OKLAHOMA STATE DEPARTMENT OF EDUCATION
CHILD NUTRITION PROGRAMS (CNP)
PERMANENT AGREEMENT
NATIONAL SCHOOL LUNCH PROGRAM, SCHOOL BREAKFAST PROGRAM,
SPECIAL MILK PROGRAM, AND/OR AFTER-SCHOOL SNACK PROGRAM

In order to effectuate the purpose of: (1) the National School Lunch Act, as amended (42 U.S.C. 1751-1760), and regulations governing the National School Lunch Program (7 CFR Parts 210 and 245) and (2) the Child Nutrition Act of 1966, as amended (7 U.S.C. 1771-1785), and regulations governing the School Breakfast Program (7 CFR Parts 220 and 245) and (3) the Special Milk Program for Children (7 CFR Part 215) and Public Law 105-336 authorizing reimbursement for snacks, the Oklahoma State Department of Education Child Nutrition Programs (hereinafter referred to as the *State Agency*) and the School District (hereinafter referred to as the *School Food Authority*), acting on behalf of each school listed on Schedule A of this Agreement, agree to as follows:

The State Agency agrees that, to the extent of funds available, it shall reimburse the School Food Authority in connection with meals and milk served to children in the indicated program(s) in schools listed on Schedule A attached hereto during the effective period of this Agreement. During any fiscal year, the amount of reimbursement paid to the School Food Authority for lunches and/or breakfasts served to children in each school shall not exceed an amount equal to the number of meals, by types, served to children, multiplied by assigned rates, while the amount of reimbursement paid to the School Food Authority for milk served to children in each school shall not exceed an amount equal to the number of half-pints served to children, multiplied by assigned rates.

The School Food Authority and participating schools under its jurisdiction shall comply with all provisions of 7 CFR Parts 210, 215, 220, 225, 226 and 245, as applicable.

THE SCHOOL FOOD AUTHORITY AGREES THAT, for each school listed in Schedule A, it will conduct the indicated program(s) in accordance with the State Agency's policies and the United States Department of Agriculture's (USDA's) regulations and, specifically, will conform to the following requirements in the conduct of each program (unless the requirement is restricted to a particular program):

1. Maintain a nonprofit food service and use revenues received only for the operation or improvement of such food service, except that such income shall not be used to purchase land or buildings or to construct buildings.

2. Maintain full and accurate records of operations under this Agreement and according to State Agency policies and procedures. All records must be maintained at the School Food Authority or at the school site. Retain such records for a period of three years after the end of the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be maintained beyond the three-year period as long as required for the resolution of the issues raised by the audit. Records of income (receipts) and expenditures must be kept to show that the food service is a nonprofit operation.

3. Comply with audit requirements as follows:

    a. For School Food Authorities receiving $750,000 or more in total federal funds, an organization-wide audit, conducted in accordance with Office of Management and Budget (OMB) Circular A-133, shall be submitted to the State Agency Auditing Section no later than March 31. Failure to submit such required audit shall result in the withholding of CNP reimbursements until the audit is received.

    b. For School Food Authorities receiving less than $750,000 in total federal funds, an audit conducted in accordance with Sections 452 through 461 of the School Laws of Oklahoma shall be submitted to the State Agency Auditing Section no later than May 31. Failure to submit such required audit shall result in the withholding of CNP reimbursement until the audit is received.

4. Claim reimbursement at the assigned rates only for reimbursable free, reduced-price, and full-price meals served to eligible children in accordance with the Agreement. Meals served to adults shall not be claimed for reimbursement. Claim reimbursement in the SMP only for milk served in schools and institutions that do not participate in a meal service program authorized under the National School Lunch Act or the Child Nutrition Act of 1966 and/or to preprimary and split-session kindergarten children who do not have access to any school meal service authorized under these Acts.

5. Submit claims for reimbursement in accordance with program regulations. Claims for reimbursement are due by the tenth of the month following the claim month. The State Agency must receive valid claims for reimbursement within 60 days following the end of the month for which payment is claimed to be eligible for payment. Claims for reimbursement received by the State Agency after 60 days are not paid.

6. Ensure that the School Food Authority official (authorized representative) signing or electronically submitting the claim is responsible for reviewing and analyzing meal counts for accuracy. Acknowledge that failure to submit accurate claims will result in the recovery of an overclaim and may result in the withholding of payments, suspension, or termination of the program. Acknowledge that if failure to submit accurate claims reflects embezzlement, willful misapplication of funds, theft, or fraudulent activity, the penalties as prescribed by program regulations shall apply.

7. Make available to the State Agency and USDA for examination and audit at any reasonable time and place all accounts and records pertaining to operations under this Agreement.

8. Limit the net cash resources of its nonprofit food service to a level consistent with program needs and seek State Agency approval when there is a need for a balance of more than three-month's average expenditures.

9. Serve meals which meet the requirements prescribed in current regulations during a period designated as the meal period(s). If electing to provide free milk, (a) serve milk free to all eligible children at times that milk is made available to non-needy children under the program and (b) make no discrimination against any needy children because of their inability to pay for the milk.

10. Count the number of free, reduced-price, and full-price reimbursable meals served to eligible children at the point of service.

11. Price the meal and/or SMP milk as a unit, except for nonpricing milk programs where no specific charge is made. The charge for paid meals will be set at an average between the free reimbursement rate and the paid reimbursement, or the district guarantees that the price difference is made up of nonfederal funds.

12. Make meals available without cost or at a reduced price or free milk available to all children who are determined under program regulations (7 CFR Part 245) to be unable to pay the full price.

13. New participating school districts will charge full-price (paid) students the difference between the free reimbursement rate and the paid reimbursement rate for the lunch meal.

14. Make no discrimination against any child because of inability to pay the full price of the meal or milk in accordance with the approved free and reduced-price policy statement.

15. Not forbid the availability of the program(s) as disciplinary action. Meals cannot be used as a reward or punishment.

16. Maintain in the storage, preparation, and service of food proper sanitation and health standards in conformance with all applicable state and local laws and regulations.

17. Accept and use in as large quantities as can be efficiently utilized in its food service program the foods offered as a donation by USDA; and enter into a written recipient agency agreement with the Oklahoma Department of Human Services Food and Nutrition Services for the receipt, handling, and storage of USDA commodity foods.

18. Maintain necessary facilities for storing, preparing, and serving food.

19. Make maximum use of the reimbursement payments to reduce the price of meals and/or milk served to paying children.

20. Maintain food production records, cycle menus, nutrient analyses (if required), etc., supporting that minimum and maximum meal pattern requirements and required nutrient standards have been met.

21. Follow required procurement practices under 7 CFR §3016. Maintain documentation of all procedures (procurement plan), price quotes, bids, and contracts.

22. The program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C.§ 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR 50.3 and 42; and the Food and Nutrition Service (FNS) directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, material status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by USDA be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.

    By accepting this assurance, the program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of the nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the USDA FNS shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Program applicant.

23. Comply with the requirements of USDA's regulations regarding financial management, and maintain a financial management system as prescribed by the State Agency.

24. Comply with proper OCAS coding for all Revenues and Expenditures incurred by the CN Program.

25. Ensure that revenues from the sales of nonprogram foods generate at least the same proportion of SFA revenues as they contribute to SFA food costs.

26. Establish rules and instructions necessary to control the sale of foods in competition with the nonprofit Child Nutrition Program (CNP) as set forth in Sections 210.11 and 220.12. All income from the sale of food within the food service area during meal periods must accrue to the benefit of the nonprofit CNP.

27. Comply with USDA Smart Snack Standards as set forth in 7 CFR 210:10-3-112.

28. State (Oklahoma) law 70 O.S. Section 5-147 provides that each district board of education shall ensure that:

a. Students in elementary school facilities are not provided foods of minimal nutritional value (FMNV) except on special occasions.

b. Students in middle and junior high school facilities are not provided FMNV except after school, at events which take place in the evening, and on special occasions. An exception to the minimal nutritional value standard will be diet soda with less than ten calories per bottle or can.

c. Students in high schools are provided healthy food options in addition to any FMNV to which they have any access at school. Each district shall provide incentives, such as lower prices or other incentives, to encourage healthy food choices for high school students.

d. For purpose of this law, there are four categories of FMNV:
   - ***Soda water/carbonated beverages***—A class of beverages made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressure of one atmosphere and at a temperature of 60°F. It either contains no alcohol or only such alcohol, not in excess of 0.5 percent by weight of the finished beverage, as is contributed by the flavoring ingredient used. No product shall be excluded from this definition because it contains artificial sweetener or discrete nutrients added to the food, such as vitamins, minerals, and protein.
   - ***Water ices***—Water ices are the food prepared from the same ingredients and in the same manner prescribed for sherbets, except that the mix need not be pasteurized and complies with all of the provisions as sherbet (including the requirements for label statement of ingredients), except that no milk or milk-derived ingredient, and no egg ingredient other than egg white, is used. Water ices include foods that are artificially or naturally flavored with nonfruit or nonfruit juice flavorings. However, a frozen product with fruit or fruit juice with milk or milk products is ***NOT*** classified as a water ice.

     Unless the following types of products have an exemption for a specific product, they are considered FMNV:

     Frozen, water-based bars—water ices Frozen coffee/tea drinks—water ices Partially frozen drinks—water ices Frozen pickle juice/brine—water ice
     Soda water floats—soda water; while these items contain ice cream (which is not an FMNV), the main ingredient is soda water

   - ***Chewing gum***—Flavored products from natural or synthetic gums and other ingredients which form an insoluble mass for chewing.
   - ***Certain candies***—Processed foods made predominantly from sweeteners or artificial sweeteners with a variety of minor ingredients which characterize the following types:

     — ***Hard candies***: A product made predominantly from sugar (sucrose) and corn syrup which may be flavored and colored; is characterized by a hard, brittle texture; and includes such items as sour balls, fruit balls, candy sticks; lollipops, starlight mints, after-dinner mints, sugar wafers, rock candy, cinnamon candies, breath mints, jaw breakers, and cough drops.
     — ***Jellies and gums***: A mixture of carbohydrates which are combined to form a stable gelatinous system of jellylike character; are generally flavored and colored; and include gumdrops, jelly beans, jellied and fruit-flavored slices.
     — ***Marshmallow candies***: An aerated confection composed of sugar, corn syrup, invert sugar, 20 percent water, and gelatin or egg white, to which flavors and colors may be added.
     — ***Fondant***: A product consisting of microscopic-sized sugar crystals which are separated by a thin film of sugar and/or invert sugar in solution such as candy corn or soft mints.

— ***Licorice***: A product made predominantly from sugar and corn syrup which is flavored with an extract made from the licorice root.
— ***Spun candy***: A product that is made from sugar that has been boiled at a high temperature and spun at a high speed in a special machine.
— ***Candy-coated popcorn***: Popcorn which is coated with a mixture made predominantly from sugar and corn syrup.

29. Maintain files of currently approved and denied free and reduced-price applications, respectively. If applications are maintained at the School Food Authority level, they shall be readily retrievable by school.

30. If the School Food Authority is currently participating in the ASSP, it agrees to comply with Public Law 105-336.

31. If the School Food Authority is currently participating in the CACFP, it agrees to comply with program regulations 7 CFR Part 226.

32. If the School Food Authority is currently participating in the SFSP, it agrees to comply with program regulations 7 CFR Part 225.

THE STATE AGENCY AND THE SCHOOL FOOD AUTHORITY MUTUALLY AGREE THAT:

1. Schedule A, where applicable, is part of this Agreement and Application.

2. Schools may be added or deleted from Schedule A as need arises, and the references herein to Schedule A shall be deemed to include such schedule as supplemented and amended. Any changes to the schedule must be approved by the State Agency.

3. The State Agency shall promptly notify the School Food Authority of any change in minimum meal requirements or the assigned rates of reimbursement.

4. For the purpose of this Agreement, the following terms will mean respectively:

   a. ***Adult:*** means a person who is (1) a staff member or employee of a school, including all faculty, supervisory and other personnel and (2) not under 21 chronological years of age in nonprofit RCCIs or centers and (3) not a student of high school grade or under as determined by the state educational agency in schools as defined in §210.2.

   b. ***Meals:*** means food served at a school under the indicated programs which meets the applicable nutritional requirement set forth in regulations. *Meals* thus means breakfast, lunch, or snack.

   c. ***Nonprofit Food Service:*** means food service maintained by the School Food Authority for the benefit of the children, all of the income from which is used solely for the operation or improvement of such food service.

   d. ***School Food Authority:*** means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate the NSLP, the SBP, the SMP, and/or the ASSP therein.

5. This Initial Agreement is effective for the programs approved for the period commencing July 1 and ending the following June 30. The State Agency may renew the Agreement for each school year thereafter by notice in writing given to the School Food Authority as soon as practicable after funds have been appropriated by Congress for carrying out the purpose of the National School Lunch Act and Child Nutrition Act.

6. This Agreement may be terminated upon ten days written notice on the part of either party hereto, and the State Agency may terminate this Agreement immediately upon receipt of evidence that the terms and conditions of this Agreement or any of the regulations have not been fully complied with by the School Food Authority. Any termination of this Agreement by the State Agency shall be in accordance with applicable laws and regulations.

7. The terms of this Agreement shall not be modified or changed in any way other than by the consent in writing of both parties hereto.

RECORD-KEEPING REQUIREMENTS

The School Food Authority shall keep full and accurate records of the CNP to serve as a basis for audit and review purposes. The records to be kept with respect to each program include the following:

1. ***Food Service***
   a. Daily number of meals served to children by type of meal
   b. Daily number of meals served to children by category: free, reduced-price, or full-price
   c. Daily number of half-pints of milk served to children in the Nonpricing and Option 2 Pricing program of the SMP
   d. Daily number of half-pints served free and to paying children in the Option 1 Pricing program choice of the SMP
   e. Cycle menus, food production records, nutrient analyses (if required), etc.
   f. Inventory of purchased foods and a perpetual inventory of USDA-Donated Foods.

2. ***Program Income (Receipts [OCAS Coding])***
   a. From children's payments
   b. From federal reimbursement
   c. From state matching
   d. From food sales to adults
   e. From all à la carte sales
   f. From all other sources

3. ***Program Expenditures*** (Supported by invoices, receipts, or other evidence of expenditures [OCAS coding])
   a. For food
   b. For labor
   c. For all other expenditures

4. ***Value of Donations to Program***
   a. Donated food, exclusive of foods donated by USDA
   b. Donated services
   c. All donations other than food and services

The authorized representative, whose signature appears on the Certificate of Authority/ Authorized User Form, certifies the following: By signing this report, I certify to the best of my knowledge and belief that the report is true, complete and accurate and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious, or fraudulent information or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims, or otherwise. This person signs or electronically submits and accepts final responsibility for the monthly claim for reimbursement and receives all correspondence from the State Agency.