



Inter Tribal Council of Arizona, Inc. WIC Program
Vendor Sanction
 Effective October 1, 2020

Pursuant to USDA federal regulations, ITCA is required to sanction contracted WIC vendors that have violated WIC Program federal regulations, the Vendor Contract, the Vendor Manual and/or WIC Program policies and procedures. Sanctions for violating WIC Program requirements include termination, disqualification, civil money penalties, administrative fines, monetary claims, or a combination of sanctions. ITCA may sanction vendors regardless of whether the violations were intentional or unintentional. Two incidents of the same violation within the same contract period listed for B1 through B5 in the ITCA Vendor Sanction Schedule below is considered a pattern. For violation B6, a pattern can be established during a single review of the vendor’s redemption records during an inventory audit.

Any sanctions or fines that a vendor receives remains on the vendor’s record for the entirety of the three year contract. Vendor violations and/or sanctions incurred during preceding contract periods may impact future vendor authorization in subsequent contract periods. Also, violations of the WIC Program that occurred during the previous contract period may be carried over and used as a basis for imposing sanctions on the vendor in the following three year contract period, including but not limited to termination, disqualification, civil money penalties, administrative fines, monetary claims, criminal prosecution and/or the denial of an application for a WIC vendor contract during subsequent contract periods.

ITCA distinguishes between sanctions levels as follows:

- Federal Mandatory Sanctions required by USDA regulations; and
- ITCA WIC Program Sanctions, which are comprised of “Critical Administrative Sanctions” and “Administrative Sanctions”

ITCA sends a single written warning letter to the vendor, for violations that result in a warning letter indicated in the ITCA Vendor Sanction Schedule, below. A written warning letter may not be issued to the vendor if ITCA, in its sole discretion, determines that a warning letter could compromise an ongoing investigation. ITCA does not issue any form of warning (written or otherwise) for subsequent violations beyond the first one. ITCA reserves the right, in its sole judgment, to continue an ongoing investigation of a violation beyond the number of incidents that would normally result in a sanction, as indicated in the ITCA Vendor Sanction Schedule below.

If, during the course of a single investigation, ITCA determines that the vendor has committed multiple violations, ITCA disqualifies the vendor for the period corresponding to the most serious mandatory violation. If two or more different types of violations are documented during the same investigation, ITCA reserves the right to continue its investigation in order to document additional incidences of the more serious violation(s), to determine whether the greater sanction (e.g., a longer disqualification period) should be imposed. However, ITCA retains the right to impose a sanction on any of the violations documented during its investigation.

For purposes of the ITCA Vendor Sanctions Schedule, the term “food instruments” refers to eWIC food benefits, and eWIC fruit and vegetable benefits (FVBs). The term “clients” refers to WIC Program participants, parents, caregivers, and/or proxies. All references to “days” or “years” refer to calendar days or calendar years.

ITCA VENDOR SANCTIONS SCHEDULE

A. Mandatory Sanctions under Federal Regulations		
Sanction Code	Violation Description	First Incident
A-1	Convicted of trafficking in WIC food instruments or FVCs or selling firearms, ammunition, explosives, or controlled substances	Termination of Contract and permanent disqualification

	(as defined in Section 102 of the Controlled Substances Act (21 USC § 802)) in exchange for WIC food instruments.	
A-2	Buys or sells WIC food instruments or FVCs for cash (trafficking).	Termination of contract and 6 year disqualification
A-3	Sells firearms, ammunition, explosives or controlled substances (as defined in Section 102 of the Controlled Substances Act (21 USC § 802)) in exchange for food instruments.	Termination of contract and 6 year disqualification
A-4	Sells alcohol, alcoholic beverages or tobacco products in exchange for food instruments.	Termination of contract and 3 year disqualification

B. Mandatory Sanctions Under Federal Regulations			
Sanction Code	Violation Description	First Incident	Second Incident
B-1	Charges the WIC program more for supplemental foods than non-WIC customers or charges the WIC program more than the current price posted on the shelf or item. Note: Any overcharge, even \$.01, is considered a violation.	Warning letter	Termination of Contract and 3 year disqualification
B-2	Charges the WIC program for supplemental food not received by the client.	Warning letter	Termination of Contract and 3 year disqualification
B-3	Receives, transacts, and/or redeems food instruments outside authorized channels, including the use of an unauthorized store location.	Warning letter	Termination of Contract and 3 year disqualification
B-4	Provides credit, including rain checks, or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives or controlled substances, as defined in 21 USC §802, in exchange for food instruments.	Warning letter	Termination of Contract and 3 year disqualification
B-5	Provides unauthorized food items in exchange for food instruments, including charging for supplemental food provided in excess of those listed on the food instrument.	Warning letter	Termination of Contract and 1 year disqualification
B-6	A pattern **of claiming reimbursement for the sale of an amount of a specific supplemental food item that exceeds the store's documented inventory of that supplemental food item for a specific period of time.	Termination of Contract and 3 year disqualification	Termination of Contract and 6 year disqualification

**"Pattern" is defined as 2 occurrences of the same violation

C. Critical Administrative Sanctions			
Sanction Code	Violation Description	First Incident	Second Incident
C-1	Fails to provide access to vendor premises and/or in any manner hinders or impedes authorized WIC personnel from conducting an on-site education, monitoring, inventory audit, or investigation visit.	Warning letter	1 year disqualification and Termination of Contract

C-2	Provides false, inconsistent, or misleading information on the WIC Price/Stock Survey, infant formula purchasing information, infant formula invoices, vendor application, or any other form or document requested by ITCA.	Warning letter	1 year disqualification and Termination of Contract
C-3	Is assessed a civil money penalty for hardship by SNAP.	Warning letter	Disqualification for the period of time for which the vendor would otherwise have been disqualified by SNAP and Termination of Contract
C-4	Fails to maintain inventory records or other records required by ITCA for a period of 3 years and 5 months after termination or expiration of the Vendor Contract.	Warning letter	1 year disqualification and Termination of Contract
C-5	Allows the return of food purchased with WIC food instruments in exchange for cash, credit or non-food items.	Warning letter	1 year disqualification and Termination of Contract
C-6	Charges the WIC Program sales tax on WIC purchases.	Warning letter	1 year disqualification and Termination of Contract
C-7	Fails to provide requested information such as invoices, tax forms or price information by due date established by ITCA.	Warning letter	1 year disqualification and Termination of Contract
C-8	Fails to pay administrative fines, collections, claims, or overcharges in full by due date established by ITCA.	Warning Letter	1 year disqualification and Termination of Contract
C-9	Scans a sheet with UPCs for supplemental foods, during a WIC transaction.	Warning Letter	1 year disqualification and termination of contract

D. Administrative Sanctions					
Sanction Code	Violation Description	First Incident	Second Incident	Third Incident	Fourth Incident
D-1	Fails to meet the minimum stocking requirements of WIC approved foods.	Warning Letter	\$100 Fine	\$200 Fine	1 year disqualification
D-2	Does not allow client to pay the difference between the value of the fruit and vegetable benefit and the actual cost of the fruit and vegetables being purchased.	Warning Letter	\$100 Fine	\$200 Fine	1 year disqualification
D-3	Fails to clearly display the current price of an authorized WIC food item on the item, shelf or nearby sign.	Warning Letter	\$100 Fine	\$200 Fine	6 month disqualification
D-4	Fails to give a receipt to clients for all WIC purchases or receipt does not have	Warning Letter	\$100 Fine	\$200 Fine	6 month disqualification

	the word “WIC” printed or written on receipt.				
D-5	Fails to give client a receipt with available balance after transaction.	Warning Letter	\$100 Fine	\$200 Fine	6 month disqualification
D-6	Requires the client to purchase something in order to obtain their balance.	Warning Letter	\$100 Fine	\$200 Fine	6 month disqualification
D-7	Uses the WIC logo or the acronym “WIC” without written approval from ITCA and USDA.	Warning Letter	\$500 Fine	\$1,000 Fine	1 year disqualification
D-8	Requires the purchase of all items listed in eWIC benefits or prevents the purchase of all food items listed in eWIC benefits.	Warning Letter	\$100 Fine	\$200 Fine	1 year disqualification
D-9	Asks for identification from the client other than the eWIC card.	Warning Letter	\$100 Fine	\$200 Fine	1 year disqualification
D-10	Has a sheet with UPCs of supplemental foods behind the register or any anywhere in the store.	Warning Letter	\$200 Fine	\$400 Fine	1 year disqualification

Disqualifications from Other Programs

Being disqualified from SNAP results in disqualification from the ITCA WIC Program. The term of the disqualification shall be identical to, and may begin at a later date than, the SNAP disqualification. The disqualification is not subject to administrative review under the ITCA WIC Program. Prior to imposing a disqualification, client access is considered. If the ITCA WIC Program determines that a disqualification results in inadequate client access, a civil money penalty is imposed in lieu of disqualification.

A disqualification from another WIC Program for a mandatory sanction (violations A-1 to A-4 and B1-B6 above) results in disqualification from the ITCA WIC Program. The term of the disqualification shall be identical to, and may begin at a later date than, the other WIC Program’s disqualification. If the ITCA WIC Program determines that disqualification results in inadequate client access, a civil money penalty is imposed in lieu of disqualification.

Civil Money Penalty

Except for violation A-1 above, if ITCA determines that disqualification of a vendor results in inadequate client access, a civil money penalty is imposed in lieu of disqualification. Civil money penalties are calculated following the method in 7CFR §246.12(l)(1)(x). The amount of the civil money penalty, codified at 42 U.S.C.1786(o)(1)(A) and 42 U.S.C. 1786(o)(4)(B), shall not exceed the amount specified in §3.91(b)(3)(v) of this title (currently \$15,692) for each violation. The total amount of civil money penalties imposed for violations investigated as part of a single investigation may not exceed the amount specified in §3.91(b)(3)(v) of this title (currently \$62,767) as the maximum penalty for violations occurring during a single investigation. A civil money penalty is not to be imposed in lieu of disqualification for third or subsequent sanctions for mandatory sanctions. If the vendor does not pay, or pay in accordance to the authorized installment payment plan or only partially pays a civil money penalty assessed in lieu of disqualification, ITCA must disqualify the vendor for the length of the disqualification corresponding to the most serious violation for which the civil money penalty was assessed.

Second Mandatory Sanction

A second occurrence of any of the Mandatory Sanctions listed at Sanction Code A-2 through B-5 of the Vendor Sanction Schedule (regardless of contract term) results in double the disqualification period or civil money penalty.

Third or Subsequent Mandatory Sanction

A third occurrence of any of the Mandatory Sanctions listed at Sanction Code A-2 through B-5 of the Vendor Sanction Schedule (regardless of contract term) results in triple the disqualification period or civil money penalty.

No Voluntary Withdrawal or Nonrenewal of Contract

Voluntary withdrawal or use nonrenewal of the vendor contract as an alternative to any disqualification, is not accepted by the ITCA WIC Program.

Criminal or Civil Prosecution

A Vendor who commits fraud or abuse in the WIC program is subject to civil or criminal prosecution under applicable federal, state, or local laws. Under federal law, those who have willfully misapplied, stolen, or fraudulently obtained program funds valued at \$100 or more are subject to a fine of not more than \$25,000 or imprisonment for not more than five years or both. If the value of the willfully misapplied, stolen, or fraudulently obtained program funds is less than \$100, the penalty is a fine of not more than \$1,000 or imprisonment of not more than one year or both.

Change of Business Entity

A partial change in business ownership does not eliminate violations or sanctions. A partial change in business ownership may include, but is not limited to, adding or removing partners, associates or principles, a change in sole proprietorship or partnership to a corporation where the previous individual owner(s) or one or more partner(s) remains as an officer or shareholder of the new corporation. Violations that occurred prior to the change in business ownership are carried over to a new contract, and may be used for determining sanctions, including termination and/or disqualification.

Termination/Denial/Disqualification Appeals

Vendors may appeal ITCA WIC Program decisions that result in adverse action to be applied to the vendor by requesting an administrative review (request for fair hearing). Vendors may appeal the following ITCA WIC decisions, denial of authorization, the imposition of an administrative fine, contract termination, disqualification, or imposition of a civil money penalty. Termination and disqualification based on a SNAP disqualification is not subject to administrative review. Vendor appeals and administrative review procedures are outlined in the ITCA WIC policies and procedures manual and are available upon request.

During the appeal process a vendor is not relieved of the responsibility of continued compliance with the terms of any written agreement with ITCA. The Vendor contract will continue to be in place until a final decision is made by the administrative review impartial decision maker or chief hearing officer.

WIC Only Stand Beside Device

Upon disqualification or termination, the vendor must return any WIC only stand beside device equipment to the eWIC processor. After termination or disqualification, the vendor is responsible for any monthly fees associated with the WIC only stand beside device.

Request for Reduced Minimum Stock

Vendors may request to be exempt from minimum stock requirements for some individual food categories. A Request for reduced minimum stock is submitted to ITCA by using the Request for Reduced Minimum Stock Form. Minimum stocking requirements are never reduced below at least two different fruits, two different vegetables, and at least one whole grain cereal. The form must be completed and submitted to ITCA at least 2 weeks prior to the change and must be approved by ITCA prior to implementation. Approved exceptions may be revoked by ITCA with a two week advance notice to the vendor.