

**TEXAS DEPARTMENT OF AGRICULTURE
FOOD AND NUTRITION DIVISION**

**START-UP OR EXPANSION PAYMENTS AGREEMENT
FOR DAY CARE HOME SPONSORS**

The Texas Department of Agriculture, hereinafter referred to as TDA, and _____, hereinafter referred to as Contracting Entity, do hereby make and enter into this Agreement, as required by the National School Lunch Act (Section 17) and the Child and Adult Care Food Program, hereinafter referred to as CACFP, Federal Code of Regulations (7 CFR 226).

I. MUTUAL AGREEMENT

The parties mutually agree:

- A. If the Contracting Entity fails to provide services in accordance with the provisions of the contract, TDA may, upon written notice of default to the Contracting Entity, immediately terminate in whole or in part this contract, including refusal to make start-up or expansion payments, and such termination shall not be an exclusive remedy but shall be in addition to any other rights or remedies provided by law or under this contract.
- B. If federal or state laws or other requirements are amended or judicially interpreted so that the continued fulfillment of this contract, on the part of either party, is substantially unreasonable or impossible, or if the parties are unable to agree upon any amendment which would therefore be needed to enable the substantial continuation of the services contemplated by this contract then, the parties shall be discharged from any further obligations created under the terms of this contract, except for the equitable settlement of the respective accrued interest or obligations, including audit findings, incurred up to the date of termination.
- C. This contract may be canceled by mutual consent. However, if such mutual consent cannot be attained, then and in that event, either party to this contract may consider it to be canceled without cause by giving thirty (30) days notice in writing to the other party and this contract shall thereupon be canceled upon the expiration of such thirty (30) day period. Nothing in this paragraph shall be construed to prohibit immediate cancellation pursuant to above paragraphs A and/or B.

II. CONTRACTOR PROGRAM ADMINISTRATION AND FINANCIAL MANAGEMENT

- A. The Contracting Entity will comply with the CACFP Federal Regulations (7 CFR 226), Uniform Federal Assistance Regulation (7 CFR 3015), and state policies and procedures as issued and amended by TDA. The Contracting Entity further agrees to perform as described in its application (including supporting documents and approved amendments to the application) for start-up or expansion payments and in its application for participation in the CACFP.
- B. The Contracting Entity provides or accepts responsibility for the provision of organized, non-residential child care and submits for TDA approval only those applications for day care homes which have entered into an agreement with the Contracting Entity for the administration of the CACFP.

- C. The Contracting Entity will immediately report to the Texas Department of Protective and Regulatory Services, or appropriate licensing authority, any suspected violations of licensing standards or suspected abuse of children in sponsored day care homes.

III. CACFP RECORD KEEPING

- A. The Contracting Entity will keep financial and supporting documents, statistical records, and any other records pertinent to the services for which start-up or expansion payments are provided. The records and documents will be kept in the manner and detail prescribed by TDA for a minimum of 3 years after the termination of the contract period. If any litigation, claim or audit involving these records begins before such period expires, the Contracting Entity will keep the records and documents for not less than 3 years and until all litigation, claims or audit findings are resolved. The case is considered resolved when there is a final order issued in litigation, or a written agreement is entered into between TDA and the Contracting Entity. The Contracting Entity will keep records of nonexpendable property acquired under the contract for 3 years after final disposition of the property. Contract period means the beginning date through the ending date specified in the original agreement; extensions are considered to be separate contract periods.
- B. The Contracting Entity and its subcontractors (day care homes) will allow TDA and USDA officials and other appropriate officials determined by TDA to inspect facilities and records and to audit, examine, and copy records at any reasonable time. This includes access to all records of costs paid, even in part, by TDA.

IV. CIVIL RIGHTS POLICY COMPLIANCE

- A. The Contracting Entity agrees to comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112), the Americans with Disabilities Act of 1990 (Public Law 101-336), Title IX of the Education Amendments of 1972 (7 CFR 15a), the Age Discrimination Act of 1975 (Public Law 94-135), and all amendments to each, and all requirements imposed by the regulations issued pursuant to these acts.
- B. This assurance is given in consideration of and for the purpose of obtaining any and all federal financial assistance, grants and loans of federal funds, reimbursable expenditures, grant or donation of federal property and interest in property, the detail of federal personnel, the sale and lease of, and the permission to use, federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease or furnishing of services to the recipient, or any improvements made with federal financial assistance extended to the program applicant by TDA. This includes a federal agreement, arrangement, or other contract which has as one of its purposes the provision of cash assistance extended in reliance on the representation and agreements made in this assurance.
- C. By accepting the assurance, the Contracting Entity will compile data, retain records, and submit reports as required, to permit effective enforcement of Title VI and VII and permit authorized TDA personnel at any reasonable time to review such records, books, and accounts as needed to ascertain compliance with Title VI and VII of the Civil Rights Act of 1964. If there are any violations of this assurance, TDA has the right to seek judicial enforcement of this assurance. This assurance is binding on the Contracting Entity and assignees as long as it receives assistance or retains possession of any assistance from TDA. The person whose signature appears on this contract is authorized to sign assurances on behalf of the Contracting Entity.

V. TDA START-UP AND EXPANSION PAYMENTS

TDA, will, subject to the federal appropriation and availability to TDA of sufficient funds for CACFP make the following start-up or expansion payment to the Contracting Entity:

Start-Up \$_____ Expansion \$_____

No reimbursement shall be made for performance under this agreement occurring prior to (a) the beginning effective date of this agreement or (b) a later date established by TDA based on the date of receipt of a fully executed copy of this agreement. The amount of payment shall not exceed the lesser of (1) the amount determined by multiplying the number of day care homes approved for start-up or expansion payment by the rate per home reimbursement level established by USDA, or (2) the start-up or expansion payment budget approved by TDA, or (3) actual costs incurred to initiate the CACFP in accordance with, and during the period of, this agreement.

The Contracting Entity understands that it shall repay to TDA, upon demand, any start-up or expansion payments not expended in accordance with the agreement.

VI. IMMIGRATION

The Contracting Entity agrees to comply with the requirements of the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for any individuals hired after November 6, 1986, who will perform any labor or services under this contract.

VII. CERTIFICATION

The Contracting Entity certifies that all information submitted pursuant to this agreement is true and correct. The Contracting Entity understands that the deliberate misrepresentation or withholding of information is a violation of this contract and may result in prosecution under applicable state and federal statutes.

For the faithful performance of the terms of this contract, the parties hereto in their capacities stated, affix their signatures and bind themselves.

Name of Authorized Representative of Contracting Entity	Title of Authorized Representative
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Signature of Authorized Representative	Date
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TEXAS DEPARTMENT OF AGRICULTURE

Effective Dates From _____ Through _____

Signature of TDA Representative	Date
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