the Master Agreement pursuant to OAR 125-246-0560.

7.10 CHECKLIST DISCLAIMER: Any Offeror checklists that may be contained in this ITB are provided only as a courtesy to prospective Offerors. DAS PS makes no representation as to the completeness or accuracy of this Offeror Checklist. Prospective Offerors are solely responsible for reviewing and understanding the ITB and complying with all the requirements of this ITB, whether listed in a checklist or not.