

AGREEMENT BETWEEN
State of Wisconsin Department of Health Services
WIC and Senior Farmers' Market Nutrition Program (FMNP)

And

Vendor - First Name and Last Name **(Print or Type)**

Street Address **(Print or Type)**

City, State and Zip Code **(Print or Type)**

Area Code and Phone Number **(Print or Type)** Email Address **(Print or Type)**

This agreement is entered into between the Wisconsin Department of Health Services (DHS), administering the WIC Farmers' Market Nutrition Program and the Senior Farmers' Market Nutrition Program, and the above-named individual, hereinafter referred to as "vendor." Hereinafter, "State Agency" refers to the Department of Health Services. **This agreement is for the period beginning April 1, 2020 and will expire on December 31, 2022.**

I. The VENDOR Agrees to Answer the Following Questions Accurately and Completely:

A. If you are an employee of a farmer or if you are an individual hired by a nonprofit organization to sell produce at farmers' markets on behalf of local farmers, provide the organization name and address that you represent.

B. How many acres of land do you, or the organization that you represent, own or rent for growing fruits, vegetables, and/or herbs? _____

C. Where is the land located where you, or the organization that you represent, grow fruits, vegetables, and/or herbs? Check one box.

Wisconsin

Not in Wisconsin, but at a farm that is within 50 miles of the Wisconsin border

Other (explain): _____

D. List all of the farmers' markets in which you participate (attach a separate piece of paper if needed).

Full Market Name (in Wisconsin only)	County Name (in Wisconsin only)

E. Do you grow the majority or all of the produce that you sell? Yes No

F. Have you previously participated in the Wisconsin WIC or Senior FMNP? Yes No

G. If "Yes" for Question F, what is your Vendor ID Number? _____

H. How many vendor signs are needed for posting? _____

Remember to sign and date the last page of the agreement. Return all pages of the agreement to WIC FMNP, PO Box 2659, Madison, WI 53701-2659.

II. The VENDOR Agrees:

- A. To comply with the terms of this agreement, 7 CFR Part 248, 7 CFR Part 249, and other applicable state and federal rules, regulations, statutes, policies, periodic newsletters and any other formal instructions issued by the State Agency to vendors and further agrees to comply with any amendments and updates.
- B. To provide such information as the State Agency shall require for its periodic reports to Food and Nutrition Services (FNS).
- C. In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA." <https://www.fns.usda.gov/civil-rights/usda-nondiscrimination-statement-other-fns-programs>.
- D. Pursuant to Title VII (employment discrimination), 42 USC 2000e-2(i), this section does not apply to agreements with tribes. That no otherwise qualified person shall be excluded from employment, be denied the benefits of employment or otherwise be subject to discrimination in employment in any manner or term of employment on the basis of age, ancestry, arrest record, color, conviction record, creed, disability, physical condition, developmental disability [as defined in s. 51.05(5)Wis. Stats.], genetic testing, honesty testing, marital status, military status, national origin, pregnancy or childbirth, race, religion, sex, sexual orientation, national origin. Employers shall not discriminate on the basis of use or nonuse of lawful products off the employer's premises during nonworking hours, employees may not be harassed in the workplace based on their protected status nor retaliated against for filing a complaint, for assisting with a complaint, or for opposing discrimination in the workplace. All employees are expected to support goals and programmatic activities relating to non-discrimination in employment.
- E. To comply with applicable federal, state and local health protection laws and ordinances.
- F. To accept training on FMNP procedures and provide training to employees on such procedures.
- G. To permit WIC FMNP and Senior FMNP checks to be redeemed only for FMNP approved foods as stated in the current FMNP Farmers' Training Manual (P-44854).
- H. To provide WIC FMNP and Senior FMNP recipients eligible foods at the current price or less than the current price charged to other customers.
- I. To offer WIC FMNP and Senior FMNP recipients the same courtesies as other customers.
- J. To accept WIC FMNP and Senior FMNP checks within the dates of their validity and submit checks for payment by November 15 of the year the check was issued. Authorization to accept WIC eWIC card transactions is excluded and not permitted through this agreement.
- K. To prohibit the return of foods for cash refunds.
- L. To post a FMNP sign that contains the vendor's identification number.
- M. To separate and label fruits, vegetables, and herbs that are not grown or sold within the criteria of FMNP Approved Foods as stated in the current FMNP Farmers' Training Manual (P-44854) so it is clear to FMNP recipients that they cannot purchase those foods with FMNP checks.

- N. To stamp each transacted WIC FMNP and Senior FMNP check with the vendor stamp provided by the State Agency, in accordance with the procedure established by the State Agency, and deposit checks for payment. The vendor stamp is the property of the State Agency. If the vendor is no longer an authorized farmer, the vendor stamp must be returned to the State Agency.
- O. To be monitored for compliance with FMNP requirements including both overt/open and covert/undercover monitoring.
- P. To comply with instructions from the State Agency to provide information as requested when local production is in question and/or provide permission to conduct an inspection of the growing site within 72 hours of notification or as instructed.
- Q. To pay the State Agency for any WIC FMNP and/or Senior FMNP checks transacted in violation of this agreement.
- R. To notify the State Agency when/if the vendor's operation ceases.
- S. To notify the State Agency if the vendor's mailing address has changed within 30 days of the move.

III. The Vendor Shall Not:

- A. Collect sales tax on WIC FMNP and/or Senior FMNP check purchases.
- B. Seek restitution from WIC FMNP and/or Senior FMNP recipients for checks not paid by the State Agency.
- C. Issue cash change for purchases that are in an amount less than the value of the WIC FMNP and/or Senior FMNP check(s).
- D. Accept WIC FMNP and/or Senior FMNP checks at unauthorized sites.
- E. Use customers' WIC FMNP and/or Senior FMNP checks to purchase food for the vendor's personal use or business use. Checks shall be deposited in accordance with the WIC and Senior FMNP rules and regulations.
- F. Redeem WIC FMNP and/or Senior FMNP checks for a non-authorized vendor.
- G. Share, release, disperse, or publish any participant information. Participant information is confidential.

IV. The State Agency Agrees To:

- A. Make payment to the vendor for actual costs of WIC FMNP and/or Senior FMNP checks redeemed in compliance with the conditions contained in Section II and III above. WIC eWIC card transactions will not be paid under this agreement.
- B. Provide a vendor stamp, for redeeming WIC FMNP and Senior FMNP checks, and a FMNP sign. The vendor shall only have use of the stamp while an authorized WIC and Senior FMNP farmer.
- C. Provide the vendor with instructions for redeeming WIC FMNP and Senior FMNP checks.
- D. Not discriminate against an applicant or vendor on the basis of race, color, national origin, age, disability, sex, gender identity, sexual orientation, religion, reprisal, where applicable political belief, marital status, familial or parental status, or all or part of an individual's income is derived from any public assistance program, or protected genetic information or in any program or activity conducted or funded by the State Agency. (Not all prohibited bases will apply to all programs and/or employment activities).

V. Prohibited Vendor Practices

- A. Violations of the FMNP rules and procedures applicable to a certified FMNP vendor will be identified as the following Class A or B violation:

Class A violation

1. Exchange ineligible items or cash for WIC FMNP and/or Senior FMNP checks.
2. Use customers' WIC FMNP and/or Senior FMNP checks to purchase food for the vendor's personal use or business use.
3. Redeem or cash WIC FMNP and/or Senior FMNP checks for a non-authorized vendor.
4. Charge WIC FMNP and/or Senior FMNP recipients prices greater than that charged to non-recipients or charge for items not received.
5. Falsely represent self as a grower of FMNP eligible produce or as a representative of an employer or non-profit organization.
6. Fail to provide proof of origin of produce as directed by the State Agency.
7. Abusive or discriminatory treatment of WIC FMNP and/or Senior FMNP recipients or FMNP staff.

Class B violation

1. Fail to accept valid WIC FMNP and/or Senior FMNP checks for the purchase of eligible produce.
2. Issue change to WIC FMNP and/or Senior FMNP recipients for purchases less than the amount of the WIC FMNP and/or Senior FMNP check(s).
3. Fail to allow the purchase of the full amount specified on the WIC FMNP and/or Senior FMNP check.
4. Fail to post a FMNP sign that contains the vendor's identification number.
5. Fail to separate and label fruit, vegetables, and herbs that FMNP recipients are not allowed to purchase.
6. Accept WIC FMNP and/or Senior FMNP checks at unauthorized sites.

VI. Sanction for Vendor Violations

- A. Commitment of a Class A offense(s) may, upon giving the vendor reasonable notice and opportunity for a hearing, subject the vendor to the disqualification from the WIC FMNP and Senior FMNP for a period of not more than three years. In addition to the imposed sanction or disqualification, the State Agency may fine the vendor not more than \$100 for each offense.
- B. Class B violations may result in an official written citation of non-compliance from the State Agency to the violating vendor. The second substantiated instance of a Class B violation may constitute a Class A violation.
- C. The vendor is responsible for the acts of its employees. A family vendor unit is considered one FMNP vendor, has one vendor stamp and if the vendor is sanctioned with disqualification, all members of the family unit are disqualified as authorized vendors for the same period of time.
- D. The State Agency may, in its discretion, impose a shorter disqualification period than the maximum allowed in this agreement.
- E. The State Agency may waive a disqualification if the State Agency believes the disqualification would produce an undue hardship to WIC FMNP and Senior FMNP recipients.
- F. The State Agency may terminate the current agreement, without vendor approval, and impose a new agreement with a lesser period.

- G. The State Agency may deny payment to the vendor for improperly redeemed WIC and/or Senior FMNP checks or may establish a claim for payments already made on improperly redeemed checks.
- H. A vendor who commits fraud or abuse is liable to prosecution under applicable Federal, State or local laws and shall be subject to a fine of not more than \$25,000 or imprisonment of not more than five years or both, if the value of the funds is \$100 or more. If the value is less than \$100, the penalties are a fine of not more than \$1,000 or imprisonment for not more than one year or both.

VII. Appeal Procedure

- A. The State Agency shall begin actions for sanctioning fraud or abuse by serving upon the vendor a written notice of the penalty by certified mail or personal delivery.
- B. A vendor desiring to contest a State Agency action may request a hearing. The request must be made in writing and shall be submitted to the local agency indicated in the written notification of penalty. The request must be received by the local agency within 30 days of receiving written notification of the penalty.
- C. If the vendor's request for a hearing is received by the local agency within 30 days of receiving written notification, the local agency shall offer a hearing which is no more than three weeks (15 working days) from the date of the receipt of the vendor's request for a hearing. The local agency shall provide at least 10 working days advance written notice of the time and place of the hearing and shall enclose an explanation of the hearing procedures with the notice.
- D. The request for an appeal may be denied or dismissed if the request is not received within the 30 day time limit, the request is withdrawn by the vendor or representative, or the vendor or representative, without good cause, failed to appear at the scheduled hearing.
- E. A vendor who appeals a State Agency action within 30 days of receiving written notification may continue to participate in the WIC FMNP and Senior FMNP until a final administrative hearing decision is issued or the agreement period expires, whichever occurs first. A vendor who does not appeal the State Agency action within 30 days shall receive the penalty imposed by the State Agency in the written notice of the penalty.
- F. A vendor who appeals within 30 days of receiving written notification of the penalty and the decision is in favor of the vendor and participation was denied or discontinued, benefits from participating in the WIC FMNP and Senior FMNP shall begin immediately, but are not retroactive.
- G. Expiration of a vendor's certification at the end of an agreement period is not subject to appeal.
- H. Decisions of the hearing shall be based upon the application of appropriate federal law, regulations and policy as related to the facts of the case as established in the official hearing record.
- I. The final hearing decision will be issued within 60 days from the date the request for the hearing was received.

VIII. General Conditions

- A. Neither the State Agency nor the vendor has an obligation to renew the agreement.
- B. Either party may choose to terminate the agreement for cause after providing advance written notice of a period not less than 15 days, subject to any applicable appeal rights.
- C. The State Agency reserves the right to amend this agreement upon thirty (30) day notice.

This agreement, rules and regulations referenced in it, contain all terms and conditions agreed upon by the parties.

The vendor has read, understands, and agrees to comply with all of the terms in this agreement. If the undersigned is representing an employer or non-profit organization, the undersigned has authority to sign this agreement on behalf of the organization.

SIGNATURE – Vendor	Print Vendor Name	Date Signed
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The undersigned represents the WIC Farmers’ Market Nutrition Program and Senior Farmers’ Market Nutrition Program and has authority to sign this agreement on behalf of said agency:

SIGNATURE – Representative, Division of Public Health	Date Signed
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