

RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION

WHEREAS, the Tribal Council of the White Mountain Apache Tribe is advised by the Head Start Program that the Tribe's continued participation in the federally-funded Child Care Food Program requires that a written contract between the Tribe and the State of Arizona Department of Education be entered into setting forth the respective rights and responsibilities of each party thereto; and

WHEREAS, the Tribal Council has reviewed the proposed contracts as presented, a copy of which is attached hereto and by reference incorporated herein; and

WHEREAS, the Tribal Council approves of said contract for the purpose of continuing and maintaining the Child Care Food Program and other federal benefits authorized thereunder.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and directs the Tribal Chairman to execute the "Intergovernmental Food Service Agreement" herein above referenced and attached hereto, between the Tribe and the State of Arizona Department of Education for the contract term of October 1, 1991 through September 30, 1992 to participate in the Head Start Child Care Food Program.

The foregoing resolution was on October 07, 1991, duly adopted by a vote of eight for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (a) (b) of the Amended Constitution and Bylaws of the Tribe, ratified by the Tribe June 27, 1958, and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

RECEIVED

OCT 9 1991 (ACTING)

FORT APACHE INDIAN AGENCY
WHITETRIVER, ARIZONA

Randall Massey, Jr.
Chairman of the Tribal Council

Virginia M. Dalton
Secretary of the Tribal Council

**Child and Adult Care Food Program
FOOD SERVICE AGREEMENT
1991-1993**

Return Two Agreements with
Original Signatures to:
Arizona Department of Education
Child Nutrition Programs
1535 West Jefferson
Phoenix, AZ 85007

WHITE MOUNTAIN APACHE HEAD START ; ("SPONSOR")
(Legal Name of Sponsor)

In order to effectuate the purpose of the following statutes: The National School Lunch Act (NSLA), as amended (42 U.S.C. 1751), The Child Nutrition Act (CNA) of 1966, as amended (42 U.S.C. et seq.), the Arizona State Board of Education ("STATE AGENCY") and the SPONSOR, whose name appears above, enters into this agreement pursuant to Arizona Revised Statutes Sections 15.203.B, 15.342, 15-1152, and 11-951, et seq. (if the sponsor is a public agency).

If SPONSOR is a public agency other than a public school district governing board, authorization to enter into this agreement is also by virtue of WHITE MOUNTAIN APACHE TRIBE.
(to be completed by sponsor)

The SPONSOR enters into this agreement with the State Board of Education for participation in the Child and Adult Care food Program.

The following applicable Exhibits are attached and incorporated herein:

- B1 Child Care Center
- B2 Family Day Care Home
- B3 Adult Day Care Center
- H Clean Air/Clean Water Act Compliance
- I Certification of SPONSOR
- J Certification of STATE AGENCY

- A. The STATE AGENCY agrees, to the extent of funds available, to reimburse the SPONSOR for the programs operated by it, as designated above in this agreement, in accordance with whichever the following regulations, and any amendments thereto. Reimbursement payments to be made by STATE AGENCY shall be subject to the provisions of Title 35 of Arizona Revised Statutes relating to time and manner of submission of claims if not in conflict with federal law. The STATE AGENCY further agrees to make payments, where applicable, in accordance with the Cash in Lieu of Donated Foods Regulations (7 CFR Part 240), and any amendments thereto; and to donate foods in accordance with Donation of Foods for Use in the United States, its Territories and Possessions and Areas under its Jurisdiction Regulations (7 CFR Part 250), and any amendments thereto.
- B. The SPONSOR agrees to accept federal funds and/or donated foods in accordance with applicable regulations as set forth in the 7 CFR Parts 226-250 and any amendments thereto; and Office of Management and Budget Circular A-133 and A-128, A-122 as applicable, and to comply with all provisions of said rules and OMB circulars, ADE Program Office Requirements, and with any instructions or procedures issued in connection therewith. The SPONSOR further agrees to administer programs funded under this agreement in accordance with provisions of the Uniform Federal Assistance Regulations (7 CFR Part 3015).

- C. The SPONSOR agrees that, for each site listed on the Site Sheet of the application, it will conduct the Child and Adult Care Food Program in accordance with the U.S. Department of Agriculture (DEPARTMENT) regulations and will conform to the following requirements in the conduct to each program (unless the requirement is restricted to particular program):
1. Operate a nonprofit food service to ensure that all reimbursement funds are used 1) solely for the conduct of the food service operation or 2) to improve such food service operations principally for the benefit of the participants.
 2. Maintain a financial management system as prescribed by the STATE AGENCY.
 3. Maintain full and accurate records of operations under this agreement, including those set forth herein, and retain such records for a period of five (5) years after the end of the school/fiscal year to which they pertain unless such records are part of an unresolved audit which thereby extends the five (5) year period. Records of revenue and expenditures shall be maintained in such a manner as to reflect the nonprofit status of the food service.
 4. Claim reimbursement only for meals served to eligible children at the rate(s) assigned by the STATE AGENCY.
 5. Submit claims for reimbursement in accordance with procedure established by the STATE AGENCY. Claims for reimbursement not filed within sixty (60) days following the claiming month will be disallowed. Any exception to this requirement will be made at the discretion of the STATE AGENCY and/or Food and Nutrition Service (FNS), USDA, Western Regional Office.
 6. Make available to the STATE AGENCY, other State entity, or statutory authorized person conducting an inspection, review, or audit, accounts, and records pertaining to operations under this agreement. Such records shall be produced at the office(s) designated by the applicable person conducting such inspection, review, or audit.
 7. Serve meals which meet the requirements prescribed in regulations 7 CFR Part 226.20 during the period designated as the meal service period by the SPONSOR, and serve the same meal to all children.
 8. Price the meal as a unit, except in nonpricing meal programs where as described in the application, no specific charge is made.
 9. Make lunches/breakfasts available without cost to all children who are determined under the Sponsor's current free and reduced policy statement to be unable to pay the full price.
 10. Maintain files of currently approved and denied free and reduced-price applications, respectively. If applications are maintained at the SPONSOR level, they shall be readily retrievable by center site.
 11. Comply with the requirements of the DEPARTMENT's regulations respecting nondiscrimination (7 CFR Parts 15, 15a, 15b).
 12. Retain the individual applications for free and reduced-price meals submitted by families for a period of five (5) years after the end of the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the five (5) year period as long as required for the resolution of the issues raised by the audit.
 13. Meet the requirements specified in 7 CFR Part 226.23 regarding a nondiscrimination and free and reduced-price policy statement and information regarding a public release.
 14. Maintain in the storage, preparation, and service of food, proper sanitation and health standards in conformance with applicable state and local laws and regulations.

15. Maintain necessary facilities for storing, preparing and serving food and milk.
16. The STATE AGENCY maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the STATE AGENCY. Therefore, to the extent permitted by law, the SPONSOR assigns to the STATE AGENCY any and all claims for such overcharges as to the goods or services used to fulfill the contract.

D. ASSURANCE OF CIVIL RIGHTS COMPLIANCE

1. The SPONSOR hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) (42 U.S.C. 2000d et seq.) "Title VI"; Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.); Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) (29 U.S.C. 794); the Age Discrimination Act of 1975 (P.L. 94-135) (42 U.S.C. 6101 et seq.), and all requirements imposed by the regulations of the DEPARTMENT; U.S. Department of Justice Enforcement Guidelines; and Food and Nutrition Service (FNS) directives and guidelines to the effect that, no person in the United States shall, on the ground of race, color, national origin, age, sex, or handicap, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the program applicant receives federal financial assistance from the DEPARTMENT; and hereby gives assurance that it will immediately take any measures necessary to effectuate this agreement.
 2. This assurance is given in consideration of and for the purpose of obtaining any and all federal financial assistance, grants and loans of federal funds, reimbursable expenditures, grant or donation of federal property and interest in property, the detail of federal personnel, the sale and lease of, and the permission to use, federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the SPONSOR, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the SPONSOR, or any improvements made with federal financial assistance extended to the program SPONSOR by the DEPARTMENT.
 3. By accepting this assurance, the SPONSOR agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of federal nondiscrimination laws and permit authorized DEPARTMENT personnel during normal working hours to review such records, books, and accounts as needed to ascertain compliance with Title VI. If there are any violations of this assurance, the DEPARTMENT, Food and Nutrition Service (FNS), shall have the right to seek judicial enforcement of this assurance.
 4. The SPONSOR also agrees to comply with the Governor's Executive Order 75-5, the provisions of which are incorporated herein.
 5. These assurances are binding on SPONSOR, its successors, transferees, and assignees as long as such person or entity receives assistance or retains possession of any assistance from the DEPARTMENT.
- E. The SPONSOR recognizes and agrees that such federal financial assistance will be extended in reliance on the representations stated herein and in the Exhibits hereto and that the United States and the State of Arizona, individually or jointly, shall have the right to seek judicial enforcement of the agreement. This agreement is made in the State of Arizona and shall be interpreted by the laws of the State of Arizona; any litigation arising out of this agreement shall be brought in Arizona.

F. THE STATE AGENCY AND THE SPONSOR MUTUALLY AGREE THAT:

1. The Exhibits, where applicable, are part of this agreement.
2. Sites may be added or deleted from the Site Sheet as the need arises, and the references herein to the Site Sheet shall be deemed to include such a sheet, as supplemented and amended. Any changes to the Site Sheet must be approved by the STATE AGENCY.
3. The STATE AGENCY shall promptly notify the SPONSOR of any change in the minimum meal requirements or the assigned rates of reimbursement.
4. No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom; but this provision shall not be construed to extend this agreement if made with a corporation for its general benefit.
5. This agreement shall become effective on the date of approval by the STATE AGENCY, as to agreements not governed by Arizona Revised Statutes Section 11-951, et seq. Agreements governed by Arizona Revised Statutes 11-951, et seq., shall become effective when filed with the Arizona Secretary of State. All agreements shall terminate on September 30, 1993. Before any amendment or extension may become effective, appropriate action must be taken by ordinance, resolution, or otherwise pursuant to the laws applicable to public agencies entering into this agreement.
6. No right or interest in this agreement shall be assigned or delegated without the written permission of the other party.
7. This agreement may be cancelled upon thirty (30) days' notice in writing by either party. Notwithstanding the foregoing, the STATE AGENCY may cancel this agreement immediately upon receipt of evidence that the terms hereof have not been complied with by the SPONSOR.
8. In the event that funding ceases or becomes unavailable to provide for the terms of this agreement, the STATE AGENCY shall immediately notify the SPONSOR and the SPONSOR shall cease to perform the terms of this agreement.
9. The SPONSOR shall repay to the federal government or STATE AGENCY all monies determined by any financial-compliance audit or review to be owed to the federal government or STATE AGENCY in connection with any program for which the SPONSOR has received funds. If the SPONSOR fails to make such repayment within thirty (30) days after demand by the STATE AGENCY, SPONSOR shall pay all reasonable attorneys' fees based on reasonable hourly charges of like experienced attorneys in Phoenix, Arizona for the Assistant Attorney General representing the STATE AGENCY or the attorney representing the DEPARTMENT in seeking to enforce this paragraph.
10. In the event of a dispute, the parties agree to use arbitration insofar as required by Arizona Revised Statutes Section 12-1518, if not in conflict with federal law.
11. Procurement practices shall be in accordance with STATE AGENCY Rules and Regulations, OMB Circulars A-128 or A-133, and 7 CFR Part 3015. All claims and controversies shall be subject to the Arizona Procurement Code, Arizona Revised Statutes Section 41-2501 et seq., and Arizona Administrative Code R2-7-101 et seq.
12. This agreement may be modified only in writing signed by all of the parties or their duly authorized agents, at least twenty (20) days prior to the due date for the next claim for reimbursement. Notice required pursuant to this agreement shall be served personally or mail upon each party at the addresses specified on the following page.

FOOD SERVICE AGREEMENT

AGREED TO AND SIGNED:

1. Mr. Ronnie Lupe, Tribal Chairman
(Print or Type Name and Title)

Randall Massey, Jr. (ACTING)
(Signature of Designated Official)
(If Applicable, same as item 6 on Certification page, Exhibit I)

2. White Mountain Apache Tribe
(Sponsor/School)

10/8/91
(Date)

Address P. O. Box 700, Whiteriver, AZ 85941

OTHER AUTHORIZED SIGNATURES

3. Mr. Harold GossMan, Director
(Print or Type Name and Title)

(Signature)

4. Ms. Patty Tolino, Assistant Director
(Print or Type Name and Title)

(Signature)

FOR DEPARTMENT OF EDUCATION USE ONLY

STATE BOARD OF EDUCATION

5. _____
(Associate Superintendent)

(Date)

Arizona Department of Education, 1535 West Jefferson, Phoenix, AZ 85007

13. Under the provisions of Arizona Revised Statutes Section 11-952, appropriate action by ordinance, resolution, or otherwise pursuant to the laws applicable to the public agencies approving the agreement, attached as Exhibits H and I, shall be received by the STATE AGENCY before any such agreement may be filed or become effective.
14. The covenants and agreements herein contained shall inure to the benefit of and be binding upon the parties hereto and their respective successors, transferees, and assignees.
15. Where applicable, each SPONSOR must supply copies of its Program Application Policy Statement and Parent Letter/Application to the STATE AGENCY. These shall be considered a part of this agreement and are incorporated herein.

G. RECORDKEEPING REQUIREMENTS

The SPONSOR, where applicable, shall keep full and accurate records of the food service program(s) to serve as a basis for claims for reimbursement and for audit and review purposes. The records which are to be kept with respect to each program include the following:

1. Daily number of meals served to children/adults, by category and type of meal.
2. Revenue from children's/participants' payments, federal reimbursement, food sales to adults, and other sources.
3. Food service expenditures (supported by invoices, receipts, or other evidence of expenditures) for food, labor, and other expenditures including repayment of loans to the program.
4. Attendance records of participants.

H. TERMINATION

All parties hereby are put on notice that this agreement is subject to cancellation by the Governor of Arizona pursuant to Arizona Revised Statutes Section 38-511, the provisions of which are incorporated herein.

DIRECTIONS:

- (1) County in which the governing board is located.
- (2) Name of governing board member authorized to sign this certification page.
- (3) City in which governing board meeting regarding the agreement was held.
- (4) Date of governing board meeting.
- (5) Legal title of the sponsor's governing board.
- (6) Name of designated official who will be signing the food service agreement (same designated official as on line 1, page 6, of the food service agreement).
- (7) Signature of governing board member (same name as on line (2) of this certification page).

CERTIFICATION

State of Arizona)

County of (1) Navajo)

I, (2) Virginia Dalton, the duly appointed or elected and qualified
Name of Governing Board Member

member of, and acting on behalf of the governing board, do hereby certify that during a regular meeting held in (3) Whiteriver, Arizona, on (4) October 2, 1991, this governing board, by motion made, seconded and carried, approved and authorized execution of an agreement between the (5) White Mountain Apache Tribe and the State Board of Education, a State Agency, for the purpose of participating in Child Nutrition and/or Food Distribution Programs for the period ending September 30, 1992. (6) Mr. Ronnie Lupe, Tribal Chairman, has been
Name of Designated Official

designated by the governing board to sign this agreement.

I further certify that this meeting was duly noticed, called and convened and was attended by a majority of the members of the governing board and that approval has not since been altered or rescinded.

(7) Virginia Dalton
Signature of Governing Board Member
(Same as (2) above)
Tribal Council Secretary
WHITE MOUNTAIN APACHE TRIBE

CERTIFICATION

State of Arizona)
)
County of Maricopa)

I, Corinne Velasquez, the duly appointed and qualified Administrator to the Arizona State Board of Education, do hereby certify that during a regular meeting of said Board held in Phoenix, Arizona, on July 23, 1991, the Board, by motion duly made, seconded, and carried, approved and authorized execution of a contract abstract between the State Board of Education, for and on behalf of the Department of Education and individual agreements with nonprofit, profit, public and private institutions throughout Arizona that have been approved for the Child and Adult Care Food Program, for the purpose of participating in the Child and Adult Care Food Program, for an amount not to exceed \$34,260,520.00. This agreement shall take effect on October 1, 1991 and shall terminate on September 30, 1993.

I further certify that said meeting was duly called and regularly convened and was attended throughout by a majority of the members of said Board and that said approval has not since been altered or rescinded.

IN WITNESS WHEREOF, I hereunto set my hand and the Seal of said Board on

July 30, 1991.

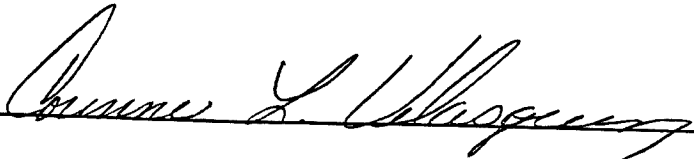


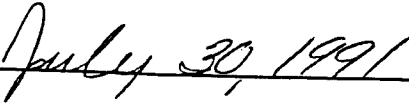
Corinne J. Velasquez

CERTIFICATION

State of Arizona)
) ss.
County of Maricopa)

I, Corinne Velasquez, the duly appointed and qualified Administrator to the State Board of Education, do hereby certify that during a regular meeting of said Board held in Phoenix, Arizona on September 30, 1988, the Board, by motions duly made, seconded and carried, delegated to the Superintendent of Public Instruction the authority to enter into contracts and agreements, including, but not limited to, intergovernmental agreements, on behalf of the State Board of Education. Such contracts and agreements shall be signed on behalf of the Board by C. Diane Bishop, Ray Borane, Barbara Border, Dr. Tom Neel, Dr. Paul Koehler, Dr. Gary Emanuel or Ms. Elaine Allison.





CHILD CARE CENTER AGREEMENT

A. THE SPONSOR AGREES TO:

1. Accept final administrative and financial responsibility for total Child and Adult Care Food Program operations at all centers or proprietary Title XX centers.
2. Certify that all child care centers are appropriately licensed or approved.
3. Provide organized care for children in nonresidential setting.
4. Price the total meal as a unit and supply the meals without cost or at a reduced price to children who meet the DEPARTMENT'S eligibility criteria. (Applicable for pricing programs.)
5. Abide by the administrative management plan/budget approved by the STATE AGENCY.
6. Certify that each private for profit child care center under its auspices receives compensation, from amounts granted to the State under Title XX of the Social Security Act, for at least 25 percent of its enrolled children during the month preceding application to the program. The SPONSOR shall not claim reimbursement for meals served in any for profit center for any month during which the center receives such compensation for less than 25 percent of its enrolled children. Such SPONSOR also certifies that all centers under this agreement have the same legal identity as the SPONSOR.
7. Notify the STATE AGENCY within thirty (30) calendar days prior to a pending change in ownership of a private for profit day care center.
8. Maintain production records of food prepared and served.

B. THE STATE AGENCY AND SPONSOR MUTUALLY AGREE:

1. To comply with and meet all responsibilities and requirements set forth in 7 CFR 226, Child and Adult Care Food Program regulations.
2. That upon written notification to the STATE AGENCY, sites may be added or deleted from the application.
3. To terminate program participation effective on the date a private for profit child care center changes ownership. New owners must apply for program participation under their own names.
4. That the STATE AGENCY shall provide advance payments to each SPONSOR upon application. Determination of advance payment will be based upon the SPONSOR'S request and STATE AGENCY approval consistent with the requirements of 7 CFR 226.7(i).
5. Payments advanced to SPONSORS that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the STATE AGENCY. Any prior payment that is under dispute may be subtracted by the STATE AGENCY from an advance payment.

EXHIBIT H

CLEAN AIR/CLEAN WATER ACT COMPLIANCE

1. The SPONSOR herein promises that any facility to be utilized in the performance of this agreement is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities as of the date of submitting this agreement.
2. The SPONSOR further agrees that he will not use any facility on the List of Violating Facilities in the performance of this agreement for the duration of the time that any such facility remains on the List.
3. The SPONSOR further promises to notify the state agency if it intends to use in the performance of this agreement any facility on the List of Violating Facilities or learns or knows that it has been recommended to be placed on the List of Violating Facilities.
4. The SPONSOR additionally promises that it will, in the performance of this agreement, comply with all requirements of the Clean Air Act (42 USC 1857 et. seq.) and the Clean Water Act (33 USC 1251 et. seq.) including the requirements of section 114 of the Clean Air Act and section 308 of the Clean Water Act and all applicable Clean Air standards and Clean Water standards.
5. The SPONSOR further agrees that it will comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 1857(H)), section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738 and EPA regulations found at 40 CFR Part 15 (which prohibit the use of facilities on the EPA List of Violating Facilities). In addition to notifying the STATE AGENCY of facilities to be used which are on the Violating List, SPONSOR also agrees to notify the United States EPA Assistant Administrator for Enforcement.

6. That the SPONSOR shall receive DEPARTMENT donated foods or cash in lieu of foods, as specified on the application. SPONSORS preferring cash payments in lieu of donated foods will receive such payments. However, those choosing foods may be required to accept cash instead if it is determined by the STATE AGENCY and DEPARTMENT that it is impractical to receive those foods.

C. THE STATE AGENCY AGREES:

1. To promptly notify the SPONSOR of any change in the minimum meal requirements or in the assigned rates of reimbursement or in any other approved reimbursement.
2. The STATE AGENCY shall provide, in accordance with federal regulations, a fair hearing and a prompt determination to any SPONSOR aggrieved by the action of the STATE AGENCY affecting the participation of a SPONSOR in the Child Care Food Program. A copy of the hearing procedure shall be provided by the STATE AGENCY to the SPONSOR.