



**Inter Tribal Council of Arizona, Inc. WIC Program
FY 22-24 Administrative Review Instructions for Vendors**

A. Definition of Administrative Review

Administrative review procedures allow affected vendors, who file an appeal concerning one of the actions listed in the chart below, an opportunity to have a review of the decision made by the WIC program. Administrative review procedures ensure that:

1. Vendors have an objective and impartial avenue to redress when they feel they have been denied authorization, treated unfairly, or have had an adverse action taken against them by the ITCA WIC program.
2. ITCA WIC program standards, policies, procedures and regulations are being applied without prejudice.

B. Type of administrative review

1. A full administrative review consists of a hearing before an impartial official.
2. An abbreviated administrative review is based on written documentation and other materials submitted to an official by both parties. Abbreviated reviews do not include a hearing.

C. Actions subject to administrative review

Reason for appeal	Abbreviated Admin Review	Full Admin Review
Denial due to failure to meeting minimum stocking requirements in selection criteria	NO	YES
Denial due to vendor attempting to circumvent sanction	NO	YES
Denial due to failure to meet selection criteria as they relate to WIC vendor sanction or SNAP authorization status	YES	*
Denial due to failure to meet SNAP authorization selection criteria, or failure to prove SNAP authorized status	YES	*
Denial due to failure to meet business integrity selection criteria	YES	*
Denial based on failure to meet limiting criteria	YES	*
Denial due failure to meet State agency selection criteria	YES	*
Denial due failure to meet State agency selection criteria for competitive price	YES	*

Disqualification	NO	YES
Denial due to DQ for SNAP Program CMP	YES	*
Disqualification based on a trafficking conviction	YES	*
Disqualification based on imposition of a SNAP CMP	YES	*
Disqualification or CMP in lieu of disqualification from another WIC Program as a result of a mandatory sanction	YES	*
Termination of vendor agreement for cause	NO	YES
Imposition of a fine or CMP in lieu of DQ from WIC Program	NO	YES
Application of vendor peer group criteria	YES	*
Application of criteria used to identify vendors that are A-50 vendors, including criteria used to identify vendors comparable to A-50 vendors	YES	*
Termination of the Vendor Contract due to a change in ownership, location, or cessation of operations	YES	*
A WIC CMP imposed in lieu of DQ based on a SNAP DQ	YES	*

*The ITCA WIC Program may use its sole discretion to conduct a full administrative review in place of an abbreviated administrative review

D. Actions not subject to administrative review

Reason for appeal	Abbreviated Admin Review	Full Admin Review
The validity or appropriateness of vendor limiting criteria	NO	NO
The validity or appropriateness of vendor selection criteria for minimum stock requirements	NO	NO
The validity or appropriateness of selection criteria for Business Integrity	NO	NO

The validity or appropriateness of selection criteria for current SNAP DQ or CMP	NO	NO
The validity or appropriateness of selection criteria for competitive price, including but not limited to, vendor peer group criteria and criteria used to identify vendors that are above 50% vendors or comparable to above 50% vendors	NO	NO
The validity of appropriateness of the client access criteria and client access determination	NO	NO
The determination of inclusion or exclusion of an infant formula manufacturer, wholesaler, distributor, or vendor from the approved infant formula list	NO	NO
The validity or appropriateness of prohibition of incentive items and denial of an above 50% vendor's request to provide an incentive item to customers	NO	NO
The determination to withhold written notification to the vendor of an initial violation identified in an investigation, when a pattern of violations is needed in order to impose a sanction	NO	NO
The determination of whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation	NO	NO
Vendor contract expiration	NO	NO
Disputes regarding WIC payment and vendor claims (other than the	NO	NO

opportunity to justify and correct a vendor overcharge or other error)		
Reciprocal DQ from WIC as a result of DQ from SNAP	NO	NO

E. Procedures for administrative review

1. Notification of action

- a. When the adverse action is a denial of authorization or permanent disqualification based on a conviction of for trafficking WIC benefits or selling firearms, ammunition, explosives, or controlled substances, no advance notice is issued. The effective date of the action is the date the vendor receives the notice.
- b. For all other adverse actions, ITCA WIC provides the vendor a written notice of adverse action at least fifteen calendar days prior to the effective date of the action.
- c. The notice of adverse action shall include that action being taken, the cause(s) for the action, the effective date of adverse action, and the right to appeal the action. A copy of these administrative review procedures is also provided.
- d. If the reasons for adverse action is due in whole or in part to a federal mandatory sanction listed in 7 CFR 246.12(1)(I), ITCA notifies the vendor of the following: "This disqualification from WIC may result in disqualification as a retailer in the Supplemental Nutrition Assistance Program (SNAP). Such disqualification is not subject to administrative or judicial review under the Supplemental Nutrition Assistance Program (SNAP)."
- e. Notification of adverse action is mailed to the vendor by certified mail with return receipt requested, and emailed to the vendor.

2. Appealing an action

- a. Within fifteen calendar days of receiving the notice of action the vendor must submit a written request for an administrative review to the ITCA WIC program. The request must include the following information:
 - i. Vendor Name
 - ii. Vendor ID
 - iii. Actions being appealed
 - iv. Reasons for appeal
 - v. Date of request
- b. The request must be sent by certified mail and addressed to:
Inter Tribal Council of Arizona, Inc.
Attn: WIC Director
2214 N. Central Avenue, Suite 100
Phoenix, AZ. 85004
- c. The request may be emailed or faxed to the WIC program, however the original copies are need to process the request for administrative review.
- d. A request for administrative review is denied or dismissed if:

- i. The request is not received within fifteen calendar days from the date the notice is received by the vendor
 - ii. The request is withdrawn in writing by the vendor or representative
 - iii. The vendor or representative failed, without good cause as determined by the review official, to appear at the scheduled hearing
 - iv. The request for administrative review is for action that is not eligible for administrative review (listed above).
- e. Appealing an action does not relieve the vendor from the responsibility of continued compliance with the terms of the vendor contract. Continued participation in the program, pending an appeal decision is permitted if the action being appealed is subject to administrative review.
- 3. Upon receipt of appeal request – General rules and procedures
 - a. Upon receipt of an appeal request, ITCA WIC acknowledges the vendor in writing that it has received the request. An explanation of the administrative review procedures is sent with this acknowledgement. The review procedures are different for full and abbreviated administrative reviews.
- 4. Full administrative review procedures
 - a. The vendor is entitled to the following during the full administrative review process:
 - i. The opportunity to provide testimony and present a case
 - ii. The date, time, and place, of the full administrative review (with at least 15 days advance notice of scheduled date)
 - iii. The opportunity to request for the full administrative review to be re-scheduled.
 - 1. A full administrative review may only be re-scheduled one time
 - 2. ITCA WIC is no longer held to the standard of making an appeal decision within 90 days of receiving the appeal request if the full administrative review is rescheduled
 - iv. The opportunity to be represented by counsel
 - v. The opportunity to examine the evidence use to impose sanctions(s) or other adverse actions, prior to the review
 - vi. The opportunity to cross examine adverse witnesses
 - 1. A protective screen or other device may be used to protect the identify of WIC program investigators when necessary
 - vii. The opportunity to have an impartial decision maker use the evidence presented at the review to determine if ITCA WIC has correctly applied federal and State statutes, regulations, policies, and procedures governing the WIC program
 - b. ITCA may appoint a Chief Hearing Officer to review the decision(s) or the impartial decision maker to ensure they conform to approved WIC policies and procedures.
- 5. Abbreviated review procedures
 - a. The vendor is entitled to the following during the abbreviated administrative review process:
 - i. The opportunity to submit written grounds for appeal and documentation supporting the appeal
 - ii. The date the materials must be submitted to the review official

- iii. A decision maker to use the available information to determine if ITCA WIC has correctly applied federal and State statutes, regulations, policies, and procedures governing the WIC program
 - 1. The decision maker must be someone other than the person who made the initial decision on the action being appealed.
- 6. Administrative review outcomes
 - a. The appeal decision, including the basis for the decision, is provided to the vendor in writing within ninety days of ITCA receiving the request for appeal.
 - i. This timeframe is an administrative requirement and is not a basis for overturning adverse action if the decision is not made within this timeframe.
 - ii. If a full administrative review has been re-scheduled at the request of the vendor, the appeal decision may not be made within this timeframe.
 - b. The administrative review decision is the final action taken by ITCA.
 - c. If the appeal is approved (adverse action taken by ITCA is denied), the following occurs.
 - i. If the appeal was requested for the adverse action of denial of authorization or disqualification, the vendor is authorized as soon as administratively feasible after receipt of the review decision.
 - ii. Appealed violations and adverse actions are removed from the vendor record.
 - d. If the appeal is denied (adverse action taken by ITCA is affirmed), the following occurs.
 - i. If the appeal was requested for the adverse action of termination, the vendor is terminated as soon as administratively possible.
 - ii. If the decision is regarding a civil money penalty, efforts to collect the penalty resume immediately.
 - iii. ITCA WIC notifies FNS, Local WIC Programs, WIC Programs of neighboring geographic states, and local agencies of the vendor contract termination or disqualification from accepting WIC benefits.
 - iv. Any outstanding claims on any improperly redeemed benefits owed by the vendor are pursued by ITCA WIC on or after the effective date of termination or disqualification.
 - v. The vendor is monitored to ensure WIC benefits are not accepted after the termination or disqualification date.
 - vi. The vendor may be able pursue judicial review of the decision.
- 7. Effective dates of adverse actions
 - a. The effective date is no later than the date the vendor receives the notice of adverse action for the following:
 - i. Denial of authorization
 - ii. Disqualification for a conviction of trafficking in WIC benefits or selling firearms, ammunition, explosives, or controlled substances in exchange for WIC benefits
 - b. All other adverse actions are effective no earlier than fifteen calendar days after the date of the written notice of adverse action.

F. Withdrawal or Default of an Appeal

1. A withdrawal of an appeal occurs when the vendor states, in writing, that an appeal is no longer desired.
2. A default occurs when:
 - a. The vendor fails to appear at the full administrative review without good cause as determined by the impartial decision maker
 - b. The vendor fails to submit written grounds for appeal and documentation supporting the appeal by the deadline established in the appeal notification
 - c. The vendor cannot be located through his or her last address of record

Definitions

1. **Impartial Decision Maker** is an individual appointed by the ITCA WIC Program to decide the outcome of the vendor appeal for a full administrative review. This impartial decision maker uses only the evidence presented in the administrative review to determine if ITCA has correctly applied federal and state statutes, regulations, policies and procedures governing the WIC Program
2. **Chief Hearing Officer** is an individual who reviews the impartial decision maker's appeal decision, at the request of ITCA WIC, to ensure they conform to approved policies and procedures for a full administrative review.
3. **Review Official** is the decision maker for abbreviated administrative reviews, this individual is someone other than the person who made the initial decision on the action. The review official uses only the evidence presented in the abbreviated administrative review to determine if ITCA has correctly applied federal and state statutes, regulations, policies and procedures governing the WIC Program.
4. **Civil Money Penalty (CMP)** is a monetary fine issued as a penalty in lieu of disqualification or termination of a client access store.