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INCREASING FARM TO INSTITUTION IN KANSAS

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Executive Summary

Farm to institution policies, also called procurement policies, can be an effective mechanism to improve healthy food access and support local food systems in Kansas. These policies seek to increase the purchase of locally grown or raised agricultural products by public entities.[1] Farm to institution is an overarching term that encompasses farm to agency, farm to school, as well as farm to preschool and child care policies.[2] At its most basic level, farm to institution connects producers with public entities (such as agencies and schools) to sell their food products to these entities. These efforts allow smaller and mid-sized producers a greater opportunity to sell their goods within the state and provide consumers or beneficiaries of those institutions with healthy, fresh food.[3]

Farm to institution policies provide multiple benefits for consumers, the economy, and the environment. Serving local foods translates into healthier eating habits for many consumers. In one study on farm to school programs, two-thirds of schools surveyed indicated that providing fruits and vegetables to students created positive change in their dietary behaviors, especially when the product was "fresh, locally grown [and] picked at the peak of its growing season," as well as when the local food purchasing was "supplemented by educational activities."[4] Foods grown close to where they are served are more flavorful and can be more nutritious than foods transported over long distances.[5]

Besides contributing to a healthier populace, farm to institution policies can foster a healthier state economy. According to information gathered by the National Farm to School Network, farmers involved in farm to school programs averaged a 5 percent increase in income.[6] An Oregon study found that every job created through local food production led to the creation of 1.67 jobs in the overall economy, and that money invested in local food production generated further economic activity with a ratio of 2.16 to 1.[7]

Farm to institution policies also benefit the environment. When institutions purchase food grown locally, they reduce their carbon footprint by avoiding long distance transportation.[8] One Iowa study noted that the conventional food distribution system, in which food is shipped long distances (from within the United States or from abroad), produced between four and seventeen times more carbon dioxide than a local or regional distribution system.[9]

Farm to institution policies also provide many benefits for local institutions and farmers, and can reduce food waste in the cafeteria.[10] By connecting with institutions, farmers and ranchers have the opportunity to "diversify their customer base" and "create a stable market" for their products.[11] Further, institutions too are able to benefit from building a relationship with local producers. According to a study, K-12 schools have found that teaching children about where their food comes from can result in an improved attitude toward vegetables and an increase in vegetable consumption.[12]

Kansas, like many states, can benefit from increasing the amount of local food that is served in public institutions, such as agencies and schools. This report introduces readers to three different forms of farm to institution: farm to agency, farm to school, and farm to preschool and child care. Each section provides a brief overview, a discussion of the roles of the different levels of government over that type of farm to institution, the current Kansas laws and policies on that type of farm to institution, and recommendations for how local food advocates in Kansas can increase farm to institution efforts across the state. The report concludes that local food advocates have many avenues to help increase farm to institution across Kansas.

Farm to Agency in Kansas

Introduction

One way to increase access to healthy, local food across Kansas is by increasing local food purchasing by public agencies. For the purposes of this section, the focus will be on governmental agencies because there is more opportunity to influence their practices. Kansas state hospitals, universities, prisons, and other institutions provide meals for thousands of people every day, so farm to agency policies can have a big impact in the state. So far, much of the farm to agency policy work across the country has focused on state-level advocacy. However, while the food purchasing demands of local government institutions may be smaller than state-level demands, there is opportunity to advocate for incorporating local food into a local government's purchasing policies. This section discusses how local governments (cities[13] and counties[14]) in Kansas can participate in the farm to agency movement and begin to increase access to healthy food in more institutions. This section begins with an introduction to the legal authority in this area, followed by a description of Kansas state-level laws and policies around farm to agency, and concludes with a discussion of recommendations that local food advocates in Kansas, including food councils, can use to bring about change.

Levels of Government Authority

With few exceptions, state governments have the primary role in determining the processes and procedures for the procurement of goods and services at the state level.[15] State govern-

ments determine whether to require competitive bidding for contracts of different monetary amounts, whether to provide a preference to in-state bidders or for in-state products, and whether agencies are permitted to procure goods and services outside of statewide contracts.

Local governments also procure goods and services, including food. In Kansas, as in other states, cities and counties have no inherent authority and can only exercise the powers granted to them by the constitution or laws of their state.[16] A local government's ability to shape their procurement policies to increase local food purchasing depends on the delegation of authority from the state. Under the Kansas Constitution and laws, cities and counties have broad authority to make decisions over matters of local concern and over matters that are not already addressed in state law.[17] This authority is often referred to as "home rule."

In Kansas, the source of home rule authority for cities differs from that for counties. Home rule authority for cities in Kansas comes from the Kansas Constitution. The Kansas Constitution dictates that cities can "determine their local affairs and government" with the caveat that any laws passed at the city level are "limited or prohibited by enactment of the legislature applicable uniformly to all cities of the same class."[18] This means that cities have broad authority to act, unless there is a law that applies to all cities of the same class across the state. The Kansas Constitution also states that the "powers and authority granted cities pursuant to this section shall be liberally construed for the purpose of giving to cities the largest measure of self-government."[19] Counties in Kansas, on the other hand, receive their home rule authority from a statute, which states that counties can exercise their home rule powers, provided any action taken is not in conflict with state law, through a "resolution of the board of county commissioners."[20]

Once a statute is passed into law, courts are sometimes required to interpret the law, forming a body of "case law" that helps citizens understand the scope of the law. Case law on the issue of home rule in Kansas also indicates that cities and counties have broad authority to act. With regard to a city's home rule authority, the Supreme Court of Kansas wrote:

> Essentially, the cities and state have concurrent concerns and authority as to local affairs. Where the legislature is silent as to a local matter, a city may address it by enacting an ordinary ordinance. A city may legislate on the same subject providing the city ordinance does not conflict with a state statute.[21]

Further, a city ordinance should be upheld "unless the legislature has clearly preempted the field so as to preclude [city] action."[22] Similarly, case law around county-level home rule holds that counties can act broadly as long as their action does not conflict with state law or is in an area already preempted by the state.[23]

Kansas' home rule authority grants broad leeway for cities and counties to pass policies that increase local food in local institutions, so long as this policy does not conflict with existing state law or is in an area the state has preempted.[24] As discussed below, although Kansas has some state-level laws on procurement, there is no law that would directly conflict with a procurement policy to purchase local food, and it does not appear that the state laws around procurement are meant to preempt all local action in this area. Accordingly, there remains a lot of room for cities and counties to increase local food procurement in their institutions.

Current Kansas Policies Regarding Farm to Agency

Kansas currently does not have a state-level local food procurement law. However, there are a number of laws and policies regarding the procurement of goods and services generally, including two preference laws that require certain types of bids be selected under specific circumstances (discussed below), as well as other related laws that can be leveraged to increase local food procurement by local governments. The state laws on procurement only mention local governments four times, only one of which requires local governments to follow a state-level procurement law (called the reciprocal preference, discussed below), which seems to give local governments flexibility to enact their own procurement laws.[25] This section will discuss Kansas' state and local procurement policies as they relate to local government food procurement.

Kansas Procurement Policies and Procedures

In Kansas, the state Department of Administration's Office of Procurement and Contracts oversees state procurement of goods and services.[26] At the head of this office is the director of purchases,[27] who has the authority to establish processes and requirements for state agency procurement.[28] Kansas law defines "state agency" as "any state office or officer, department, board, commission, institution, bureau or any agency, division or unit within any office, department, board, commission or other state authority or any person requesting a state appropriation."[29] This definition does not seem to include local governments within Kansas, which suggests that when local governments are procuring goods and services using their own funds they are not required to comply with state laws (except where otherwise noted in the laws). Although local governments throughout Kansas are not required to comply with all state procurement regulations, some model their procurement practices after state procedures. Therefore, an understanding of how state-level procurement works is critical in understanding how food advocates can help local governments increase local food procurement in their communities.

Kansas spent $33.5 million on food and food services in 2015 with $17.6 million for direct food purchases and $15.9 million on food service contracts.

Source: KanView, http://kanview.ks.gov (search by "account code expenditure," then select year to search expenditures and follow hyperlinks "commodities," and "food for human consumption." Repeat search and follow hyperlinks "contractual services," "fees — professional services," and "institutional food service") (last visited April 21, 2017).

Agencies of the state must follow the general procurement regulations established by the director of purchases. The director of purchases, however, can authorize any state agency to procure certain goods and services through special procurement procedures applicable only to that agency.[30] Additionally, larger-scale purchasers such as public universities and the Depart-

The Randolph-Sheppard Act

The Randolph-Sheppard Act, enacted in 1936, is a federal law that gives vendors who are legally blind priority over other vendors to operate concession services or "vending facilities" on most federal property. Nearly every state, including Kansas, has adopted a similar law, referred to as mini-Randolph-Sheppard Acts. These laws make vendors who are legally blind powerful agents with respect to vending and other concession services on a wide variety of government property. Additionally, the Kansas mini-Randolph-Sheppard Act does not include requirements or standards for vending contracts and other regulations are currently revoked.[31] At times, blind vendor groups, similar to other vendor groups, have used their influence to lobby against legislative proposals to set nutritional standards for foods sold on state government property.[32] But blind vendors can also be supportive of these efforts, and garnering vendor support is important, not just for leveraging their lobbying power. Vendors must locate products, stock machines and keep inventory up to date. They are also on the front lines of any financial impact, both positive and negative. Fortunately, experience is showing that healthy vending initiatives can actually result in increased sales, especially when pricing, placement, and other marketing strategies are used to encourage healthier purchases. In order to make healthy vending both possible and profitable, advocates need to help vendors in identifying what products to buy, where to get them from, and how to promote them.

More information about the Randolph-Sheppard Act can be found in the Public Health Law Center's resource, entitled "Healthy Vending in Kansas and the Randolph-Sheppard Act," available at http://www.publichealthlawcenter.org/sites/default/files/resources/phlc-fs-kansas-healthy-vending-RS-act-web-2016.pdf.

ment of Corrections procure food outside of the Department of Administration's policies, and can therefore either directly procure food from producers or vendors or enter into food service contracts with third parties.[33]

For agencies operating under general state procurement rules, competitive bidding is required except in certain circumstances, such as when no competition exists or when there is an agency emergency, among others.[34] According to Kansas law, competitive bid contracts "shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids."[35] There does not need to be a competitive bidding process, however, "when, in the judgment of the director of purchases and the head of the acquiring state agency, not seeking competitive bids is in the best interest of the state."[36] The law does not specify what grounds can justify that judgment.

For the competitive bidding process, agencies must provide sufficient time for potential bidders to submit their bids so the agency can consider multiple submissions and select the most competitive one.[37] The amount of time and form of notice required under competitive bidding depends on the monetary value of the contract solicitation.[38] The amount of time required for notice of a bid solicitation ranges from three days to ten days prior to purchase or contract award; the form of notice ranges from posting online, in a newspaper, or public bulletin board to communication by phone or fax.[39] If the contract solicitation is for less than $5,000, the director of purchases can determine what procedures must be followed.[40]

In Fiscal Year 2015, the Kansas Department of Corrections spent nearly $14.9 million on institutional food service through their food service management contract. This represents nearly 93 percent of the entire state's spending on institutional food service. In that year, there is no information on whether any of those dollars went to purchases of local food.

Source: KanView, http://kanview.ks.gov (search by "account code expenditure," then select years to search expenditures and follow hyperlinks "contractual services," "fees — professional services," "institutional food service," and "Department of Corrections") (last visited April, 11, 2017).

Kansas has a resident bidder preference, which states that when a state agency is purchasing goods or services, if the price is equal, the state agency is required to favor goods from a Kansas bidder over goods from an out-of-state bidder.[41] This type of law is typically described as a "tie-goes-to-the-local" statute. Besides having the practical benefit of helping state agency purchasers decide which vendor to choose when prices and other factors are equal, this type of preference directly helps local businesses if they can compete on price with other out-of-state

bidders. However, the resident bidder preference only requires that the bidder be Kansas-based, not that the goods or materials provided be grown, made, or manufactured within the state.

The one area of state procurement law that applies to local governments is reciprocal preference.[42] The law establishes that:

> whenever the state of Kansas or any agency, department, bureau of division thereof or any municipality including, but not limited to, county, school district, improvement district or other public body lets bids for [...] purchases of any goods, merchandise, [or] materials [...] of any kind, the contractor domiciled outside the state of Kansas, to be successful, shall submit a bid the same percent less than the lowest bid submitted by a responsible Kansas contractor as would be required of such Kansas domiciled contractor to succeed over the bidding contractor domiciled outside Kansas on a like contract let in such contractor's domiciliary state.[43]

This provision states that if an out-of-state contractor comes from a state that applies a preference to their own resident contractors, that same preference will apply against the out-of-state contractor when it submits a bid in Kansas. To illustrate, if a contractor lives outside of Kansas and his/her home state applies a 10 percent price preference for its resident contractors, when that contractor bids on a solicitation in Kansas, his/her bid will look 10 percent more expensive than the bid from a Kansas resident contractor. As with the Kansas resident bidder preference discussed above, this reciprocal preference does not require the Kansas resident bidder to be providing goods, merchandise, materials, or supplies that are grown, manufactured, processed, or made within the state of Kansas. The only requirement is that the Kansas resident bidder be qualified as a "responsible Kansas contractor."

Figure 1: Application of the Reciprocal Preference

	Kansas Bidder	Out-of-State Bidder
Without a Preference	$105	$100
With a 10 Percent Reciprocal Preference	$105	$110

Local Level Procurement

As mentioned earlier, Kansas state level procurement laws do not apply to Kansas local governments, with a few exceptions. There is no explicit statute applying the state procurement laws to local governments, nor is there any indication that the procurement laws are meant to apply to all cities and counties within Kansas (except for the reciprocal preference). Local governments, therefore, are able to establish their own procurement policies and procedures.

Limited research into city-level procurement revealed that some cities in Kansas have created local policies requiring similar procurement procedures as those at the state level.[44] The City of Olathe requires any solicitations exceeding $5,000 to be approved by the city's central Procurement Department, and requires the competitive bidding process for solicitations over $25,000.[45] Unlike the City of Olathe, however, the City of Lawrence does not have a centralized purchasing organization that oversees purchasing for all city-level departments and offices.[46] Individual departments are responsible for maintaining their own vendor lists and issuing bids.[47] The city's Purchasing & Bids office assists the individual departments in their procurement efforts, and is in charge of "the advertising and tabulation of bids, assisting departments in obtaining contracts for service, preparation and issuance of purchase orders, and supervising the transfer or disposal of all surplus materials, supplies, and equipment."[48] The distinct policies and procedures illustrated by these two cities indicates that local food advocates seeking to increase local food procurement will likely have to educate themselves on their local government's procurement processes in order to find the most effective way to increase local food procurement in their specific community.

Furthermore, advocates will need to determine how much food the local institutions purchase directly and how much food is sourced through a third party by a contract with the local institutions. In addition, the City of Lawrence Parks and Recreation included healthy food options into its Request for Proposals for various locations, but did not specifically outline a request for locally sourced items.

The City of Olathe requires vendors to register, during which a vendor must select a classification for the types of goods or services it provides.[49] This list includes a classification for "food, equipment, and related services."[50] One benefit of registering in the City of Olathe is that notices of bid solicitations will be sent to vendors based on the classification(s) selected during registration.

Local government procurement policies may be shaped and influenced by state level policies, even though state level policies are primarily not mandatory for local governments. Therefore, local governments have flexibility to incorporate more local, healthy food into their local government procurement efforts.

Recommendations

Given Kansas state laws and policies on procurement and the broad authority given to local governments, local food advocates, including food councils, have a number of options for increasing local food procurement. Some of these recommendations are stand-alone tools to help increase local food procurement, and others should be used in concert with additional efforts.

Connect Farmers and Agency Purchasers with Local Food Suppliers

Connecting farmers and agency purchasers with local food suppliers is an important strategy for increasing availability of local foods and providing information about local food purchasing opportunities. Often, agency purchasers are not aware of the local farmers and food producers that have the capacity to provide food to the agency. At the same time, there are farmers that do not know there is a demand for local food at the state or local agency level. Innovative efforts to connect local producers with agency purchasers in Kansas include the development of local and regional food hubs and the state's *From the Land of Kansas* initiative, discussed below.

Local and Regional Food Hubs and Cooperatives in Kansas

Food hubs are a valuable and effective model for connecting farmers with agency purchasers and creating opportunities for local food purchasing. Food hubs provide an aggregation and distribution center that can consolidate product from smaller farms and provide institutional purchasers with a more consistent and reliable supply of local produce in larger quantities than some small farmers may be able to provide. In 2013, the Douglas County Food Policy Council and the Food Policy Coalition of Greater Kansas City conducted studies to assess whether the establishment of a food hub was feasible in Northeast Kansas and in the Kansas City metropolitan area.[51] Both studies found that existing markets were able to support the establishment of food hubs as a valuable tool in addressing the demand for local produce.[52]

Following these studies, five farmers in the Kansas City region formed Farm Fresh HQ, a Cooperative Association with a unique food hub model that brings farmers and purchasers together to meet the demand for nutritious local food. Farm Fresh HQ aggregates and distributes "locally produced vegetables, fruits, and proteins from producers, with a focus on small to medium size farms" and sells to "wholesale outlets including corporations, institutions, grocers, and restaurants."[53] The components of their food hub model include: "Marketing and Sales, Aggregation and Delivery, Crop and Stock Planning, Food Safety Planning, Bulk Packing Supplies and Technology Training."[54]

More information on the benefits and challenges of operating or selling to food hubs, various food hub models, and strategies for success can be found in Kansas Rural Center's resource on "Marketing Strategies — Wholesale: Operating or Selling to Food Hubs," available at https://docs.google.com/file/d/0B08JduJ3aVYSZUVGNVAxV0lRRWs/edit .

The *From the Land of Kansas* Program

Kansas has also taken steps to connect Kansas producers with customers by gathering information about farms and food producers located throughout the state.

The *From the Land of Kansas*™ program is a marketing and certification program that identifies and verifies products that originate in-state, which may facilitate tracking of local product purchasing.[55] The program allows participants to use the *From the Land of Kansas* trademark to promote Kansas products to restaurants and retailers, among other purchasers.[56] According to the Kansas Department of Agriculture, "[t]his trademark program helps members promote their Kansas products and provides members with a variety of business development tips and opportunities including marketing assistance. In addition, the state trademark provides a consistent way to identify Kansas agriculture-based products."[57] Local governments can encourage farmers and other food producers to participate in this program. In turn, local governments can use this trademark to more easily identify local farmers and food producers that could sell to local agencies.

Local food advocates can encourage the Kansas Department of Agriculture to include an icon that indicates which farms and food producers are interested in and able to sell to institutions throughout the state. Advocates can also ask the Kansas Department of Agriculture to develop more materials specific to institutional procurement of Kansas food products to distribute to local agencies around the state. For example, a list of farms that have the capacity to sell to institutions could be compiled and distributed to local governments in Kansas. Local food advocates can encourage their specific local governments to create a list of local agencies that purchase food, which could be incorporated into the *From the Land of Kansas* program or used by local food advocates to link local producers and agency purchasers. Along with this information, local food advocates can educate local agency purchasers about the benefits of purchasing local, Kansas-grown and -produced food.

Track Food Purchases

It is helpful to have a sense of how much food agencies are currently purchasing, and specifically how much local food, if any, is already being purchased. This information is beneficial for establishing a baseline, setting goals, and monitoring progress of local food purchasing. Local food advocates can ask that local governments start tracking how much food they purchase locally. Local governments can track this by either purchasing directly from local farmers or by adding a condition to contracts that food service management companies track the origin of the food purchased, as Rhode Island did in a recent Request for Proposals.[58] Local food advocates can also work together to advocate for a state-level policy that requires state and local agencies to track their local food purchases.

Institute a Benchmark

Local food advocates can encourage local governments to institute a benchmark for purchasing local food. Benchmarks set clear local food procurement goals for agencies and other public institutions. For example, the state of Illinois' local procurement benchmark states that "it shall be the goal of this State that 20 percent of all food and food products purchased by State agencies and State-owned facilities [...] shall, by 2020, be local farm or food products."[59] While there is no penalty attached if the state fails to reach this goal, setting such a benchmark into law sends a clear message that Illinois has made farm to agency a priority and will be taking steps to enhance those policies. Maine attempted to take a similar benchmark law a step further by proposing a bill that would have mandated an increasing percentage of local food procurement over time; the proposed bill would have required that state agencies spend 15 percent of their food budgets on Maine products beginning in 2014, 25 percent beginning in 2024, and 35 percent beginning in 2034.[60] Although this bill did not become law, it provides a good model for local governments in Kansas. A local government can set a goal that a certain percentage of their food purchases (such as 5 to 10 percent) come from local farmers and/or food producers by a certain date. This benchmark can be a fixed number, or it can increase over time to help encourage the growth and development of local food economies in that locality. Local food advocates in Kansas can also come together and advocate for a state-level benchmark policy.

Utilize the Existing Resident Bidder Policy

Local food advocates can encourage local governments to utilize the existing state-level resident bidder provision to contract directly with farmers and other Kansas-based food companies to provide local food to their institutions. As discussed above, the state-level resident bidder provision provides a preference for bidders that are domiciled (or based) in the state. This provision could be used to increase local food procurement if local-level agencies are contracting directly with farmers or food businesses using local products that are based in Kansas. However, it is common for agencies to contract out their food service to a management company that may not be based within the state. Therefore, even if a food service management company (FSMC) sources local products, the FSMC will not be eligible for this resident bidder preference if it is not based in Kansas. The resident bidder preference could also be used by an FSMC based in Kansas that does not source Kansas food products. Therefore, local food advocates should push their local governments to clarify definitions and close loopholes to ensure the resident bidder preference is applied to companies that are not just Kansas-based but that also source local and regional food products. Local governments could also use this resident bidder provision to make small food purchases from local farmers and food producers.

Adopt a Local Food Preference for Local Government Food Purchasing

Local food advocates, including food councils, can encourage their local governments to adopt a local food purchasing preference. Because the state does not have a local food procurement preference with which a local law might conflict, local governments likely have the authority to institute their own preference when procuring goods for their own local institutions. Local food advocates could advocate for a local ordinance that provides a price preference to food grown, manufactured, processed, and/or produced within the state of Kansas. For example, Cleveland, Ohio, has a local purchasing preference that provides a 2 percent bid discount to local food producers, as well as other sustainable and local businesses.[61] In passing this policy, Cleveland acknowledged that "the Greater Cleveland region has a vibrant manufacturing, industrial, and food production history and we are continuing to strengthen our local economy by supporting local producers."[62] Local food advocates in Kansas could advocate for a local food procurement preference at the local level that provides a price preference — for example, a 5 to 10 percent preference — which would make the Kansas-grown and -produced food more competitive in the bidding process. Local governments could use this preference when purchasing meals or snacks for concessions or vending machines in local public buildings and institutions. Local food advocates can also work together to advocate for a state-level local procurement policy that would require state and local institutions to purchase local, Kansas-grown and -produced food.

As discussed throughout this section, local governments have quite a bit of flexibility to implement and increase their purchasing of local food from Kansas farmers and producers. Some of these options can be achieved through local action alone, and others will require advocacy and change at the state level.

Farm to School in Kansas

Introduction

Over the past few years, farm to school efforts across the country have been gaining momentum at a remarkable pace. According to the 2015 Farm to School Census conducted by the United States Department of Agriculture (USDA), nationally 5,254 school districts with 42,587 schools engaged in farm to school, serving over 23.6 million schoolchildren.[63] In Kansas, 550 schools in 105 school districts across the state have participated in some form of farm to school effort, and which has benefitted nearly 237,897 children.[64] School districts in Kansas have invested $1,895,660 in local food, indicating a 7 percent average spending of their budget on local products.[65]

In 2015, Atchison School District was selected as a stand out in Kansas, winning the One in a Mellon Award. Atchison reports that it spent 7.5 percent of its total food purchases on local products, specifically apples, oranges, watermelon, tomatoes, and peppers, during the 2013–2014 school year.[66]

Farm to school takes various forms, from a one-time event highlighting locally grown or raised food to a school food service program that incorporates local food on a more regular basis. For example, the school district in Atchison engaged in the following farm to school activities during the 2013–2014 school year:

- Served locally produced food in the cafeteria
- Held taste testing/demos of locally produced foods in the cafeteria, classroom, or other school-related setting
- Used Smarter Lunchroom strategies to encourage student selection and consumption of locally produced foods (e.g., product placement, food prompts, creative signage, etc.)
- Used cafeteria food coaches (e.g. adults or students in the cafeteria encouraging kids to eat health/local foods)
- Used USDA Team Nutrition materials (such as The Great Garden Detective Adventure or Dig In!) as part of taste testing or educational activities
- Conducted edible school gardening or orchard activities as part of a school curriculum
- Conducted student field trips to farms or orchards
- Had farmer(s) visit the cafeteria, classroom or other school-related setting
- Integrated farm to school concepts, including school gardening activities, into educational curriculum (math, science, language arts, etc.)[67]

This section introduces advocates to school procurement and farm to school policies, and discusses how local governments and school districts can increase farm to school throughout Kansas.

Locally Procured Foods by Kansas Schools: School districts in Kansas are currently buying locally-sourced vegetables (50%), fruits (47%), milk (20%) and meat or poultry (14%)

Source: The Farm to School Census: Kansas, U.S. Dep't of Agric., Food & Nutrition Serv., https://farmtoschoolcensus.fns.usda.gov/find-your-school-district/kansas (last visited April, 11, 2017).

Levels of Government Authority

The federal government plays a significant role in school food programs. Although the federal government plays a primary role in shaping and funding school meal programs, state and local school authorities play an important part in implementing the school food programs. This section provides an overview of national school food programs and identifies the different roles each level of government plays in school food programs.

Federal School Food Authority

In 1946, Congress passed the Richard B. Russell School Lunch Act, which created the National School Lunch Program (NSLP).[68] Congress funds the NSLP[69] as well as other child nutrition programs established by Congress since 1946, such as the National School Breakfast Program,[70] Summer Food Service Program,[71] Fresh Fruit and Vegetable Program,[72] Department of Defense Fresh Program,[73] USDA Commodity Foods Program,[74] and the Child and Adult Care Food Program.[75] Congressional funding for the school food programs reimburses participating schools for any free and reduced price (F/RP) meals served to eligible schoolchildren.[76] Congress also sets nutrition requirements for school food; in 2010, the Healthy, Hunger-Free Kids Act (HHFKA) strengthened nutrition requirements for school meals and other foods served at schools.[77] These nutrition standards increased the type and amount of fruits and vegetables that needed to be offered to students, increased the whole grain requirements, and reduced the amount of sodium allowed in school meals, among other things.[78] Because Congress provides funding for these school food programs, Congress has the authority to establish standards and other requirements that school districts must meet when implementing a reimbursable school food program. This section discusses the role the federal government has in school food and farm to school programs.

Figure 2: Reimbursement Rates for the National School Lunch Program, 2016–2017[79]

Maximum Rate, not in compliance with HHFKA Nutrition Standards	Maximum Rate, in compliance with HHFKA Nutrition Standards
Paid: $0.38	Paid: $0.44
Reduced Price: $2.93	Reduced Price: $2.99
Free: $3.33	Free: $3.39

Note: These prices are for states in the contiguous United States (excludes Alaska, Hawaii, and Puerto Rico).

Figure 3: Reimbursement Rates for the School Breakfast Program, 2016-2017[80]

Non-Severe Need School	Severe Need School*
Paid: $0.29	Paid: $0.29
Reduced Price: $1. 41	Reduced Price: $1.74
Free: $1.71	Free: $2.04

Note: These prices are for states in the contiguous United States (excludes Alaska, Hawaii, and Puerto Rico).

* "Severe Need" schools are those that served 40 percent or more of their meals at the F/RP rate in the second preceding school year. U.S. Dep't of Agric., Food & Nutrition Serv., The School Breakfast Program, available at https://www.fns.usda.gov/sites/default/files/sbp/SBPfactsheet.pdf (last visited Apr. 11, 2017).

Figure 4: Reimbursement Rates for Snacks Served in Afterschool Care Programs, 2016-2017[81]

Paid: $0.07	Reduced Price: $0.43	Free: $0.86

Note: These prices are for states in the contiguous United States (excludes Alaska, Hawaii, and Puerto Rico).

Federal School Food Procurement Requirements

Congress delegates procurement contracting authority to a state, state agency, school, or school food authority.[82] Under federal regulations for school food procurement, states have the ability to establish their own (or delegate to school districts to establish) procurement procedures for school food procurement (subject also to compliance with federal laws). This means that school districts must comply with their state and local procurement laws as long as those laws are as strict as or stricter than the federal standards.[83] However, the federal government has set a few procurement requirements with which school districts must comply.[84]

First, the federal procurement regulations require that food procurement meet the principles of open and free competition.[85] Open and free competition requires school districts to use competitive bidding and to ensure that there are multiple bids submitted and that the contract provides the best value to the school district.[86] Second, bidders must be responsive and responsible. This means that the bidder "must conform to all of the school's stated terms and conditions" and "be capable of performing successfully under the terms and conditions of

the contract."[87] Third, under the "Buy American" provision, schools must purchase food that was grown and processed in the United States ("to the maximum extent practicable").[88] The federal government has provided language to insert into procurement documents to ensure bidders are aware of the provision as well as two situations under which the provision can be waived.[89] Finally, the federal regulations establish two methods of procurement: small purchase (informal) and sealed bids (formal).[90] Under federal regulations, if the cost of goods or services is not more than $150,000, informal procurement procedures may be used.[91] If the cost of goods or services exceeds $150,000, schools must follow more formal bidding procedures.[92] States have the ability to establish their own procurement procedures and set their small purchase threshold lower than the federal $150,000 limit.[93]

Local Food Procurement

Prior to the 2008 Farm Bill, it was unclear whether states and school districts could give a procurement preference to local food products. In the 2008 Farm Bill, Congress explicitly stated that "[t]he Secretary shall [...] encourage institutions [...] to purchase unprocessed agricultural products, both locally grown and locally raised, to the maximum extent practicable

and appropriate."[94] According to the final rule explaining the geographic preference, states and institutions participating in Child Nutrition Programs are allowed, but not required, to give a preference to unprocessed locally grown and raised agricultural products.[95] In the final rule, the USDA identified certain minimal processing activities that will not disqualify a product from receiving a geographic preference.[96] These activities are:

> Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two or more types of vegetables or fruits in a single package); addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering of livestock and poultry; cleaning of fish; and the pasteurization of milk.[97]

Although a geographic preference is allowed, schools and school districts must draft the solicitation such that there are enough qualified sources to ensure open and free competition.[98] The school may need to expand the contract specifications to try and secure more potential bidders; however, if the school is unable to secure three bids, it may purchase the product with only two bids and must document its efforts.[99] Schools must also include information in the solicitation document about how the bids will be evaluated, including clear language about any preference given to local food products.[100]

State School Food Authority

In terms of general school food authority, states receive money from the federal government through a designated state agency and are responsible for disbursing that money to individual schools to pay for the school food programs.[101] States can establish their own procurement procedures, and may set the small purchase threshold at a lower number than the federal government's $150,000 ceiling.[102]

Local School Food Authority

School districts or local school food authorities make the day-to-day decisions about school food programs. Congress delegated authority to local governments to enter into contracts to meet their school food program needs.[103] This means that school districts or local educational agencies have the power to decide how to operate their school food programs and with whom to contract. School districts or local educational agencies can decide to contract directly with farmers and other food producers, with food service management companies, or with some combination of the two.

School districts can adopt a district-wide local procurement preference policy to encourage or require schools to procure local food (for example, to provide a preference for local food).[104] One way to do this is through a school wellness policy. In the Healthy, Hunger-Free Kids Act of 2010, Congress strengthened the requirement that local educational agencies create local wellness policies.[105] Under federal guidelines, local wellness policies must include, at a minimum:

> goals for nutrition promotion and education, physical activity, and other school-based activities that promote student wellness; [and] for all foods available on each school campus under the jurisdiction of the local educational agency during the school day, nutrition guidelines that are consistent with [federal school nutrition standards] and promote student health and reduce childhood obesity.[106]

Local educational authorities, such as school districts, are directed to use the guidelines promulgated at the federal level to "determine specific policies appropriate for schools under the jurisdiction of the local educational agency."[107] Local educational agencies can use wellness policies to indicate the school district's commitment to increasing local food procurement and to push the district to adopt an actual geographic preference policy for their school food programs.[108]

Local educational agencies have the power to decide what *local* means when using a geographic preference.[109] *Local* can mean within the state, within certain counties, within a certain number of miles, or some other definition, as long as the definition does not stifle free and open competition.[110] School districts also have the authority to determine what form that preference will take and what amount the preference will be.[111] For example, a school district might decide to give local food a 5 percent preference in the bidding process.[112] The amount of the preference should be enough to give an actual preference to local food but not so much as to interfere with free and open competition.[113]

Current Kansas Policies Regarding Farm to School

As discussed above, the federal government plays a major role in funding and setting standards for school meal programs. However, states have the authority to set their own standards and procedures, as long as they are as strict as or stricter than federal requirements. Kansas has a number of laws and regulations governing school food programs, none of which are directly focused on farm to school. This section discusses Kansas state laws and regulations relating to school food procurement. Although Kansas laws and regulations explaining the procedures for school food procurement are minimal,[114] there are a few important provisions of which local food advocates should be aware.

Small Purchase Threshold

Kansas has a small purchase threshold for local school districts under which informal bidding procedures can be followed. Kansas law requires generally that for expenditures for goods or services over $20,000, the board of education of any school district must use sealed bids and award the contract to the lowest responsible bidder.[115] However, this does not apply to a board of education's purchases of "food and foodstuffs necessary for the implementation or operation of any child nutrition program."[116] According to a Kansas State Department of Education (KSDE) guidance document, purchases of food under $150,000 fall under Kansas' small purchase threshold.[117] School boards of education are directed to use informal purchasing procedures for these purchases.[118] Food purchases of $150,000 or more per contract require a formal bid process.[119] This means that school districts can make purchases of food under $150,000 and use the informal purchasing procedures.[120]

For informal purchasing, school purchasers must compare prices "from an adequate number of qualified sources."[121] What is considered "adequate" will depend on the circumstances of the school district, for example whether the school district is in a rural or metropolitan area.[122] Federal regulations require states to obtain bids from an adequate number of qualified sources.[123] According to the National Food Service Management Institute, it is good practice to obtain three sources that are eligible, able, and willing to provide the supplies or services.[124] The Unites States Department of Agriculture, Food and Nutrition Service additionally includes contacting at least three sources as one of the steps involved in an informal procurement.[125] When a school is unable to find three sources, it must document why it was unable to find three quotes and any efforts taken to broaden its specifications in order to get more bidders.[126]

A micro-purchase is a non-competitive procurement method. This method may be used when the value of the purchases does not exceed the small purchase threshold of $3,000.[127] The small purchase threshold is adjusted periodically for inflation.[128] A micro-purchase allows schools to purchase supplies or services without being required to solicit competitive quotes as long as the school considers the price reasonable. In order to use the micro-purchase procurement method, schools must: (1) distribute micro-purchases equitably among qualified suppliers; (2) develop written specifications as well as required terms, conditions, and contract provisions; and (3) document all purchases.[129] The purpose of micro-purchasing is to reduce the burden for very small purchases. This allows for more opportunities for local purchases. For example, in the middle of the season, farmers may have an excess of products that they are willing to sell at a low price. Micro-purchasing makes it possible for schools to take advantage of these opportunity buys.[130] However, a school is prohibited from "arbitrarily splitting purchas-

es" to stay under the small purchase threshold in order to circumvent the formal or informal procurement requirements.[131]

Figure 5 below outlines the different requirements for informal, formal, and micro-purchasing procedures in Kansas.

Figure 5: Requirements for Informal, Formal, and Micro-Purchasing

Informal Purchasing Procedures[132]	Formal Purchasing Procedures[133]	Micro-Purchasing Procedures[134]
1 Draft specifications in writing	1 Develop solicitation	1 Develop specifications
2 Identify and gather at least 3 quotes from suppliers that are eligible, able, and willing to provide products	2 Publicly announce the invitation for bids (IFB)/ request for proposals (RFP)	2 Conduct market research
3 Evaluate bidders' responses to your specifications	3 Evaluate bidders' responses to your specifications	3 Contact a vendor & make the purchase
4 Determine most responsive and responsible bidder at the lowest price and award the contract	4 Award the contract to the most responsive and responsible bidder at the lowest price	4 Manage the contract
5 Manage the contract	5 Manage the contract to ensure compliance	5 Distribute micro-purchases equitably among qualified suppliers

Resident Bidder Preference

Kansas also has a resident bidder preference for school food purchases. If there are two bids equal in "quality, suitability and usability," one from a bidder domiciled within the school district and the other domiciled outside of the school district, the board of education may select the bidder domiciled within the school district as long as the bid from the resident bidder is not more than 1 percent greater than the amount of the low bid.[135] This means that if there is a

farmer whose farm is domiciled within the school district, and that farmer's price is not more than 1 percent greater than the lowest bid, the local farmer will receive the contract.

Locally Grown, Unprocessed Agricultural Products

KSDE policy guidance reaffirms that school food authorities may purchase locally grown unprocessed agricultural products.[136] The definition of local "is at the discretion of the school sponsor. There is no requirement that locally grown and locally raised products need to be within a certain area or distance."[137] Further, in Kansas, school garden produce can be incorporated into Child Nutrition Program meals.[138] This means that if a school has land available to

farm, it could contract with a farmer to grow a garden; the produce of which could be used in the school's food service. Schools could also create a school garden for educational purposes and use the food in their school's food service.

Food Safety

Kansas follows federal food safety standards for school food, which requires each school food authority that prepares and serves school meals to implement a food safety plan based on federal Hazard Analysis and Critical Control Point (HACCP) principles established by the U.S. Secretary of Agriculture.[139] The federal regulations establish food safety requirements for the facility in which the school food is stored, prepared, and served.[140] These federal food safety requirements for school food do not extend to the farmers growing and harvesting the food. However, in guidance explaining the food safety requirements, the KSDE extends food safety requirements to the suppliers and vendors of school food:

> KSDE's HACCP guidance requires that a letter is on file for each supplier/vendor stating that they have an HACCP plan in place with standard operating procedures for produce production, harvesting and post-harvest handling OR that they follow safe food handling procedures. Traceability of the produce is required. In the event that produce purchased for your school nutrition program is recalled, you are responsible for tracing the produce one step back (trace back) to your supplier and one step forward (trace forward) to when and to whom it was served.[141]

This guidance means that farmers selling directly to schools must also have a HACCP plan or prove that they are following safe handling procedures, such as through Good Agriculture Practices/Good Handling Practices (GAP/GHP) certification. The GAP/GHP is a voluntary food safety program established by the USDA.[142] Some schools will require farmers to comply with GAP/GHP in order to sell produce to the school. Under this program, an auditor will visit a farm and evaluate the food safety risks of the produce grown on the farm.[143] If multiple crops are grown on the farm over the course of a few seasons, the auditor will make separate visits to ensure he or she can review all of the food being grown on the farm.[144] The certification lasts for one year, so audits must be conducted annually.[145] USDA charges $50 for an administrative fee, as well as $92/hour, including auditor travel time, for the audit.[146]

Recommendations

There are a number of options local food advocates have to increase procurement of local food for their school food service programs. The following recommendations align with the federal

government's policy of encouraging local educational agencies to prefer unprocessed locally grown or locally raised agricultural products.

Issue a Request for Information

Local food advocates can request that school districts issue a Request for Information (RFI) to find out how much, what type, and where local food is being grown and processed. This information can be used to create a list of potential vendors and can help school districts decide whether to include a local food preference in their bid solicitations. Unlike a Request for Proposals (RFP), which is a procurement tool and cannot be tailored exclusively for local food, an RFI only seeks information and is permitted to focus specifically on local products.[147]

An RFI can be as simple as listing which products the school wants, and asking suppliers to respond with the quantities they may be able to produce and a timeframe for potential delivery. More complex RFIs may ask producers to respond with an estimated price, food safety practices, detailed specifications, and delivery capacity.[148]

The RFI is a useful first step for local food advocates to encourage school districts to identify vendors and determine the capacity local farmers have for meeting the school district's food needs.

Include a Geographic Preference for Informal Procurement

Under Kansas law, school boards can use informal procedures when the contract for food is less than $150,000 (the small purchase threshold). Local food advocates can encourage school boards to apply a geographic preference in these informal procurement situations.[149] This is permitted under federal law. The USDA guidance indicates that a geographic preference can be applied when using the informal procurement procedures as long as the procuring entity "clearly describe[s] the manner in which the geographic preference will be applied within the written specifications."[150] Local food advocates can also advocate that school boards or individual schools utilize this small purchase threshold, if they are not doing so already, since it makes it easier for local farmers to sell to schools.

Establish a Local Purchasing Preference Policy

Local food advocates can encourage their school districts to establish a policy encouraging the procurement of local products and/or creating a preference for local food purchasing. Although Kansas law does not delegate the authority to establish procurement procedures to school districts or explicitly state that schools can establish a preference, school districts have implicit authority to give a preference to local products because of their mandate to feed children

healthy food as well as the requirement to be in compliance with federal regulations.[151] One way to do this is through a local procurement preference policy (also called geographic preference).

School districts and local educational agencies have the authority to determine what form that preference will take and what amount the preference will be.[152] For example, a school district can give local food a 5 percent preference in the bidding process.[153]

School districts and local educational agencies also have the power to decide what *local* means when establishing a geographic preference.[154] Local food advocates in Kansas can work with local boards of education for school districts and define *local* to whatever will best fit the school's needs. *Local* could be defined by a distance (e.g., 200 miles), by a region (e.g., the eastern half of Kansas), as within the state, or some other measure.[155] The amount of the preference as well as the definition of *local* should be defined to give a meaningful preference to local food, but should not restrict free and open competition.[156]

Split Food Service Contracts

Local food advocates can work with local school districts and school boards to split their food service contracts to separate out fresh produce or a particular type of commodity. School food contracts often contain a wide range of foods needed for school meals; these contracts include foods that can be grown in Kansas and those that cannot (for example, bananas and oranges). Because these food contracts request foods that cannot be provided by local producers, they restrict local farmers' ability to bid on the school food contracts. By dividing food service contracts into one that includes foods that are grown within Kansas and another that includes foods grown outside of Kansas, local producers will be better able to make bids. For example, a school district may want to highlight a particular food that can be grown in the state, such as apples, during the school's Farm to School Week. The school district could write a contract solicitation for apples and could source those from a local producer. The split contract cannot require that the food be local because that would stifle competition, but it can set other requirements that will help local producers win the contract. This is discussed below in more detail.

Increase Local Food Procurement with Food Service Management Companies

Local food advocates and school districts can work with their existing food service management company to encourage more procurement of local produce. There are likely foods on the school food service contracts that can be procured locally. If the food service management company knows that local food is important to the school, it may be willing to work with local producers to supply locally grown food.

Include Qualitative Factors within Request for Proposals (RFPs)

When a school district or school board solicits bids for a new food service contract, local food advocates can request that the contract include specifications related to qualitative factors (such as freshness, ripeness, and time elapsed between harvest and delivery) that apply specifically to local foods.[157] Sample specifications include "picked within one day of delivery," "harvested within [a certain time period]," or "traveled less than [XX] miles or hours."[158] School districts can then choose the lowest price option from bidders that meet the requirements.

Provide Technical Assistance and Financial Support to Small-Scale Producers

Local food advocates can work with smaller-scale producers to help them comply with the school's food safety requirements. Smaller-scale farmers may benefit from technical assistance from the state department of agriculture or education, or a USDA Extension service office, in understanding how to comply with the school's food safety requirements. Additionally, compliance with various food safety requirements can be costly for smaller-scale diversified farming operations. There may be financial resources at the federal level that local food advocates could help farmers access to reduce the financial burden of compliance. Local food advocates could also encourage their local governments to provide financial assistance in the form of cost sharing for food safety programs such as GAP/GHP. Mississippi has a cost-sharing program for the initial GAP/GHP audit.[159] Local food advocates in Kansas can use Mississippi as an example of what their local governments could do for local farmers wanting to sell to Kansas schools.

Farm to Preschool and Childcare in Kansas

Introduction

Farm to preschool and farm to childcare are part of the farm to school movement, focusing on improving the food served to younger children. [160] Farm to preschool programs already exist across Kansas — 27 percent of school districts in Kansas are engaging preschool children in farm to school activities.[161] Although farm to preschool and farm to childcare are similar in the populations they serve, they are distinct policies with varying requirements. This section will discuss both farm to preschool and farm to childcare.

Levels of Government Authority

The federal government regulates preschool and childcare food service in limited circumstances. First, schools that serve food as part of the NSLP and serve children of preschool age must comply with federal requirements for school food (see above discussion about Farm to School),[162] which includes nutrition requirements specifically for preschool-aged children (ages 1 to 4 years old).[163] In these circumstances, as in traditional school meal programs, the KSDE is responsible for disbursing meal reimbursements to school districts operating preschool meal programs.[164] Because schools that feed preschool-aged children must comply with federal requirements for school lunches, these schools can apply a geographic preference for local food as permitted under federal law.[165]

Kansas has the primary role in the regulation of licensed preschools and childcare facilities. However, childcare facilities in Kansas that are licensed by the state have the option to participate in the federal Child and Adult Care Food Program (CACFP), which provides federal funding for meals served in participating facilities.[166] With regard to preschool-aged children in childcare settings, the goal of CACFP is to provide "nutritious foods that contribute to the wellness, healthy growth, and development of young children."[167] Kansas is responsible for disbursing funds to organizations (including centers or in-home daycares) operating CACFP.[168] Childcare facilities enrolled in CACFP must comply with the federal government's nutrition requirements under CACFP.[169] Childcare facilities participating in CACFP are permitted to apply a geographic preference for local food.[170]

The Federal Small Purchase Threshold as it relates to all FNS program procurements under Federal grants is currently set at $150,000 (CACFP Memorandum 01-2013: Federal Small Purchase Threshold Adjustment, October 2, 2012).[171]

This threshold allows for more small purchase procurements (purchases between $3,500-$150,000, or the most restrictive threshold) to be conducted using simple and informal methods, such as price or rate quotations, for securing products and services, provided that each procurement is conducted in a manner that ensures free and open competition.[172]

- Price or rate quotations must be obtained from an adequate number of qualified sources prior to purchasing from one of them.
- The institution must document the date, vendors consulted, and quotes received (including for verbal quotes). Store advertisements may be considered as documentation.
- State and local agencies may set a lower small purchase threshold and thereby impose more restrictive procurement procedures as authorized by 2 CFR Part 200.318(a). Therefore, all state and local procurement requirements still apply.

If the total amount of purchase for like items is more than $3,500 but less than $150,000 ($15,000 for state agencies) in aggregate value, purchases shall be made by the use of the small purchase procedure as follows:

1 Develop specifications for all items.

2 Obtain price quotations from an adequate number of suppliers.

3 Prepare a price quote documentation sheet and indicate the supplier who was awarded the quote.

4 Submit documentation sheet to review official.

When purchases are estimated to exceed the most restrictive small purchase threshold (Federal is $150,000), sponsors must conduct a cost or price analysis (2 CFR Part 200.323). [173]

Current Kansas Policies Regarding Farm to Preschool and Childcare

There are three broad categories of preschool and childcare facilities in Kansas, and Kansas state law sets out specific regulations for two of these categories.[174] First, there are Kansas state-licensed preschools. Among other requirements, in order to qualify as a preschool in Kansas, the facility cannot serve a meal and children can only participate in one three-hour session per day.[175] These preschools are required to serve a nutritious snack, which must include at least one of the following:

- Milk, milk product, or food made with milk
- Fruit, vegetable, or full-strength fruit or vegetable juice
- Meat
- Peanut butter
- Bread or cereal product[176]

Second, Kansas law establishes requirements for childcare facilities. Childcare facilities are defined as those that provide care for more than three but less than twenty-four hours per day to children between the ages of two weeks to sixteen years old.[177] Childcare facilities are required to serve meals and snacks depending on the amount of time children are present at the facility.[178] Meals and snacks served to children in Kansas childcare centers must include a variety of foods; the nutrition requirements for childcare facilities not enrolled in CACFP are outlined in Figure 6.

Figure 6: Kansas Childcare Center Food Requirements[179]

Breakfast	Noon or Evening Meals	Mid-morning and Mid-afternoon Snacks
• A fruit, vegetable, or full-strength fruit or vegetable juice • Bread, a bread product or cereal • Milk	One item from each of the following: • Meat, poultry, fish, egg, cheese, cooked, dried peas or beans, or peanut butter • Two vegetables, two fruits, or one vegetable and one fruit • Bread, bread product or cereal • Milk	Include at least two of the following: • Milk, milk product or food made with milk • Fruit, vegetable, or full-strength fruit or vegetable juice • Meat or a meat alternate • Bread, bread product or cereal

As mentioned above, childcare facilities that participate in CACFP must comply with the federal government's nutrition standards.[180] USDA published a revised meal pattern related to the Health, Hunger-Free Kids Act of 2010, on April 25, 2016. Programs participating in the CACFP may begin the new meal patterns at any time since compliance with the new standards are not in conflict with the existing standards. Compliance is required by October 1, 2017 except for the adjusted minimum serving sizes for the grains requirement, which must be implemented no later than October 1, 2019.[181]

For more information related to childcare in Kansas, please see the Public Health Law Center's resources, available at http://www.publichealthlawcenter.org/resources/kansas-child-care-resources.

Recommendations

Local food advocates seeking to improve healthy food access for young children have a number of options to achieve that goal. For schools in Kansas that serve meals to preschool-aged children, local food advocates can pursue the recommendations included in the Farm to School section discussed above.

Local food advocates can encourage preschools, and childcare centers not enrolled in CACFP, to establish a policy encouraging the purchase of local food for the food they serve the children. Because the number of children enrolled in any given preschool or childcare facility is likely to

be small, local producers that might not otherwise be able to serve a larger market (such as a high school) can find a market in these institutions. Local food advocates can push preschools and childcare centers in Kansas a step further and encourage them to apply a geographic preference for local food (for example, 5 percent) in their food procurement.

For childcare centers that are participating in CACFP, local food advocates in Kansas can advocate that they establish a geographic preference as allowed under federal law.[182] Further, local food advocates can ask these childcare facilities to prioritize sourcing local food when purchasing under the small purchase threshold.

Conclusion

One key way local food advocates can help increase access to healthy food for Kansans across the state is to advocate for increased institutional procurement of Kansas-grown and -produced food. Local food advocates can encourage their local governments to incorporate Kansas-grown and -produced food procurement into their food procurement practices. School districts can commit to purchasing local food and can provide a preference for locally grown food. School districts can decide whether to provide a preference, what form and how much the preference will be, and how to define what *local* means.

Kansas preschools and childcare centers can be encouraged to purchase food for snacks and meals from local producers. Farm to institution is a great way to increase the amount of local, healthy food served to people across Kansas while also supporting food producers throughout the state. As illustrated throughout this report, local food advocates can help increase local food procurement in a variety of ways.

Endnotes

1 U.S. Dept. of Agric., Farm to Institution Initiatives 46 (n.d.), http://www.usda.gov/documents/6-Farmtoinstitution.pdf (last visited April 25, 2017).

2 U.S. Dept. of Agric., Farm to Institution Initiatives 46 (n.d.), http://www.usda.gov/documents/6-Farmtoinstitution.pdf (last visited April 25, 2017).

3 U.S. Dept. of Agric., Farm to Institution Initiatives 46 (n.d.), http://www.usda.gov/documents/6-Farmtoinstitution.pdf (last visited April 25, 2017).

4 Anupama Joshi, Andrea Misako Azuma, and Gail Feenstra, *Do Farm to School Programs Make a Difference? Findings and Future Research Needs*, 3 J. Hunger Envtl. Nutrition 229, 233–36 (2008).

5 Rita Klavinski, *7 Benefits of Eating Local Foods*, Mich. St. Univ. Extension, http://msue.anr.msu.edu/news/7_benefits_of_eating_local_foods (last visited Nov. 21, 2014); *Is Local More Nutritious? It Depends*, Ctr. for Health & the Global Env't, Harvard T.H. Chan Sch. of Pub. Health, http://www.chgeharvard.org/sites/default/files/resources/local_nutrition.pdf (last visited April 25, 2017).

6 *The Benefits of Farm to School*, Nat'l Farm to Sch. Network, http://www.farmtoschool.org/Resources/BenefitsFactSheet.pdf (last visited April 25, 2017).

7 Upstream Public Health, *Health Impact Assessment: HB 2800: Oregon Farm to School and School Garden Policy*, (2011), http://www.issuelab.org/resource/health_impact_assessment_hb_2800_oregon_farm_to_school_and_school_garden_policy (last visited April 25, 2017).

8 *See* David Pimentel et al., *Reducing Energy Inputs in the US Food System*, 38 Hum. Ecology 459, 467–68 (2008).

9 Sarah DeWeerdt, *Is Local Food Better?*, WorldWatch Inst., http://www.worldwatch.org/node/6064 (last visited Apr. 3, 2015). This report offered several important caveats: 1) local food may not be produced in a sustainable manner, and 2) how the food is grown and what is produced has a greater impact than transport costs.

10 U.S. Dep't of Agric., The *Farm to School* Census. https://farmtoschoolcensus.fns.usda.gov/schools-serving-kids-eating-healthier-school-meals (last visited April 25, 2017).

11 Nat'l Sustainable Agric. Assistance Program, *Bringing Local Food to Local Institutions: A Resource Guide to Farm to Institution Programs*, (2013), https://attra.ncat.org/attra-pub/summaries/summary.php?pub=261 (last visited April 25, 2017).

12 U.S. Dep't of Agric., Farm to Institution Initiatives. http://www.usda.gov/documents/6-Farmtoinstitution.pdf (last visited April 25, 2017).

13 Kan. Stat. Ann. § 12-101 (2012) (Each city being a body corporate and politic, may among other powers ... Make all contracts and do all other acts in relation to the property and concerns of the city necessary to the exercise of its corporate or administrative powers.").

14 Kan. Stat. Ann. § 19-101 (2012) ("[E]ach organized county within this state shall be a body corporate and politic, and as such shall be empowered for the following purposes: ... to make all contracts and do all other acts in relation to the property and concerns of the county, necessary to the exercise of its corporate or administrative powers.").

15 The federal government does not play a significant role in state or local agency procurement policies. The federal government has a role in state procurement if the state is using federal funds and there are conditions attached to those funds that dictate parameters for how the state can use the funds in procurement. *See* 2 C.F.R. pts. 400, 415, 416 (2014).

16 Harvard Food Law & Policy Clinic, Good Laws, *Good Food: Putting Local Food Policy to Work for Our Communities* 5 (July 2012), http://www.chlpi.org/wp-content/uploads/2013/12/FINAL-LOCAL-TOOLKIT2.pdf (last visited April 26, 2017).

17 By virtue of the Kansas State Constitution, "cities are empowered to determine their local affairs and government," therefore city agencies can do purchasing on their own. Kan. Const. art. 12 § 5. In 1974, the Kansas state government passed legislation granting counties home rule powers as well. Kan. Stat. Ann. § 19-101a (2012); Michael R. Heim, Kansas Local Government Law §3.19 (4th ed. 2009).

18 Kan. Const. art. 12 § 5(b).

19 Kan. Const. art. 12 § 5(d).

20 Kan. Stat. Ann. § 19-101a (2012).

21 Bigs v. City of Wichita, 23 P.3d 855, 863 (Kan. 2001) (disapproved on other grounds by State ex rel. Kline v. Unified Bd. Of Com'rs of Unified Government of Wyandotte County/Kansas City, 85 P.3d 1237 (Kan. 2004)).

22 Home Builders Ass'n of Greater Kansas City v. City of Overland Park, 921 P.2d 234, 241 (Kan. 1996) (internal quotations and citations omitted).

23 Missouri Pacific Railroad v. Board of County Com'rs of Greeley County, 643 P.2d 188, 194 (Kan. 1982).

24 *See* Kansas City v. Henre, 153 P. 548 (Kan. 1915) (upholding a city ordinance imposing higher standards for milk sold within the city than those standards required by state law).

25 Kan. Stat. Ann. §§ 75-3739 (cooperative purchasing), 75-3740 (allowing consideration of bidder's past contract performance with local governments), 75-3740a (applying resident bidder preference to local government procurement), 75-3741c (exempting state capital improvement projects from local zoning, building, and permitting requirements) (2012).

26 Kan. Stat. Ann. § 75-3701 et seq. (2012); *Office of Procurement and Contracts*, Kansas Dep't of Admin., http://admin.ks.gov/offices/procurement-and-contracts (last visited April 26, 2017).

27 Kan. Stat. Ann. § 75-3737a (2012).

28 Kan. Stat. Ann. § 75-3738 (2012).

29 Kan. Stat. Ann. § 75-3701(3) (2012).

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