



TEXAS DEPARTMENT OF AGRICULTURE GRANT AGREEMENT

GRANT RECIPIENT	El Pasoans Fighting Hunger		
AGREEMENT NUMBER	FND-PR9650-FY2025		
GRANT PROGRAM	Commercial Warehouse and Food Distribution Services for Region 7		
PROJECT TITLE	USDA Foods & Commodity Operations		
PERFORMANCE PERIOD/ AGREEMENT TERM	July 1, 2025	through	May 31, 2026

AUTHORITY AND PURPOSE

The Texas Department of Agriculture's Food and Nutrition Division (TDA's F&N), contracts with and provides nutritional assistance on behalf of the USDA to Contracting Entities (CEs) primarily serving children throughout the state. This agreement sets forth the obligations of the parties for storage services and food deliveries, along with the terms and conditions. TDA's F&N, is responsible for contract management, but payment for the storage services and food deliveries will be made directly by the CEs.

PROJECT DESCRIPTION

The National School Lunch Program (NSLP) is a federally funded assisted meal program, administered by TDA, that provides lunches to Texas children in schools and Residential Childcare Institutions (RCCI). All schools participating in the NSLP are eligible to receive USDA-donated foods. TDA provides storage and distribution services of USDA Foods for participating schools and RCCIs through subrecipient warehousing companies. Grant Recipient will be responsible for receiving food deliveries, storing deliveries in a food-grade warehouse, and/or delivering the food to the end users (the Project).

Grant Recipient agrees to carry out the Project and complete all approved activities in accordance with the terms of this Agreement, including the following Exhibits which are attached hereto and incorporated into this Agreement: Performance Plan and Specific Performance Plan (Exhibit A), Price Sheet (Exhibit B), General Terms and Conditions (Exhibit C), Certifications and Assurances (Exhibit D), FDP Region 7 Delivery Stops (Exhibit E), TDA Commercial Delivery for USDA Foods Regional Map (Exhibit F), and Insurance Requirements (Exhibit G) and to comply with all statutes and regulations as applicable to this award and such regulations and procedures as the Department may prescribe.

TDA will not make direct payment to Grant Recipient for the services, functions and duties required under this Project. CEs will receive and utilize the USDA Foods. Grant Recipients shall be paid by individual CEs according to the approved specified rates for their region. Grant Recipient shall not be entitled to charge a minimum delivery fee under this Contract for any region.

GRANT RECIPIENT	GRANTOR
El Pasoans Fighting Hunger	TEXAS DEPARTMENT OF AGRICULTURE Food and Nutrition Division
9541 Plaza Circle El Paso, Texas 79927	1700 N Congress Ave Austin, TX 78701

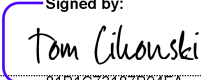
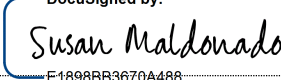
AUTHORIZED SIGNATORY/AUTHORITY TO BIND Each person signing the Agreement certifies that he or she is authorized by the Grantor or Grant Recipient to sign and execute the Agreement and to bind such party to its terms, performances, and conditions.	
BY (AUTHORIZED SIGNATURE): Signed by:  8/25/2025 10:57:55 AM	BY (AUTHORIZED SIGNATURE): DocuSigned by:  E1898BF3679A488
PRINTED NAME AND TITLE OF PERSON SIGNING: Tom Cihonski COO	PRINTED NAME AND TITLE OF PERSON SIGNING: Terry Keel, Deputy Commissioner
DATE SIGNED: 8/25/2025	DATE SIGNED: 8/25/2025

Exhibit A

Performance Plan and Specific Award Conditions

1. Activities/Scope of Work

- a. The Subrecipient shall administer the Project funded under this Agreement and complete the activities described herein in accordance with the timeframes and performance goals outlined. The work performed and activities completed shall be in a manner satisfactory to the Department and consistent with the terms and conditions of this Agreement and applicable statutes and regulations.
- b. The Subrecipient will undertake the following activities and provide the following levels of program services:

The Subrecipient must be able to accept and process orders from USDA's food ordering system, the Web Based Supply Chain Management system (WBSCM), and be responsible for all logistic functions including, but not limited to, receiving truckload commodities from vendors in dry, refrigerated and frozen forms, receiving orders for multiple types of stored commodities from recipients for scheduled delivery dates, loading of trucks including pallets, and delivery of multiple types of commodities to recipients in full and less-than-full truckload quantities, with a potential for dry, cooler, and freezer in a single truck. The storage facility must be capable of storing both dry and temperature-controlled products for the various nutrition programs.

The Subrecipient must be able to track dates product is received into the Subrecipients warehouse and best if used by dates on all external containers and report those to USDA electronically. Subrecipient should have the ability to add additional routes on an as requested basis, including vendor pick up with multi-stop direct deliveries bypassing the warehouse.

2. Background

The National School Lunch Program (NSLP) is a federally funded assisted meal program administered by TDA providing lunches to Texas children in schools and Residential Childcare Institutions (RCCI). All schools participating in NSLP are eligible to receive USDA-donated foods. TDA provides storage and distribution services of USDA Foods for participating schools and RCCIs through subrecipient warehousing companies. The Subrecipient will be responsible for receiving food deliveries, storing deliveries in a food-grade warehouse, and/or delivering the food to the end users. TDA's FND is responsible for the Grant Agreement management, but payment for the storage services and food deliveries will be made by the CEs.

Program Historical Expenditures Information contained within the table shows the total expenditures for the last two (2) years by CE Regions.

All amounts, quantities, and figures provided in this Grant Agreement are estimates based on current information and assumptions. They do not represent actual, guaranteed, or final amounts.

Food Distribution Program (FDP) - Cases Shipped by Region					
Region Totals	County	SY22-23 (Cases Shipped)	SY23-24 (Cases Shipped)	Average	Value SY23-24
7	ALL	16,704	34,208	25,456	\$1,899,136.09

Region Delivery Fee and USDA Foods Value		
Region	Delivery Fees	USDA Foods Value
7	\$124,212.27	\$2,590,573.37

3. Agreement Term

1. Initial Agreement Term:

The initial Agreement term shall commence on the execution date and continue through 05/31/2026, unless sooner terminated under the terms of the Agreement. Any work done outside of the period of performance shall be provided at no cost to TDA.

2. Renewal Option:

The Agreement may be renewed for up to one (1) additional one (1) year period. TDA will notify the Subrecipient of its intent to renew and will send an Agreement amendment to Subrecipient. If the renewal option is exercised, TDA will provide a new timeline and delivery schedule to Subrecipient.

TDA may exercise an option to renew upon thirty (30) calendar days' prior written notice to Subrecipient.

3. Termination:

The Agreement shall terminate upon full performance of all requirements contained in the Agreement, unless otherwise extended or renewed, in accordance with the Agreement terms and conditions.

4. Deliverables

a. Warehouse Storage Services

Subrecipient shall receive inbound shipments directly from USDA, commercial processors, and carriers fresh produce. A shipment of a product may be a full or partial truckload. Additionally:

1. USDA Foods – Inbound shipments of USDA Foods contain one food item per load (approximately 700-2000 cases).
2. Processed foods – Inbound shipments of processed foods are delivered by food manufacturers and contain one or more food items per load. Shipments are not derived from USDA and are not bound by general standards and procedures when receiving shipments of USDA Foods as shown in the FNS Instruction number 709-5 Rev. 4 located at the following link:

<https://fns-prod.azureedge.us/sites/default/files/resource-files/Instruction709-5Rev.4>

3. USDA Foods Fresh Produce – Inbound shipments of fresh produce will contain one product. Subrecipient must monitor USDA Foods fresh produce closely to ensure quality is not compromised. The Subrecipient must inspect the produce upon receipt from the USDA vendor,

and before delivering to a CE to ensure it has not been damaged or spoiled during the delivery and storage process. Subrecipient must review CE delivery orders to ensure the USDA Foods fresh produce is requested for receiving on their next scheduled delivery for optimal quality. Shipments derived from USDA are bound by policies within the FNS Instruction number 709-5 Rev 4.

- b. USDA Foods fresh produce deliveries – Fresh fruit and/or vegetable shipments directly delivered to a warehouse by a USDA vendor, except for apples, cannot be unloaded without an inspection conducted by a USDA representative. USDA representatives will fail any shipment that does not meet USDA specifications as defined in FNS Instruction number 709-5 Rev 4, Section IX, Inspecting the Shipment, part G, Out-of-condition USDA Foods and required notification. The warehouse must immediately notify TDA of failed inspections.
- c. Out of condition USDA Foods delivery – Subrecipient must inspect shipments of USDA Foods before unloading. If upon inspection, Subrecipient observe that a portion of the USDA Foods is in an out-of-condition state (this includes but is not limited to no longer fit for human consumption because of contamination, damage, or infestation) they must immediately inform TDA and provide pictures of the out-of-condition product. The Subrecipient may request reimbursement of costs associated with unloading out-of-condition USDA Food shipments. Neither Subrecipient nor USDA vendor/carrier can assess or levy lumper fees for cargo that shifts during transit.
- d. Shipment Protection
 - 1. Seals – Subrecipient must record the serial numbers of truck door seals and their condition. Consignees shall record inbound, and if applicable, outbound seal numbers. Subrecipient must run a preliminary check of the trailer and product (temperature readings, visible check on pallet and product appearance) but refuse unloading of the shipment and immediately report the results to TDA if seals are either broken, missing, or do not match the number on supporting documentation such as the Bill of Lading (BOL). TDA will then report to USDA for further guidance and/or approval for rejection. Only USDA has the authority to reject USDA Foods shipments. (Note: for split shipments, the driver is issued multiple seals and has an appropriate seal for each stop). This does not apply to Processed End product shipments. Processed end products are defined as raw agriculture commodities undergone any changes to its natural state, I.e., washing, cleaning, milling, cutting, chopping, heating, pasteurizing, blanching, cooking, canning, freezing, drying, and dehydrating.
 - 2. Cabin temperature – The consignee must maintain documentation of the temperature of a freezer or refrigerated truck or trailer upon arrival. Cabin temperature must always be taken and provided to TDA when request for refusal is considered and submitted.
 - 3. Condition of pallets and product – Prior to unloading, Subrecipient must run a preliminary check on the condition of pallets and product to determine if either appears to create an unsafe and/or unsanitary environment to unload. Trailers in suspect condition must be reported to TDA for further guidance.
- e. Pickup appointments – Subrecipient must have a process in place for CEs to submit a CE delivery order or CE pickup order and establish a timeframe the order is to be submitted by the CE prior to the delivery date. Subrecipient must inform TDA of the process to be used and the timeframe established at the time of execution of this Agreement. The Subrecipient must immediately inform TDA whenever process or timeframe changes.

1. Notification of changes to pick-up appointments – Subrecipient must provide advance written communication to the CE in the event the pickup appointment will not be honored for the scheduled pickup date and time. Within the communication, the Subrecipient must request a new date and time to which the CE must agree to. If a CE fails to provide advance notice to Subrecipient that no one will be available to receive a regularly scheduled pickup, or that the CE will refuse any part or all the items on the delivery order, (and the Distribution Subrecipient attempts to make the delivery) the Distribution Subrecipient may charge the CE the appropriate contracted rate for the delivery not accepted by the CE. TDA must be notified of these changes, and these must be tracked separately from normal invoice charges submitted to TDA quarterly.
2. Exchange in possession of USDA Foods items - Pickup areas – when CEs pick up USDA Foods, Subrecipient must bring the foods across the receiving platform on exchangeable and returnable pallets. Subrecipient is responsible for loading the food into the CEs truck.
3. Pickup fees - Subrecipient must invoice CEs for the pick-up of USDA Foods, according to the number of cases or units, at rates not exceeding contracted rates. The pick-up fees will also include the per case handling cost proposed in Exhibit B, Price Sheet.
4. Non-service sites - In some cases, there may be a CE that has a site (non-service site) that is outside their assigned Subrecipient's service region. In this case, TDA may approve the non-service site to pick up USDA Foods from Subrecipient that do not typically service the non-service site.
5. Termination of the Agreement
 - a. In the event of termination, or at the end of the Agreement, TDA will require CEs to take possession of inventory that has been allocated to them before a date specified by TDA.
 - b. If a CE requests to transfer their allocated inventory to the new Subrecipient's designated warehouse, the expiring Warehouse Subrecipient and CE negotiate the pick-up fees.
 - c. The expiring Warehouse Subrecipient may not charge a pickup fee for transferring available inventory (not yet allocated to CEs) to the new Warehouse Subrecipient.
- f. Forced deliveries (items stored in the cooler) Dairy, fresh produce, and other sensitive shelf-life items stored in the cooler must be distributed no later than 45-60 days from the date of receipt. Distribution Subrecipient, in coordination with Warehouse Subrecipient, must attempt to deliver allocated cooler items to the CE upon the next available delivery date. The Subrecipient is responsible for adding cooler items to delivery orders left off by the CE. CEs that refuse any cooler items upon delivery will still be charged for the delivery fee.

5. Warehousing

- a. Facility Requirements
 1. Capacity – The Subrecipient must have sufficient storage space to always handle all inbound shipments including abnormal peak loads, at no additional cost to TDA or CEs. The number of cases expected to be on hand at any given time varies depending on the flow of inbound and outbound shipments.
 2. Inspection - At their sole discretion, TDA, USDA, their agents, or representatives, will inspect Subrecipient's facilities and/or Subrecipient's facilities. Inspections may be scheduled or unannounced. Subrecipient must cooperate with all inspections, including an annual inventory review. Inspections are to help ensure that the Subrecipient is complying with all terms and conditions of this Agreement and USDA requirements are met, including but not limited to

sanitation, security, and temperature. Subrecipient must comply with State, Federal and local health requirements.

b. Insurance Coverage for USDA Foods

1. Subrecipient shall carry insurance in the types and amounts indicated in Exhibit G, Insurance Requirements.
2. Within thirty (30) days of execution of this agreement, Subrecipient will submit to TDA, proof of insurance. The insurance must be of an amount no less than the applicable amount listed in Table 1 below, which sets the insurance amount by contracted region according to the volume of product stored in the regional warehouse from the prior year.

USDA Foods Value to Insure	
Region	USDA Value
7	\$72,945.00

3. The insurance must be renewed annually, thirty (30) calendar days prior to the Agreement renewal effective date. TDA will determine the required insurance amount at renewal based on a region's average volume during the Agreement year. TDA will calculate each region's average volume.
4. The insurance coverage is to protect the value of the USDA Foods stored at the Subrecipient's facility per 7 CFR 250.12(f)(5).

c. Facility Location

1. Warehouse relocation – Subrecipient must submit in writing to TDA any request to relocate a pre-existing Subrecipient warehouse at least 60 days in advance of a proposed relocation. TDA, in its sole discretion, may either approve or deny the request in writing. Relocation requests submitted less than 60 days in advance and subsequently approved by TDA may be imposed a destination fee by TDA, USDA, or a USDA vendor.
 2. Subrecipient Warehouse – Subrecipient must obtain written approval from TDA before storing USDA Foods at any facility other than the Subrecipient's warehouse. The approval process to subcontract the storage of USDA Foods may include a site visit by TDA. Subrecipient is responsible for any USDA Foods loss by its Subcontractor and for pursuing recovery of funds or product from its Subcontractor. If the subcontracted facility is the destination for inbound USDA Foods, changes to the address or location of a Subcontractor must be submitted to TDA 60 days in advance of the proposed implementation. Requests submitting and subsequently approved by TDA may be assessed a destination fee by TDA, USDA, or a USDA vendor.
 3. Subrecipient is required to ensure that its subcontractors adhere to the Agreement terms and conditions, including FNS Instruction number 709-5 Rev 4 3. Subrecipient must also ensure subcontractors cooperate with USDA and TDA's inspectors, reviewers and auditors, or their authorized agents and representatives.
 4. Subrecipient is held responsible for all losses under the Agreement.
- d. Temporary Facilities - Should a temporary facility be needed before receiving written approval from TDA, Subrecipient must immediately acquire verbal approval from the designated TDAs Contract Manager, and provide the name and location of the facility, term of temporary use, and ensure the facility is sufficiently equipped to handle foods as set forth by this Agreement. The verbal approval will be followed by an email from the designated TDA Contract Manager confirming the temporary approval basis. Any and all losses, thefts, or damage of USDA Foods occurring at a temporary facility is the responsibility of Subrecipient.
- e. Storage Fees - Storage fees encourage the movement and distribution of USDA Foods in a timely manner to prevent products going out-of-condition. Storage fees may begin to accrue only after the

USDA Foods shipment has been received and the CE has been allocated quantities from the shipment. The subrecipient shall indicate the storage fees and timeframes for free and private storage on Exhibit B, Price Sheet.

1. Free storage – Subrecipient must establish a defined timeframe for free storage for CEs no less than 30 days from the date of allocation of the USDA Foods shipment.
 2. Private storage – Subrecipient may charge CEs a storage rate not to exceed the contracted private storage rates (per case, per month), by storage type. Storage rates cannot be applied until 30 days from the date the Subrecipient have received shipment of the item to be charged. Subrecipient may charge CEs an elevated fee the longer items are stored.
 3. Surplus Inventory - To fulfill USDA truckload order requirements, TDA may order additional volume of USDA Foods beyond CE demand. CEs can acquire surplus inventory upon request, to which, it is then allocated. Subrecipients cannot charge TDA private storage fees while it is considered surplus inventory.
 4. TDA requires Subrecipient to provide TDA with an annual summary of delivery and private storage fees paid to them by schools, no later than July 30th of each Agreement year.
 5. The Subrecipient must have a system for generating invoices for private storage and delivery fees. TDA requires Subrecipient to submit quarterly reports (July-September, October-December, January-March, April-June) of fees invoiced to CEs. The report should indicate what invoices have been paid by CEs. Upon execution of this Agreement, Subrecipients must identify what system will be used to generate invoices.
- f. Sanitation
1. Pest control – Subrecipient must conduct pest and rodent control, at least monthly, and retain records to verify compliance. Employees must be trained to detect signs of infestation by insects and rodents, to correct such problems, and to prevent infestation problems from spreading.
 2. Chemical storage – Subrecipient must ensure that USDA Foods are stored away from chemicals or other potentially harmful products and otherwise ensure that USDA products and/or packaging are protected from contamination and from absorbing odors through the packaging.
 3. Cleaning – Subrecipient must maintain and keep clean all warehouse facilities, trucks, and other spaces used for storing or transporting USDA Foods.
- g. Storage temperature requirements - TDA requires Subrecipient to maintain logs and record temperatures in each storage area for USDA Foods at a minimum every other day. If closed on Saturday and Sunday, the Subrecipient must record temperatures on Friday and Monday.
- i. Frozen items must be stored at 0°F or below.
 - ii. Chilled items must be stored in refrigerated space at a temperature between 35°F and 45°F.
 - iii. For dry storage for canned items and other USDA Foods, temperatures between 50- and 70-degrees Fahrenheit are recommended per industry standards. Temperatures for dry storage of canned and other USDA Foods shall not exceed 85 degrees. The dry storage area must be well ventilated with forced air.
- h. Dry, special care - To prevent infestation and deterioration in quality, Subrecipient must give special care to some packaged, bagged, or canned dry storage USDA Foods. Subrecipient must store grain products (e.g. flour, non-fat dry milk, pasta, rice) in chilled storage. Chilled storage rates will apply. Dry items stored in the cooler must not be returned to dry storage at any time and must be delivered with chilled items to CEs (or stacked on same pallet as chilled items for CE pickup).
- i. Subrecipient must refrigerate these products at 35-45°F or less, with relative humidity not greater than 60 percent (%).
 - ii. Other dry storage USDA Foods requiring special care must be carefully stacked and stored to prevent crushing or deterioration.
- i. Inventory management

1. Stock rotation – Subrecipient must typically rotate stock on a First In, First Out (FIFO) basis by date of receipt, but dates found on the package (expiration, best-if-used-by, or use-by) must be considered in the overall management of inventory rotation. In this case, First In, First Expiring (FIFE) must be applied when succeeding shipments have dates that may impact FIFO. TDA may require Subrecipient to bypass FIFO if a CE's decision to delay timely receipt of their USDA Foods allocations, including processed end products, causes another CE to receive product older than the product that was allocated to them.
2. Comingling prohibited – Subrecipient must store USDA Foods, including processed end products in lot numbers, separate from the Subrecipient's commercial foods.
3. Short shelf-life items - For short shelf-life items, which include but is not limited to, cooler items, the Subrecipient shall be responsible for adding them to the CE Delivery Order if the CE did not request according to delivery requirements. The Subrecipient must notify the CE before the delivery date by phone or email that the order was modified to include these items.
4. Force Ship Inventory-Inventory sitting past 45 days from date of allocation shall be classified as Force Ship inventory. Upon issuance of the Force Ship Report by TDA, the Subrecipient must place such inventory on the CE's next available Delivery Order, in alignment with the CE's established delivery schedule.
5. Inventory damages – Subrecipient must report to the designated TDA Contract Manager, within 24 hours, on TDA's H1638 SmartSheet Form "Report of Loss of USDA Foods", any damage to USDA Foods, including damage occurring in the warehouse or during transporting and delivery of the USDA Foods to the CEs. The USDA Sales Order Number must be reported within the SmartSheet Form submission and include pictures and any supporting documentation such as condemnation report from a qualified health inspector when completing the SmartSheet Form.

Form H1638-Report of Loss of USDA Foods

The Report of Loss of USDA Foods (Form H1638) is an electronic form used to report a loss of USDA Foods in the National School Lunch Program (NSLP) and other USDA Foods programs, as applicable. The H1638 SmartSheet Form must be completed within 24 hours of identifying the USDA foods loss. All loss submissions shall be subject to review and approval by TDA. TDA reserves the sole discretion to determine the appropriate method of payment for any and all approved losses.

- j. Inventory controls – Subrecipient is required to establish the following inventory control points:
 - i. Warehouse Pick List
 - ii. Bill of Lading (in three parts)
 1. Warehouse Copy: Contains the items from the Warehouse Pick List and is kept on file at the warehouse.
 2. Carrier Copy: Driver and CE signature and Driver returns copy to Warehouse.
 3. CE Copy: Driver and CE signature and CE retains a copy.

Note: Electronic bills of lading must capture signatures, with the date and time of signature, from the driver and CE and the CE must be provided with a copy.
- k. Physical inventory counts
 1. TDA requires Subrecipient to conduct a mid-year physical inventory count no later than December 31st. No later than November 15, the Subrecipient must submit to TDA the dates the physical count is to be conducted.
 2. No later than two (2) business days from the last day of the physical count, Subrecipient will submit results of the mid-year count to TDA via email to CommodityOperations@TexasAgriculture.gov. The results must consist of Subrecipient's

- system perpetual inventory balance and physical count per USDA material item based on case unit measurement.
3. No later than five (5) business days from the last day of the physical count, Subrecipient will be required to make all positive and negative inventory adjustments to their inventory management system to match the physical count results.
 4. No later than two (2) business days from the last day of the system adjustments, Subrecipient is required to submit a post inventory count report to TDA that includes the following data elements:
 - a. System adjustments of inventory per USDA material item (showing gains and losses).
 - b. Adjustments made to State inventory and CE allocated inventory accounts that equate to the system inventory adjustments.
 - c. No later than thirty (30) calendar days after the last day of the physical inventory count, TDA will provide Subrecipient with a reconciliation letter, including the financial results of the Mid-Year Physical Inventory count.
 5. TDA will, at its sole discretion, determine the reasonableness of gains and losses and may require Subrecipient to submit a written plan to address and correct identified inventory control deficiencies.
 6. Cycle inventory counts - In addition to mid and annual inventory counts, Subrecipient shall conduct a first quarter (July – September) and a third quarter (January – March) cycle inventory count. Cycle counts are not considered a full inventory count, but rather a count of select or high-value items in Subrecipient's inventory. The Subrecipient shall determine the items to count, retain cycle count information and provide to TDA on October 15th and April 15th. Losses reported must be submitted on the H1638 SmartSheet Form. For gains, Subrecipient must show the system adjustment record made.
- l. Annual inventory review - Each year, TDA or TDA's agents, along with the designee(s) of Subrecipient, will physically conduct an inventory of all USDA Foods, including foods stored at subcontracting facilities. This review usually takes place annually in May or June before June 30th. During the period designated by TDA for the Annual Inventory Review, Subrecipient must not conduct any outbound shipments of USDA Foods or process any pending CE delivery orders. As feasible as possible, Subrecipient should avoid scheduling inbound shipments of USDA Foods. However, inbound shipments must be accepted if the USDA vendor cannot accept a delivery appointment outside the designated period and/or the shipment arrives from a USDA vendor without an appointment.
 1. At the request of TDA, Subrecipient shall provide equipment to allow TDA and/or TDA's agents to simultaneously count USDA Food stored in a freezer, chilled, and dry storage areas. The Subrecipient shall provide equipment (lifts) with safety cages and safety belts to hold at least three people if required. The Subrecipient will furnish freezer outerwear (freezer coats as may be necessary).
 2. During the annual inventory review, TDA and/or TDA's agents will compare the physical count to a current inventory generated from Subrecipient's inventory system. The dollar amount of gains (overages) and losses (shortages) of USDA Food products are calculated using USDA's current list of food prices.
 - m. Annual physical inventory: final count - On the day of and when the Annual Physical Inventory Review is complete, TDA (or TDA's agents) and Subrecipient must agree to the number of cases, packages, or containers of each USDA product counted, including the number at subcontracting facilities, and each must sign the inventory count sheets to affirm agreement with the results. If a discrepancy is determined and no agreement is met, Subrecipient and TDA must conduct a recount of the product(s) in question. If a continuation of a non-resolution occurs, TDA will make the final determination and approval.

- n. Annual physical inventory reconciliation - No later than thirty (30) calendar days after the physical inventory count, TDA will provide Subrecipient with a reconciliation letter, including the results of the Annual Physical Inventory count. No later than thirty (30) calendar days after receipt of TDA's reconciliation letter, Subrecipient will provide its response to TDA's findings.
- o. Annual physical inventory losses are defined below. However, TDA reserves the right, at its sole discretion, to determine the method of payment the Subrecipient shall utilize in satisfying any such losses.
 1. Shortages of available inventory – Subrecipient must pay TDA for the value of the unallocated inventory of USDA Foods lost (shortages).
 2. Shortages of allocated inventory – Allocated USDA Foods remains as overall TDA inventory, but the CE is responsible for utilization throughout the school year. Subrecipient must reconcile losses by negotiating with the CEs directly. At the CEs option, Subrecipient must either replace the lost product with a product of equal value and equal (or greater) quality or pay the CE the value in cash. When the allocated inventory is transferred from one CE to another, the inventory maintains its original allocation date. The CE that accepts the transferred inventory must take possession of the inventory on the next scheduled delivery.
 3. Shortages processed inventory – Subrecipient must pay the CE a check cash payment that compensates the CE for the value of processed foods lost. TDA, at its sole discretion, will provide Subrecipient with the processed food loss value.
- p. Physical inventory gains (overages) - TDA reserves the sole right to make the determination, and not subject to Subrecipient dispute or discussion, to allow Subrecipient to offset shortages with gains, thus reducing the total loss recorded from the Annual and Mid-Year inventory counts TDA will determine reasonableness for the quantity of gains or losses identified during the inventory count and decide if offsetting is appropriate. TDA reserves the right to forgo offsetting gains with losses if deemed unreasonable. TDA retains the sole discretion to determine what may or may not constitute an unreasonable quantity of gain or loss, and will consider factors including, but not limited to:
 - The annual volume handled by Subrecipient.
 - Subrecipient's previous history of performance, including any gains and losses from previous years.
 - Industry standards regarding gains and losses.
 - The gain and loss rates of other TDA Subrecipients.
- q. If TDA allows Subrecipient to offset gains with losses, the following applies:
 1. Subrecipient and/or TDA must investigate any shortages identified during the physical count to determine the cause of the shortage(s). The results of the investigation must be supported by appropriate documentation. TDA, at its sole discretion, will review for approval, and acceptance of the investigation.
 2. Any losses resulting from fraud, theft, or negligence, as determined by TDA, cannot be offset with a gain.
 3. Unless required by TDA, USDA Foods included in the offset are not required to be of a like or similar kind.
 4. Bonus and entitlement USDA Foods may be used for offsets.
 5. Offsets are made based on value, not weight.
 6. TDA must approve proposed offsets and may adjust proposed offsets if doing so is in the best interest of the program. (Note: Subrecipients choosing to offset shortages with gains must provide TDA with a list of proposed offsets within 30 days of completion of the physical inventory count.) TDA will approve or disapprove proposed offsets based on available information, the terms of this Agreement, and the following factors:
 7. The value of the proposed offsets.

8. The volume of USDA Foods involved in the proposed offsets.
 9. The desirability of USDA Foods identified as overages and whether the foods can be distributed efficiently and without waste.
 10. Subrecipient's previous history of offsets; and
 11. The results of an investigation by Subrecipient and TDA as to the cause or causes for the discrepancies.
 12. In addition, TDA expects Subrecipient to establish Control Procedures to minimize Physical Inventory Gains (Overages). TDA may require Subrecipient to submit a written Corrective Action Plan to demonstrate the changes that will be implemented to fully correct all necessary procedures to reduce gains or losses.
- r. Warehouse Subrecipient inventory and invoice management system
1. TDA requires Warehouse Subrecipient to utilize its own TDA approved inventory management software (maintained by Warehouse Subrecipient and TDA) to track and report the receipt, expiration dates/best-if-used-by (BIUB) dates, storage, and distribution of USDA Foods. Invoicing is the responsibility of the Warehouse Subrecipient and will be completed and maintained by Warehouse Subrecipient using their invoicing system. The submission of Subrecipient inventory reports will be used as the official record of inventory and delivery of USDA Foods.
 2. Warehouse Subrecipient inventory management system must have Microsoft Excel compatibility. The inventory management system must have the functionality to track the receipt, expiration dates/BIUB dates, storage, distribution of USDA Foods, inventory lot reports, warehouse on hand inventory reports, private storage reports, and invoicing functions.
 3. Minimum data elements and milestones – Warehouse Subrecipient' inventory management system and/or other tracking processes must document the following data elements, which include but are not limited to:
 - a. Receipt of USDA Foods shipments
 - b. USDA sales order number and sales order item number (for foods originating from USDA vendors)
 - c. Processed end product shipment order number (derived from processor/manufacturer)
 - d. USDA Foods/processor end product material description and pack size
 - e. Date of physical receipt
 - f. Total quantity (in cases) accepted and received into inventory
 - g. Bin storage locations/lot number
 - h. Pack dates
 - i. If applicable: Use-by, BIUB, or expiration dates on casing and/or unit packaging
 4. Inventory tracking
 - a. Material code/description, pack size, quantity, and date of allocation of USDA Foods to CEs
 - b. Inventory adjustments, adjustment reasoning, and date of adjustment (at material and CE level)
 - c. Free and private storage (45+ days)
 5. Delivery orders
 - a. Generated delivery order number
 - b. Date of delivery
 - c. CE, material code/description, quantity shipped, quantity accepted by CE
 6. Invoicing
 - a. Associated generated delivery order number(s)
 - b. CE, material code/description, quantity, storage charge (if applicable)

7. The inventory management system must have a username and password login for all involved in the daily operations of USDA Foods.
8. Warehouse Subrecipient must submit reports to TDA when requested in an EXCEL format and follow any standardized template provided.
9. Web Based Supply Management System (WBSCM). Subrecipient is required to use WBSCM (web-based software implemented and maintained by USDA) to check CE allocations and electronically report the receipt of USDA Foods. WBSCM determines CE allocations per material item per truckload sales order.
 - a. CE allocations - Each USDA Foods truckload sales order will comprise of CE requests, or requisitions, that indicate what the CE demanded and when they planned to have it delivered to the warehouse. WBSCM will be used as the resource for allocations that Subrecipient must then apply to their inventory management system.
 - b. State Allocations (Surplus) – A truckload sales order may have a quantity consisting of requisitions tied to the TDA, or state allocation. Surplus is available inventory, usually on a first come, first serve basis, that CEs can attain. Subrecipient must develop a process to transfer state allocations to CE allocations when CEs claim surplus.
 - c. Subrecipient must enter goods receipt into WBSCM within 24 hours of physical receipt of shipment. If a shipment is received on a Friday and the warehouse is closed on Saturday and/or Sunday, then the shipment must be receipted by Monday or the next business day, whichever comes first.
 - d. WBSCM is a website portal that can be accessed through the Warehouse Subrecipient's computer with internet connectivity. It is recommended to utilize a high-speed internet service for optimal performance.
 - e. WBSCM includes, but is not necessarily limited to, functionality to track the receipt, allocation of USDA Foods and generate reports.
 - f. WBSCM access is controlled by login IDs and passwords, which serve to authenticate the accuracy of data entered.
 - g. WBSCM helpdesk staff supports WBSCM but does not support hardware or software for Subrecipient other than the WBSCM website.
 - h. TDA will provide initial WBSCM training virtually to Warehouse Subrecipient, at a time and place to be determined by TDA. Warehouse Subrecipient is responsible for travel and accommodation costs necessary for WBSCM training. The Subrecipient assumes training responsibilities after the initial TDA training period for any new Subrecipient staff working with WBSCM.
 - i. In addition to maintaining accurate data in WBSCM, Subrecipient must reconcile WBSCM allocation data with its internal inventory system to ensure both systems have accurate information.

6. Distribution Services

- a. Distribution Subrecipient will provide distribution services and must obtain contact information to designated CEs in the form of an email and phone number. A fax number can also be included if the Distribution Subrecipient uses a fax machine in the normal course of business.
- b. CEs may pick up USDA Foods at the Subrecipient's Warehouse storage facility or request delivery by the Distribution Subrecipient. Warehouse Subrecipient must provide delivery requests from the CEs to the Delivery Subrecipient and are responsible for loading and unloading the food on the truck. Delivery Subrecipient will be responsible for invoicing the CE for each case delivered.
- c. Distribution Subrecipient must coordinate deliveries with CEs and deliver those cases and/or units of USDA Foods as requested by a CE. Distribution Subrecipient will coordinate with Warehouse Subrecipient by, but not limited to the following criteria:
- d. Distribution Subrecipient must have logistics software approved by TDA.

- e. Distribution Subrecipient must provide Warehouse Subrecipient with contact information, logistics information, and any pertinent information for the seamless execution of daily operations/deliveries. Both parties will agree to operate harmoniously.
- f. Distribution Subrecipient must obtain 3 copies of the BOL that include all the items ordered per delivery stop and/or any shortages/substitutions.
 - 1. Distribution and Warehouse Copy: Contains the items from the Warehouse Pick List and is signed off by both the Warehouse and Distribution Subrecipients as the handoff of inventory. The Warehouse Subrecipient will keep on file.
 - 2. Distribution Subrecipient Copy: Driver and CE sign. The driver returns the copy to the Distribution company to keep on file.
 - 3. CE Copy: Driver and CE sign and CE retains a copy.
- d. Once the Warehouse Subrecipient has loaded all inventory into the delivery vehicle, Distribution Subrecipient will be responsible for any unforeseen losses caused during transit. Distribution Subrecipient will then need to report the loss within 24 hours of occurrence through the H1638 SmartSheet Form.
- g. The driver must notate on CE's BOL the loss that occurred upon delivery of order. Reconciliation of losses will require TDA assistance.
- h. Distribution Subrecipient will not store any USDA Foods at their distribution facility. Their sole purpose is meant for transporting/distributing USDA Foods.

7. Delivery Schedule

- a. No later than June 1 of each year, and before the distribution of USDA Foods, Distribution Subrecipient must survey CEs and develop a delivery schedule agreement with each and provide TDA with a copy of the delivery schedule. The delivery schedule is effective throughout the year, including holidays and summer months, unless otherwise requested by the CE.
- b. Distribution Subrecipient must obtain from CEs a list of delivery sites, including the addresses and direction to the sites.
- c. Delivery schedules must specify a day during the week, Monday through Friday, and deliveries must occur between 6:30am and 2:30pm. Through an agreement between the CE, Warehouse Subrecipient, and Distribution Subrecipient, the delivery time can be before 6:30am and after 2:30pm. Furthermore, TDA allows key drops upon the agreement of the CE, Warehouse Subrecipient, and Distribution Subrecipient. However, Distribution Subrecipient will have final responsibility for the delivery schedule. Distribution Subrecipient will work with each CE's work schedule and case count to optimize the deliveries across the region. Distribution Subrecipient shall notify TDA of how they intend to setup their delivery schedule.
- d. Changes to delivery schedule - Distribution Subrecipient may negotiate with a CE any changes to the CE's delivery schedule, and after obtaining the CE's agreement, notify the CE and Warehouse Subrecipient of the changes at least 30 days in advance of implementation. Upon mutual agreement, Distribution Subrecipient may immediately implement changes to a CE's delivery schedule. Distribution Subrecipient must provide Warehouse Subrecipient and TDA with a copy of the amended delivery schedule within five (5) calendar days of execution.
- e. Fleet maintenance – Distribution Subrecipient shall maintain a fleet of trucks and trailers to comply with deliverables described in this Agreement. Upon execution of this Agreement, Distribution Subrecipient shall provide the capabilities of their transportation fleet that includes the year, make, and model, the number of owned and or leased trucks and trailers, and maintenance agreements with third parties and/or in-house maintenance capabilities.
- f. Delivery appointments
 - 1. Delivery - Distribution Subrecipient must have a process in place for CEs to submit a CE delivery order and establish a timeframe that the order is to be submitted by the CE prior to the delivery date. Upon execution of this Agreement, Distribution Subrecipient must provide to

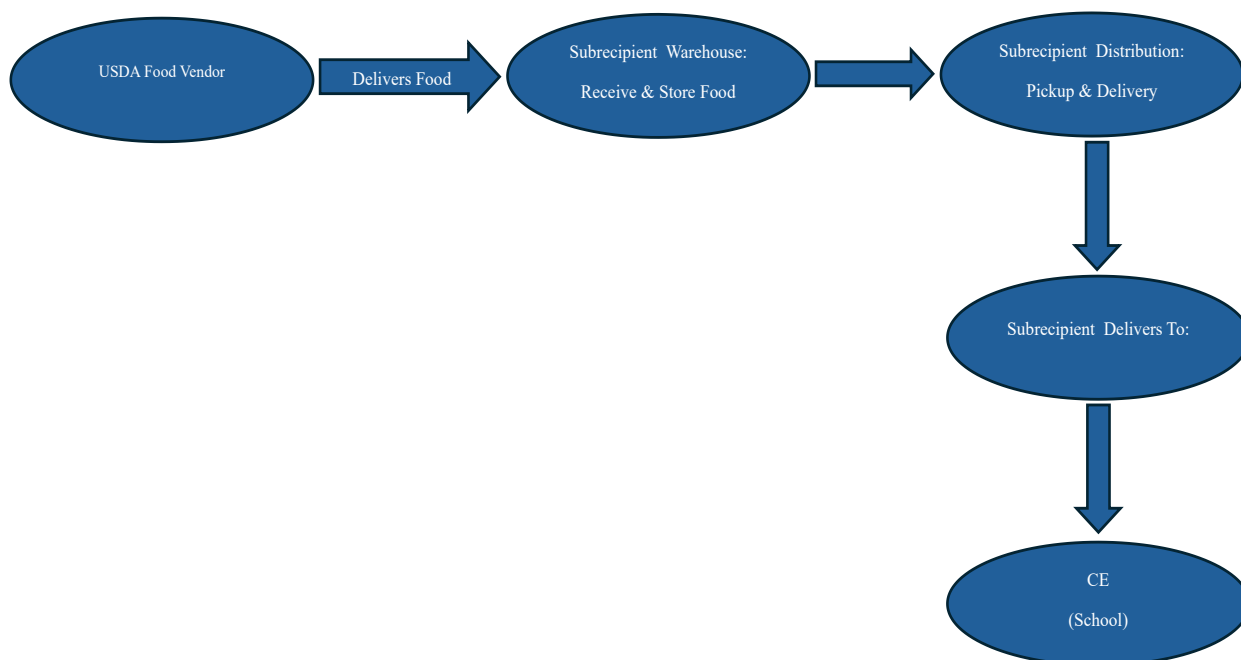
TDA the process to be used and the timeframe established. Subrecipient must immediately inform TDA whenever process or timeframes change.

2. Notification of changes to delivery appointments – Distribution Subrecipient must provide advance written communication to the CE in the event a delivery appointment will not be honored for the scheduled delivery date and time. Within the communication, the Subrecipient must request a new date and time to which the CE must agree to. If a CE fails to provide advance notice to Distribution Subrecipient that no one will be available to receive a regularly scheduled delivery, or that the CE will refuse any part or all the items on the delivery order, (and Distribution Subrecipient attempts to make the delivery) Distribution Subrecipient may charge the CE the appropriate contracted rate for the delivery not accepted by the CE. TDA must be notified of these charges, and these must be tracked separately from normal invoice charges submitted to TDA quarterly.
- g. Delivery vehicle, product, and driver conditions
1. Delivery vehicle conditions - Distribution Subrecipient must transport dry, frozen, and chilled USDA Foods, using temperature- controlled, refrigerated delivery vehicles (frozen foods at 0-10°F and chilled foods at 35-45°F at the time of delivery). TDA requires that Distribution Subrecipient deliver dry foods at 50-70°F. When delivering a cargo that includes USDA Foods requiring different temperature controls (e.g. frozen and dry), Distribution Subrecipient must use bulkhead dividers to separate products, i.e. frozen from chilled, chilled from dry, and dry from frozen. For safety reasons, Distribution Subrecipient must take proper precautions to ensure chemical and nonfood items/products are not included in their delivery vehicles while transporting USDA Foods to CEs. Note: Distribution Subrecipient is not prohibited from carrying USDA Foods and Commercial foods (non-USDA Foods) on a single truck.
 2. Securing Loaded Trucks – Distribution Subrecipient is required to provide reasonable precautions for their delivery trucks, and those of any Subcontractors, to secure against, but not limited to, theft and the possibility of bioterrorism. Distribution Subrecipient is required to ensure delivery trucks are properly locked and secured between delivery drops to the CEs.
 3. Product Conditions – If delivering shrink-wrapped USDA Foods, Distribution Subrecipient must include in the same shrink-wrapped package only products requiring the same temperature controls, this includes but is not limited to, dry with dry, chilled with chilled, and frozen with frozen. Distribution Subrecipient is not allowed to shrink-wrap together any products requiring different temperature controls. The product must be stacked on a pallet in a manner that will avoid damage. Fresh produce should not be placed at the bottom of the stack while heavier items should be placed at the bottom of the stack.
 4. Driver Conditions – Any driver transporting USDA Foods must own and possess a current non-expired Commercial Driver's License (CDL).
- h. Exchange in possession of USDA Foods items
1. Delivery drop areas - Using exchangeable and returnable pallets, Distribution Subrecipient must deliver USDA Foods to designated, secure staging areas of CE's facility, e.g. preparation/distribution site deliveries, which are inside of the door of a walk-in grocery area, freezer, or cooler. Distribution Subrecipient may stack pallets in a delivery truck to maximize space but must unstack pallets when delivered to CE. Drivers are not required to stock shelves nor rotate stock.
 2. Documentation of possession exchange - Drivers must allow CE staff a reasonable amount of time to verify quantity and quality of delivery order before making notes on and signing BOL. A copy of the signed BOL by both parties is provided to the CE.
 3. Goods shall be delivered by the Subrecipient in accordance with the terms of delivery specified within this agreement. CEs may refuse goods based upon damage, unacceptable quality or if an item was not on their order. Items refused must be documented on the BOL to include what items are being refused, the reason for refusal, name of person refusing the product and date of the refusal. CEs may not refuse items they ordered or TDA placed on their order, for other

reasons without prior approval from TDA. If the driver and CE do not agree on the condition of the product for refusal, the refusal must be approved by TDA. Evidence of the product condition, pictures of the product and temperature readings must be provided upon request to TDA to assist with this determination.

- i. Delivery fees - Distribution Subrecipient must invoice CEs for the delivery of USDA Foods, according to the number of cases or units, at rates not exceeding contracted rates. The delivery fees will also include the per case handling cost outlined in Exhibit B, Price Sheet.
 1. Non-Service Sites - In some cases, there may be a CE that has a site (non-service site) that is outside their assigned Subrecipient's service region. In this case, TDA may approve the non-service site to pick up USDA Foods from a Subrecipient that does not typically service the non-service site. See Exhibit F, TDA Commercial Delivery for USDA Foods Regional Map, for details on counties in each region.
- j. The number of stops listed in Exhibit E, FDP Region 6 Delivery Stops, are an approximate number of delivery stops and could be subject to change throughout the course of the Agreement. Reference Section 2 of this Agreement, Table: Food Distribution Program (FDP) – Cases Shipped by Region, and Table: Region Delivery Fee and USDA Foods Value for detailed data.
- k. Subrecipient inventory and invoice management system
 1. TDA requires Subrecipient to utilize their own TDA approved inventory management system (maintained by Subrecipient and TDA) to track the distribution of USDA Foods. Invoicing of delivery fees is the responsibility of the Distribution Subrecipient and will be completed and maintained by Subrecipient using their invoicing system. The submission of Subrecipient inventory reports will be used as the official record of inventory and delivery of USDA Foods.
 2. Minimum data elements and milestones – Subrecipient inventory management system and/or other tracking processes must document the following inventory data elements:
 - i. Delivery orders
 1. Generated delivery order number
 2. Date of delivery
 3. CE, material code/description, quantity shipped, quantity accepted by CE
 - ii. Invoicing
 1. Associated generated delivery order number(s)
 2. CE, material code/description, quantity, delivery charge, fuel surcharge (if applicable)

To provide for a period of transition TDA may overlap a new Subrecipient's initial Agreement period with the Agreement period of another Agreement with an approaching end date.

Warehouse Storage and Distribution Workflow:**8. Reporting Requirements**

The Subrecipient shall maintain records, collect data, and provide reports as requested by TDA. Any reports requested will be submitted via e-mail to designated TDA staff. TDA may utilize these reports as part of its review and oversight of Subrecipient's performance.

The Subrecipient will be responsible for providing weekly status reports to the TDA IT Contract Manager by 12 noon on Friday each week throughout the life of the project.

Reports shall include the following information at a minimum:

- a. Project plan status/progress vs final product delivery by Subrecipient;
- b. Process deliverables;
- c. Status of engagement milestones, emphasizing any past due milestones;
- d. Status of outstanding action items;
- e. Status of engagement deliverables;
- f. Risk summary and mitigation strategies;
- g. Outstanding issue discussions; and
- h. Security issues.

The status report shall identify any problems encountered or still outstanding with an explanation of the cause, clearly identified owners, and a proposed resolution of the problem or how the problem will be resolved.

Status meetings will be scheduled throughout the Project plan.

Subrecipient will be responsible for scheduling and conducting deliverables review meetings to ensure understanding of recommendations and specific deliverable details.

9. Specific Award Conditions

The Subrecipient agrees and assures TDA that it will comply with all the special provisions and requirements of the Agreement described herein. The general terms and conditions contained in Exhibit C will apply as

indicated unless there are statutory, regulatory, or Agreement-specific requirements to the contrary (as specified in this Exhibit).

10. Subrecipient Responsibilities

The Subrecipient is responsible for planning, leading, and executing the work activities that are required for the duration of the Agreement. The Subrecipient is responsible for the following tasks:

- a. Performing background checks on all drivers/employees – Subrecipient must, at the time the Agreement is executed, when new employees are hired, and before all renewals, provide proof of background checks for all drivers and employees who have both direct and indirect involvement in the storage and/or delivery of USDA Foods. The background check requirement includes employees of subcontractor(s) with direct or indirect involvement in the storage and/or delivery of USDA Foods. Within thirty (30) days of a triggering event, Subrecipient will obtain background checks on employees, as required. Subrecipient may obtain background checks from the Texas Department of Public Safety (TDPS). Subrecipient must include, at the time of Agreement execution, their policy of conducting background checks on their employees. If Subrecipient is required to conduct background checks by another state or federal law, a statement to that effect will be accepted. Offenses, which may be detrimental to a Subrecipient's execution of this Agreement, include, but are not limited to:
- b. Driving under the influence, theft, fraud, offenses against the person (i.e., assault), and offenses that indicate an individual potentially poses a threat to children.

TDA, at its sole discretion, may require proof of the background checks, at any time, and require the Subrecipient to replace personnel.

11. Point of Contact

All requests, questions, or other communications about this agreement must be made in writing to TDA's Purchasing and Contracting Office, addressed to the following person:

E-mail: fndusdafoods@texasagriculture.gov

Texas Department of Agriculture
1700 N. Congress, 11th Floor
Austin, TX 78701

12. Amendment

TDA reserves the right to alter, amend or modify any provision of this agreement, or to withdraw this Agreement, at any time prior to award, if it is in the best interest of the State.

13. Texas State Auditor's Office

In accordance with the Texas Government Code, Section 2262.154, Successful Subrecipient understands that acceptance of state funds under this Agreement acts as acceptance of the authority of the Texas State Auditor's Office (SAO) to conduct an audit or investigation in connection with those funds. During the Agreement term, Subrecipient further agrees to cooperate fully with the SAO in the conduct of the audit or investigation, including providing all records requested. The Subrecipient will ensure that this clause concerning the SAO authority to audit state funds and the requirement to cooperate fully with the SAO is included in any subcontracts it awards. Additionally, the SAO shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, audit documentation, and records of Subrecipient relating to this Agreement for any purpose.

Initial

TC

Exhibit B
Price Sheet

Rate Schedule for Private Storage and Pick-Up Fees		
a.	Per case price for Dry Storage at Subrecipient’s Warehouse (after 45 days) of USDA Foods and Processed commodities	\$ 0.90
b.	Per case price for Chilled Storage at Subrecipient’s Warehouse (after 45 days) of USDA Foods and Processed commodities	\$ 0.95
c.	Per case price for Frozen Storage at Subrecipient’s Warehouse (after 45 days) of USDA Foods and Processed commodities	\$ 1.00
d.	Per case price for pick-up by a Recipient Agency (also known as CE) at Subrecipient’s Warehouse	\$ 1.40
e.	Per case price for handling USDA Foods Delivered	\$ -

Initial
TC

Rate Schedule for Delivery Service

Minimum Case Delivery Requirement*:
(If Applicable)

N/A

Note*:

(If Applicable)

N/A

Case(s)			Delivery Rates			Case(s)			Delivery Rates			Case(s)			Delivery Rates		
	1		\$		22.02		41		\$		5.34		81		\$		4.96
	2		\$		17.62		42		\$		5.34		82		\$		4.96
	3		\$		13.21		43		\$		5.34		83		\$		4.96
	4		\$		9.91		44		\$		5.34		84		\$		4.96
	5		\$		7.71		45		\$		5.29		85		\$		4.96
	6		\$		6.61		46		\$		5.29		86		\$		4.96
	7		\$		6.33		47		\$		5.29		87		\$		4.96
	8		\$		6.06		48		\$		5.29		88		\$		4.96
	9		\$		6.06		49		\$		5.29		89		\$		4.96
	10		\$		5.78		50		\$		5.23		90		\$		4.96
	11		\$		5.78		51		\$		5.23		91		\$		4.96
	12		\$		5.78		52		\$		5.23		92		\$		4.96
	13		\$		5.78		53		\$		5.23		93		\$		4.96
	14		\$		5.78		54		\$		5.23		94		\$		4.96
	15		\$		5.68		55		\$		5.17		95		\$		4.96
	16		\$		5.68		56		\$		5.17		96		\$		4.96
	17		\$		5.68		57		\$		5.17		97		\$		4.96
	18		\$		5.68		58		\$		5.17		98		\$		4.96
	19		\$		5.68		59		\$		5.17		99		\$		4.96
	20		\$		5.56		60		\$		5.12		100		\$		4.84
	21		\$		5.56		61		\$		5.12		150		\$		4.84
	22		\$		5.56		62		\$		5.12		200		\$		4.68
	23		\$		5.56		63		\$		5.12		250		\$		4.68
	24		\$		5.56		64		\$		5.12		300		\$		4.68
	25		\$		5.51		65		\$		5.07		350		\$		4.68
	26		\$		5.51		66		\$		5.07		400		\$		4.68
	27		\$		5.51		67		\$		5.07		450		\$		4.68
	28		\$		5.51		68		\$		5.07		500		\$		4.51
	29		\$		5.51		69		\$		5.07		600		\$		4.51
	30		\$		5.45		70		\$		5.01		700		\$		4.51
	31		\$		5.45		71		\$		5.01		800		\$		4.51
	32		\$		5.45		72		\$		5.01		900		\$		4.51
	33		\$		5.45		73		\$		5.01		1000		\$		4.40
	34		\$		5.45		74		\$		5.01		1200		\$		4.40
	35		\$		5.40		75		\$		4.96		1400		\$		4.40
	36		\$		5.40		76		\$		4.96		1600		\$		4.40
	37		\$		5.40		77		\$		4.96		1800		\$		4.40

Case(s)			Delivery Rates			Case(s)			Delivery Rates			Case(s)			Delivery Rates	
	38		\$	5.40			78		\$	4.96			2000		\$	4.40
	39		\$	5.40			79		\$	4.96			2000+		\$	4.24
	40		\$	5.34			80		\$	4.96						

Initial
TC

Exhibit C

General Terms and Conditions

SECTION 1. AVAILABILITY OF FUNDS

The initial provision of funding and the continuation of such funding under the Agreement is expressly dependent upon the actual receipt by the Department of funds appropriated to the Department by the State Legislature from State and/or Federal revenue or such other funding sources as may be applicable. If said funds or any part thereof are or become unavailable, the Department may immediately terminate this Agreement or reduce the Grant Amount, as applicable. A failure of the Department to make any payment under this Agreement or to observe and perform any condition on its part to be performed under the Agreement as a result of the failure of the Legislature to appropriate shall not in any manner constitute a breach of the Agreement by the Department or an event of default under the Agreement and the Department shall not be held liable for any breach of the Agreement because of the absence of available funding appropriations.

SECTION 2. ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES AND ACCOUNTING STANDARDS

Grant Recipient shall comply with, to the extent applicable, the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), and the Texas Grant Management Standards (TxGMS) promulgated by the Texas Comptroller of Public Accounts pursuant to the Uniform Grant and Contract Management Act (Tex. Gov't. Code Chapter 783). Grant Recipient agrees to adhere to the administrative requirements, accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred under the award.

SECTION 3. METHOD OF PAYMENT

A. Funds will be disbursed for actual eligible costs incurred by Grant Recipient in connection with this Agreement. Determination of allowable costs shall be made in accordance with applicable government-wide cost principles under 2 CFR 200 Subpart E, the TxGMS, this Agreement, and the provisions of such regulations and procedures as the Department may prescribe.

B. Payment requests shall be submitted to the Department in the manner required by the Department. Payment shall be made on an eligible cost reimbursement basis only and in such amounts and increments approved by the Department for various phases of work following submission by the Grant Recipient of a proper request for payment, including applicable, accurate and complete supporting documentation that substantiates the payment request in accordance with the Performance Plan and the Project Budget. The Department may deny a payment request if the Department determines that the request is not supported by sufficient documentation.

C. The Department will not reimburse Grant Recipient for any costs incurred either prior to the effective date of the Agreement or after the termination or expiration date of the Agreement, unless otherwise stated herein or agreed to in writing by the Department.

D. The Department will not make final payment to the Grant Recipient until all reports and deliverables required under the Agreement have been submitted to the Department in an acceptable form.

SECTION 4. REPORTING REQUIREMENTS

- A. Grant Recipient shall submit timely, complete, and accurate progress/performance/financial reports in the manner and form specified by the Department. These reports shall be submitted to the Department on a periodic basis, as prescribed in the Specific Award Conditions (Exhibit A).
- B. Agreement obligations will remain in force until all final reports are reviewed and approved by the Department. The final report shall include a comparison of actual expenditures with the budget line items shown in the Project Budget.
- C. Extensions to the reporting due dates prescribed in the Specific Award Conditions may be granted by the Department upon receipt of a written request from Grant Recipient.
- D. If reports are not submitted by Grant Recipient as required, the Department may, in its sole discretion, withhold payments under this Agreement or any other grant agreement entered into between the Department and Grant Recipient, terminate this award, or initiate other remedies for noncompliance as appropriate and permitted under this Agreement, 2 CFR 200 Subpart D, or the TxGMS.

SECTION 5. RECORD RETENTION

- A. Grant Recipient shall maintain all financial records, supporting documents, statistical records, and all other records relating to the performance of the grant award for a period of four (4) years from the date of submission of the final performance report to the Department. If any litigation, claim, audit, administrative review or other action is initiated before the expiration of the record retention period, all records and supporting documents shall be retained until all issues and matters are resolved and final action taken.
- B. The Department reserves the right to direct Grant Recipient to retain documents for a longer period or transfer certain records to Department custody when it is determined the records possess longer term retention value.
- C. Grant Recipient shall include the substance of this Section in all subawards and subcontracts.

SECTION 6. INSPECTIONS AND MONITORING

- A. Grant Recipient shall monitor the performance of all activities undertaken pursuant to this Agreement to assure that projected work and tasks are being accomplished, and other performance goals are being achieved. The Grant Recipient is accountable to the Department for the use of the funds provided and shall ensure the award is administered in compliance with applicable requirements.
- B. Grant Recipient agrees to notify the Department in writing of any circumstances or conditions that may negatively affect or are negatively affecting performance as soon as they are known. These conditions include but are not limited to circumstances and problems that prevent the meeting of time schedules and goals or preclude the attainment of project work within established time periods. In its notification, Grant Recipient shall include a statement of the action taken or contemplated by Grant Recipient to correct the problems and the time frame within which corrective action will be taken.
- C. The Department may, at any time, require that Grant Recipient provide such other information as is deemed necessary by the Department to enable it to fully monitor the Agreement and award.

D. The Department may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits, inspections or monitoring reviews. The Department may require the Grant Recipient to take timely and appropriate action on all deficiencies pertaining to the award detected through audits, inspections, reviews, and other means. In response to audit deficiencies or other findings of noncompliance with this Agreement, the Department may impose additional conditions on the use of funds to ensure future compliance. Failure of Grant Recipient to take timely and appropriate action on all deficiencies may result in the withholding or suspension of funds under the Agreement, termination of the award, or any other remedy which may be available to the Department.

E. Grant Recipient understands and agrees that it shall repay funds disbursed to Grant Recipient under this Agreement for disallowed costs identified through audits, inspections or monitoring reviews, and the repayment of such disallowed costs shall be paid by Grant Recipient from non-grant funds. Disallowed costs are those charges determined to not be allowed in accordance with the applicable cost principles or other conditions contained in this Agreement.

SECTION 7. AUDITS, INVESTIGATIONS AND ACCESS TO RECORDS

Grant Recipient agrees to make available to the Department, USDA, the State Auditor's Office, any other appropriate unit or agency of the State or Federal government, and any of their duly authorized representatives, for purposes of audit and examination, all accounting records, books, documents, files and other papers that are pertinent to the award as may be necessary to facilitate the review and audit of Grant Recipient's receipt and use of funds under this award. Such authority to audit and right to access shall continue as long as the records are retained by Grant Recipient. Grant Recipient agrees to cooperate fully with such agencies in the conduct of the audit or investigation. Grant Recipient shall ensure that the substance of this clause concerning the authority to audit funds and the requirement to cooperate is included in all subawards and contracts it awards.

SECTION 8. MODIFICATIONS AND AMENDMENTS

A. Any alterations, additions, or deletions to the terms of this Agreement shall be by amendment in writing and executed by the parties to the Agreement.

B. A request for modification or amendment to the Agreement shall be submitted to the Department in writing, including an explanation or justification for the request, no later than thirty (30) days prior to the end of the agreement term. A request for an extension must be supported by documentation of extenuating or unforeseeable circumstances beyond Grant Recipient's control which prevented completion of the Project within the agreement term and include a revised performance plan and schedule. Requests may be submitted to the Department for approval less than thirty (30) days prior to the end of the agreement term but only for good cause as determined by the Department based on the justification submitted with the request.

C. Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in Federal or State laws or regulations are automatically incorporated into this Agreement without written amendment and shall become effective on the date designated by such law or regulation.

SECTION 9. INDEMNIFICATION

A. To the extent allowed by law and the Constitution of the State of Texas, Grant Recipient and the Department shall each be responsible for the acts or omissions of their respective agents and employees.

B. Grant Recipient shall indemnify and hold harmless the Department, its officers, agents, employees and representatives from any and all liability, actions, claims, demands or suits, and all related costs, attorney fees and expenses arising out of or related to (1) the work, services, or materials provided under this Agreement; (2) any failure of Grant Recipient to perform its obligations under this Agreement; or (3) any improper or deficient performance of such contractual obligations. The Department shall not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this Agreement.

C. This Section shall survive the expiration or termination of the Agreement.

SECTION 10. SUSPENSION AND TERMINATION

A. Termination for Cause: If the Department determines that Grant Recipient has committed a material breach or default of any warranty, obligation or agreement under this Agreement, failed to fulfill or perform any obligation under this Agreement, or failed to comply with any of the terms or conditions of this Agreement, in whole or in part, and such breach, default or failure is not cured within fourteen (14) days after the Department's notice or such longer period as the Department may specify in such notice, the Department may place Grant Recipient in default status and take any or all of the following actions:

1. Suspend activities under the Agreement upon thirty (30) days advance written notice by the Department and withhold further payments. The notice of suspension shall state the reason for the action, the effective date of the suspension, the corrective action that must be taken and the time period during which the corrective action must be accomplished.
2. Terminate the Agreement for cause, in whole or in part, upon thirty (30) days advance written notice by the Department. The notice of termination shall state the reason for the action, the effective date of the termination and the closeout procedures to be followed. As of the effective date of termination for cause, Grant Recipient shall immediately cease incurring additional obligations of award funds. Grant Recipient shall have no right to utilize award funds to pay any costs incurred after the effective date of a termination for cause.
3. Terminate the Agreement for cause, in whole or in part, immediately effective upon notice, whenever the Department determines that Grant Recipient has jeopardized the safety and welfare of the public, materially failed to comply with the terms and conditions of the Agreement, or whenever the fiscal or programmatic integrity of the Agreement has been compromised. The notice of termination pursuant to this provision shall state the reason for the action, the effective date of the termination and closeout procedures to be followed. As of the effective date of such termination for cause, Grant Recipient shall immediately cease incurring additional obligations of award funds. Grant Recipient shall have no right to utilize award funds to pay any costs incurred after the effective date of the termination.

B. Termination for Convenience: Either party may terminate this Agreement at any time for convenience by providing a written notice to the other party at least thirty (30) days in advance of the intended date of termination.

C. Mutual Termination: This Agreement may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.

D. Effect of Termination: Upon receiving a notice of termination of this Agreement, Grant Recipient shall immediately cease all activities under this Agreement unless the Department expressly directs otherwise. Each party shall be released from all obligations to the other party arising after the date of the termination or expiration, except for those that by their terms survive such termination or expiration.

SECTION 11. CORRECTIVE ACTIONS/REMEDIES FOR NONCOMPLIANCE

A. In addition to any other rights or remedies available at law or in equity, if Grant Recipient fails to comply with any term, condition, requirement, or provision of this Agreement, in whole or in part, the Department may take one or more of the following actions:

1. Temporarily withhold payment of funds pending correction of the default by Grant Recipient;
2. Disallow all or part of the cost of the non-compliant activity or action and reduce the Grant Award by such amount;
3. Wholly or partially suspend or terminate the award and this Agreement as provided in this Agreement;
4. Withhold further awards to Grant Recipient;
5. Require Grant Recipient to repay award funds that the Department determines were not expended in compliance with this Agreement or any applicable statutes or regulations;
6. Impose an administrative penalty which results in a reduction of the budget line item for grant administration; or
7. Invoke any other remedy or remedies that may be legally available.

B. The Department reserves the right to immediately cancel this Agreement, in whole or in part, without penalty and without an opportunity for Grant Recipient to cure if:

1. grant funds are misused;
2. Grant Recipient commits fraud through intentional, reckless or grossly negligent conduct; or
3. Grant Recipient knowingly made any false statements or misrepresentations in the Application, or any certification, report or other information submitted to the Department under this Agreement.

C. In the case of cancellation, suspension or termination, monies already received by Grant Recipient under this Agreement may be owed back to the Department and the Department may also declare Grant Recipient ineligible to receive any further awards until the entire obligation has been repaid to the Department.

SECTION 12. ASSIGNABILITY OF AGREEMENT, SUCCESSORS IN INTEREST

A. Grant Recipient shall not assign or transfer this Agreement, or any part thereof, without prior written consent of the Department. Any such assignment or transfer, if approved, is subject to such conditions and provisions required by the Department. No approval by the Department of any assignment or transfer shall be deemed to create any obligation of the Department in addition to those set forth in this Agreement.

B. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective representatives, successors and permitted assigns.

SECTION 13. SUBAWARDS/SUBCONTRACTS

A. Whenever Grant Recipient intends to subcontract any work or services under this Agreement, Grant Recipient shall not enter into any contracts with any agency or individual in the performance of this Agreement without the written consent of the Department prior to the execution of such contract. It is understood that consent of the Department to subcontract in no way relieves Grant Recipient of any of its duties or obligations under this Agreement nor precludes the Department from taking any action which may be available to it under this Agreement or otherwise in law.

B. Grant Recipient shall monitor all work and services on a regular basis to assure they are carried out in accordance with this Agreement. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

C. With any subgrantee or subcontractor, Grant Recipient must have a written contract that complies with applicable requirements and regulations. All work or services covered under this Agreement which is contracted by Grant Recipient shall be subject to all provisions of this Agreement. Grant Recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

D. Grant Recipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be maintained in Grant Recipient's files along with documentation concerning the selection process and made available upon request.

SECTION 14. INDEPENDENT CONTRACTOR

Nothing contained in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of employer/employee between Grant Recipient and the Department. Grant Recipient shall at all times remain an "independent contractor" with respect to the work and services to be performed under this Agreement.

SECTION 15. SEVERABILITY

In the event that any provision of this Agreement is later determined to be invalid, void, or unenforceable, then the remaining terms, provisions, covenants, and conditions of this Agreement shall remain in force and effect, and shall in no way be affected, impaired, or invalidated.

SECTION 16. WAIVER

The parties expressly agree that no provision of the award or Agreement is in any way intended to constitute a waiver by the Department or the State of Texas of any immunities from suit or from liability that the Department or the State of Texas may have by operation of law. Any right or remedy provided for in this Agreement shall not preclude the exercise of any other right or remedy under the Agreement or under any provision of law, nor shall any action taken by the Department in the exercise of any right or remedy be deemed a waiver of any other rights or remedies. The failure of the Department to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

SECTION 17. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

SECTION 18. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the Parties concerning the subject matter described herein and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter described herein.

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EXHIBIT D

CERTIFICATIONS AND ASSURANCES

Recipients of state and/or federal funds must fully understand and comply with applicable requirements. Failure to comply with applicable assurances may result in the withholding of funds, termination of the agreement, or other sanctions.

By signature hereon, Grant Recipient hereby certifies and assures, with respect to this award and performing its responsibilities under this Agreement, that it will comply with all applicable laws, regulations, executive orders, policies, guidelines and requirements.

1. **LEGAL AUTHORITY** – Grant Recipient represents that it possesses legal authority to enter into the agreement, including all understandings and assurances contained therein. A resolution, motion or other similar action has been duly adopted or passed as an official act of Grant Recipient’s governing body, directing and authorizing the person identified as the official representative, or the designee of Grant Recipient, to act in connection with the agreement, to provide such additional information as may be required, to sign and execute the agreement on behalf of Grant Recipient, and to validly and legally bind Grant Recipient to all of its terms, performances, and provisions.
2. **ANTI-LOBBYING** – Grant Recipient certifies that no federal appropriated funds have been paid or will be paid to any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on its behalf to obtain, extend, or modify this agreement or grant. If non-federal funds are used by Grant Recipient to conduct such lobbying activities, Grant Recipient shall promptly file the prescribed disclosure form. In accordance with 31 U.S.C. 1352(b)(5), Grant Recipient acknowledges and agrees that it is responsible for ensuring that each subrecipient and subcontractor certifies its compliance with the expenditure prohibition and the declaration requirement.
3. **CHILD SUPPORT PAYMENTS** – Grant Recipient represents and warrants that it will included the following clause in the award documents for every subaward and subcontract and will require subrecipients and subcontractors to certify accordingly: “Under Section 231.006 of the Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application.”
4. **CLEAN AIR AND WATER POLLUTION CONTROL** – Grant Recipient represents and warrants that it will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Regional Office of the Environmental Protection Agency.
5. **COMPLIANCE WITH LAWS, RULES AND REQUIREMENTS** – Grant Recipient represents and warrants that it will comply and assure the compliance of all its subrecipients and contractors, with all award requirements imposed by applicable federal and state laws, rules, regulations, and policies in effect or hereafter established. In addition, Grant Recipient represents and warrants that it will comply with all requirements imposed by the Department concerning special requirements of law, program requirements, and other administrative requirements. In instances where multiple requirements apply to Grant Recipient, the more restrictive requirement applies.

6. CONFLICT OF INTEREST – Grant Recipient represents and warrants its compliance with conflict of interest policies in accordance 2 CFR 200.112 and that it will establish safeguards to prohibit employees from using their positions for a purpose that is, or gives the appearance of, being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.
7. CONTRACT OVERSIGHT – Grant Recipient represents and warrants that it will maintain oversight to ensure that all terms, conditions and requirements of the agreement, including these certifications and assurances, are met and that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
8. CYBERSECURITY – If Grant Recipient has access to any state computer system or database, Grant Recipient shall complete cybersecurity training and verify completion of the training program to the Department pursuant to and in accordance with Section 2054.5192 of the Government Code.
9. DEBARMENT AND SUSPENSION – Grant Recipient certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the United States General Services Administration.
10. DISCLOSURE OF VIOLATIONS OF FEDERAL CRIMINAL LAW – Grant Recipient represents and warrants its compliance with 2 CFR 200.113, which requires the disclosure in writing of violations of federal criminal law involving fraud, bribery, and gratuity violations potentially affecting the award and the reporting of certain civil, criminal, or administrative proceedings to SAM.
11. DISCLOSURE PROTECTIONS FOR CERTAIN CHARITABLE ORGANIZATIONS – Grant Recipient represents and warrants that it will comply with Section 2252.906 of the Texas Government Code, relating to disclosure protections for certain charitable organizations, charitable trusts, and private foundations.
12. DISPUTE RESOLUTION – The dispute resolution process provided in Chapter 2009 of the Texas Government Code is available to the parties to resolve any dispute arising under the agreement.
13. EXCLUDED PARTIES – Grant Recipient certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, “Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism,” published by the United States Department of the Treasury, Office of Foreign Assets Control.
14. EXECUTIVE HEAD – Under Section 669.003, Texas Government Code, Grant Recipient certifies that no person who, in the last four years, served as an executive of the Department or any other state agency was involved with or has any interest in this agreement. If Grant Recipient employs or has used the services of a former executive head of the Department or any other state agency, then Grant Recipient will provide the following information to the Department: name of former executive; name of state agency; date of separation from the state agency; position with Grant Recipient; and date of employment with Grant Recipient.
15. FUNDING LIMITATION – Grant Recipient understands that all obligations of the Department under the agreement or grant are subject to the availability of grant funds. The agreement or grant is subject to termination or cancellation, either in whole or in part, without penalty to the Department if such funds are not appropriated or become unavailable.
16. LOBBYING EXPENDITURE RESTRICTION – Grant Recipient represents and warrants that the Department’s payments to Grant Recipient and Grant Recipient’s receipt of appropriated or other funds

under the agreement or grant are not prohibited by Sections 403.1067 or 556.0055 of the Texas Government Code, which restrict lobbying expenditures.

17. NO WAIVER OF SOVEREIGN IMMUNITY – The Parties expressly agree that no provision of the grant or agreement is in any way intended to constitute a waiver by the Department or the State of Texas of any immunities from suit or from liability that the Department or the State of Texas may have by operation of law.
18. NONDISCRIMINATION – Grant Recipient certifies that it will comply with all state and federal statutes relating to nondiscrimination, including the following:
 - Civil Rights Act of 1964, as amended (42 U.S.C. 2000d *et seq.*)
 - Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)
 - Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*)
 - Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*)
19. OPEN MEETINGS – If Grant Recipient is a governmental entity, Grant Recipient represents and warrants that it will comply with Texas Government Code, Chapter 551, which requires all regular, special or called meetings of a governmental body to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.
20. PUBLIC INFORMATION – Grant Recipient represents and warrants that it will comply with the Public Information Act (Act), Texas Government Code, Chapter 552, and ensure that all information collected, assembled or maintained by Grant Recipient relative to this award will be provided to the public as required by the Act, unless otherwise expressly prohibited by law.
21. RECORDS RETENTION – Grant Recipient represents and warrants its compliance with the records retention requirements of 2 CFR 200.334. the Department reserves the right to direct Grant Recipient to retain documents for a longer period of time or transfer certain records to the Department's custody when it is determined the records possess longer term retention value. Grant Recipient must include the substance of this clause in all subawards and subcontracts.
22. REPORTING COMPLIANCE – Grant Recipient represents and warrants that it will submit timely, complete, and accurate reports in accordance with the grant and maintain appropriate backup documentation to support the reports.
23. RIGHTS TO INVENTIONS – Grant Recipient represents and warrants that it will comply with the requirements of 37 CFR Part 401 ("Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements") and any implementing regulations issued by the awarding agency, if the Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and Grant Recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement."
24. STATE AUDITOR'S RIGHT TO AUDIT – The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the agreement or indirectly through a subcontract under the agreement. The acceptance of funds directly under the agreement or indirectly through a subcontract under the agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

25. SUBAWARD MONITORING – Grant Recipient represents and warrant that it will monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with applicable statutes, regulations, and the terms and conditions of the subaward, and that subaward performance goals are achieved.
26. SUSPECTED CHILD ABUSE – Grant Recipient represents and warrants that it will comply with the Texas Family Code, Section 261.101, which requires reporting of all suspected cases of child abuse to local law enforcement authorities and to the Texas Department of Family and Protective Services. Grant Recipient shall also ensure that all program personnel are properly trained and aware of this requirement.
27. SUSPECTED FRAUD AND UNLAWFUL CONDUCT – Grant Recipient represents and warrants that it will comply with Section 321.022 of the Texas Government Code, which requires that suspected fraud and unlawful conduct be reported to the State Auditor’s Office.
28. WORK HOURS AND SAFETY STANDARDS – Grant Recipient represents and warrants that it will comply with the requirements of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).

SIGNED BY:

Signed by:

Tom Cihonski

8/25/2025

Signature of Authorized Representative

Date

Tom Cihonski

Printed Name of Authorized Representative

COO

Title of Authorized Representative

El Pasoans Fighting Hunger

Grant Recipient/Name of Organization

Failure to comply with applicable assurances may result in the withholding or suspension of funds, termination of the award, or other available remedies, and Grant Recipient may be ineligible for future awards if the Department determines that any of the following has occurred: (1) Grant Recipient has made a false certification, or (2) Grant Recipient violated a certification by failing to carry out the requirements as noted above.

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EXHIBIT E**FDP REGION 7 DELIVERY STOPS**

Contracting Entity	County	Delivery Stops
ALPINE ISD	BREWSTER	1
CULBERSON COUNTY-ALLAMORE ISD	CULBERSON	2
ANTHONY ISD	EL PASO	1
CANUTILLO ISD	EL PASO	1
CHILD CRISIS CENTER OF EL PASO	EL PASO	1
CLINT ISD	EL PASO	2
EL PASO COUNTY JUVENILE PROBATION CENTER	EL PASO	1
EL PASO EDUCATION INITIATIVE, INC. (THE) Burnham Wood	EL PASO	1
EL PASO EDUCATION INITIATIVE, INC. (THE) Vista Del Futuro	EL PASO	1
EL PASO ISD	EL PASO	84
EL PASO LEADERSHIP ACADEMY	EL PASO	1
FABENS ISD	EL PASO	1
FATHER YERMO SCHOOLS	EL PASO	1
HARMONY PUBLIC SCHOOLS	EL PASO	1
LA FE PREPARATORY SCHOOL	EL PASO	1
LYDIA PATTERSON INSTITUTE	EL PASO	1
MOST HOLY TRINITY SCHOOL	EL PASO	1
SAN ELIZARIO ISD	EL PASO	6
SOUTHWEST KEY PROGRAM-EL PASO - FDP	EL PASO	4
ST RAPHAEL'S SCHOOL	EL PASO	1
TJJD-SCHAEFFER HOUSE FDP	EL PASO	1
TORNILLO ISD	EL PASO	1
YSLETA ISD	EL PASO	50
DELL CITY ISD	HUDSPETH	1
FT HANCOCK ISD	HUDSPETH	1
SIERRA BLANCA ISD	HUDSPETH	1
BUENA VISTA ISD	PECOS	1
FORT STOCKTON ISD	PECOS	1
IRAAN-SHEFFIELD ISD	PECOS	1
MARFA ISD	PRESIDIO	1
PRESIDIO ISD	PRESIDIO	1
BALMORHEA ISD	REEVES	1
PECOS-BARSTOW-TOYAH ISD	REEVES	2
GRANDFALLS-ROYALTY ISD	WARD	1
MONAHANS-WICKETT-PYOTE ISD	WARD	1
Region 7 Total		178

[illegible]

Region 1	Region 2	Region 3	Region 4	Region 5	Region 6			Region 7	Region 8
BOSQUE	ANDERSON	Austin	ARANSAS	BROOKS	ANDREWS	GARZA	PARMER	BREWSTER	BANDERA
CLAY	ANGELINA	BRAZORIA	ATASCOSA	CAMERON	ARCHER	GLASSCOCK	POTTER	CULBERSON	BASTROP
COLLIN	BOWIE	BRAZOS	BEE	DUVAL	ARMSTRONG	GRAY	RANDALL	EL PASO	BELL
COMANCHE	CAMP	BURLESON	BEXAR	HIDALGO	BAILEY	HALE	REAGAN	HUDSPETH	BLANCO
COOKE	CASS	CHAMBERS	CALHOUN	JIM HOGG	BAYLOR	HALL	ROBERTS	JEFF DAVIS	BURNET
DALLAS	CHEROKEE	COLORADO	DEWITT	JIM WELLS	BORDEN	HANSFORD	RUNNELS	PECOS	CALDWELL
DENTON	DELTA	FORT BEND	DIMMIT	KENEDY	BRISCOE	HARDEMAN	SCHLEICHER	PRESIDIO	COMAL
EASTLAND	FRANKLIN	GALVESTON	EDWARDS	KLEBERG	BROWN	HARTLEY	SCURRY	REEVES	CORYELL
ELLIS	GREGG	GRIMES	FRIO	NUECES	CALLAHAN	HASKELL	SHACKELFORD	TERRELL	FALLS
ERATH	HARRISON	HARDIN	GOLIAD	STARR	CARSON	HEMPHILL	SHERMAN	WARD	FAYETTE
FANNIN	HENDERSON	HARRIS	KARNES	WEBB	CASTRO	HOCKLEY	STERLING		GILLESPIE
FREESTONE	HOPKINS	JACKSON	KINNEY	WILLACY	CHILDRESS	HOWARD	STONEWALL		GUZALES
GRAYSON	HOUSTON	JASPER	LA SALLE	ZAPATA	COCHRAN	HUTCHINSON	SUTTON		GUADALUPE
HAMILTON	HUNT	JEFFERSON	LIVE OAK		COKE	IRION	SWISHER		HAYS
HILL	LAMAR	LIBERTY	MAVERICK		COLEMAN	JONES	TAYLOR		KENDALL
HOOD	LEON	MADISON	McMullen		COLLINGSWORTH	KENT	TERRY		KERR
JACK	MARION	MATAGORDA	MEDINA		CONCHO	KING	THROCKMORTON		KIMBLE
JOHNSON	MORRIS	MONTGOMERY	REAL		COTTLE	KNOX	TOM GREEN		LAMPASAS
KAUFMAN	NACOGDOCHES	NEWTON	REFUGIO		CRANE	LAMB	UPTON		LAVACA
LIMESTONE	PANOLA	ORANGE	SAN PATRICIO		CROCKETT	LIPSCOMB	WHEELER	LEE	
MCLENNAN	RAINS	POLK	UVALDE		CROSBY	LOVING	WICHITA	LLANO	
MONTAGUE	RED RIVER	SAN JACINTO	VAL VERDE		DALLAM	LUBBOCK	WILBARGER	MASON	
NAVARRO	RUSK	TRINITY	VICTORIA		DAWSON	LYNN	WINKLER	MCCULLOCH	
PALO PINTO	SABINE	TYLER	WILSON		DEAF SMITH	MARTIN	YOAKUM	MENARD	
PARKER	SAN AUGUSTINE	WALKER	ZAVALA		DICKENS	MIDLAND		MILAM	
ROCKWALL	SHELBY	WALLER			DONLEY	MITCHELL		MILLS	
SOMERVELL	SMITH	WASHINGTON			ECTOR	MOORE		ROBERTSON	
STEPHENS	TITUS	WHARTON			FISHER	MOTLEY		SAN SABA	
TARRANT	UPSHUR				FLOYD	NOLAN		TRAVIS	
WISE	VAN ZANDT				FOARD	OCHILTREE		WILLIAMSON	
YOUNG	WOOD				GAINES	OLDHAM			

Page 1 of 1

Exhibit G

INSURANCE REQUIREMENTS

A. GENERAL INSURANCE REQUIREMENTS

1. Contractor shall carry insurance in the types and amounts indicated in this Exhibit for the duration of the Contract. The insurance shall be evidenced by delivery to TDA of certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Upon request, TDA, and/or its agents, shall be entitled to receive without expense, copies of the policies and all endorsements.
2. The contractor shall update all expired policies prior to submission for monthly payment. Failure to update policies shall be a reason for withholding payment until renewal is provided to TDA.
3. Contractor shall provide and maintain all insurance coverage with the minimum amounts described throughout the life of the Contract.
4. Failure to maintain insurance coverage, as required, is grounds for suspension of work for cause.
5. The contractor shall deliver to TDA true and complete copies of certificates and corresponding policy endorsements upon award.
6. Failure of TDA to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of TDA to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
7. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to TDA in the Contract.
8. The insurance coverage and limits established below shall not be interpreted as any representation or warranty that the insurance coverage and limits necessarily will be adequate to protect Contractor.
9. Coverage shall be written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A or better by A.M. Best Company or similar rating company or otherwise acceptable to TDA.

B. POLICIES MUST INCLUDE THE FOLLOWING CLAUSES, AS APPLICABLE:

1. This insurance shall not be cancelled, materially changed, or non-renewed except after thirty (30) days written notice has been given to TDA.
2. It is agreed that Contractor's insurance shall be deemed primary with respect to any insurance or self-insurance carried by TDA for liability arising out of operations under the Contract with TDA. The Texas Department of Agriculture, its officials, directors, employees, representatives, and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured performed under Contract with TDA. The additional insured status must cover completed operations as well. This is not applicable to workers' compensation policies.
3. A waiver of subrogation in favor of The Texas Department of Agriculture shall be provided in all policies.
4. Without limiting any of the other obligations or liabilities of Contractor, Contractor shall require each Subcontractor performing work under the Contract, at Subcontractor's own expense, to maintain during the term of the Contract, the same stipulated minimum insurance including the required provisions and additional policy conditions as shown above.
5. As an alternative, Contractor may include its Subcontractors as additional insureds on its own

coverage as prescribed under these requirements. Contractor's certificate of insurance shall note in such event that Subcontractors are included as additional insureds and that Contractor agrees to provide workers' compensation for Subcontractors and their employees. Contractor shall obtain and monitor the certificates of insurance from each Subcontractor in order to assure compliance with the insurance requirements. Contractor must retain the certificates of insurance for the duration of the Contract plus five (7) years and shall have the responsibility of enforcing these insurance requirements among its Subcontractors. The owner shall be entitled, upon request and without expense, to receive copies of these certificates.

C. SPECIFIC INSURANCE COVERAGE REQUIRED.

1. **Workers' Compensation.** Insurance with limits as required by the Texas Workers' Compensation Act, with the policy endorsed to provide a waiver of subrogation in favor of The Texas Department of Agriculture, employer's liability insurance of not less than:
 - \$1,000,000 each accident;
 - \$1,000,000 disease each employee; and
 - \$1,000,000 disease policy limit.

Workers' compensation insurance coverage must be provided for all workers at all tier levels and meet the statutory requirements of the Texas Labor Code.

2. **Commercial General Liability Insurance.** Including premises, operations, independent contractor's liability, products and completed operations and contractual liability, covering, but not limited to, the liability assumed under the indemnification provisions of this Contract, fully insuring Contractor's liability for bodily injury (including death) and property damage, the insurance must be of an amount no less than the applicable amount listed in Table 1 below, which sets the insurance amount by contracted region according to the volume of product stored in the regional warehouse from the prior year:

Table 1 – Value of USDA Foods to Insure	
Region	Value of USDA Foods
Region 1	\$1,462,948
Region 2	\$302,138
Region 3	\$1,359,920
Region 4	\$671,471
Region 5	\$613,031
Region 6	\$481,417
Region 7	\$72,945
Region 8	\$630,908

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