

STATE LAWS PROMOTING USE OF LOCALLY GROWN FOOD AND AGRICULTURAL PRODUCTS IN PUBLIC CONTRACTS

(enacted as of December 2011)



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WHAT'S IN THE CHART?

This chart highlights state statutes that require state or local agencies to give purchasing preferences to agricultural products or food grown or produced in the state or locally. Developed in connection with the fact sheet “Local Food for Local Government: Considerations in Giving Preference to Locally Grown Food,” this chart is designed to help show when a government agency can give a purchasing preference to locally grown or produced food. It does not comprehensively capture all procurement preferences for purchases of state food and agricultural products.

- First, the chart does not include state laws giving preferences to small businesses, resident vendors or contractors, resident labor, or contracts for goods preferences based on resident labor hours, some of which may result in a purchasing preference for in-state grown food. In cases where the state has an agricultural preference statute and a resident contractor preference statute, we include only the agricultural preference statute.
- Second, the chart contains only state laws applying preferences to state and local agencies. In many states, cities and counties are empowered to develop their own procurement processes; in those localities, the local entities may employ state or local preferences.
- Third, the chart includes state laws applying preferences to school district purchases. School districts purchasing food using federal funds under the Childhood Nutrition Act programs, however, are subject to the federal law’s geographic purchasing preference and not the state law.¹
- Finally, the chart does not analyze the reciprocity laws of each state, which may allow for bidders from other states to receive in-state treatment.

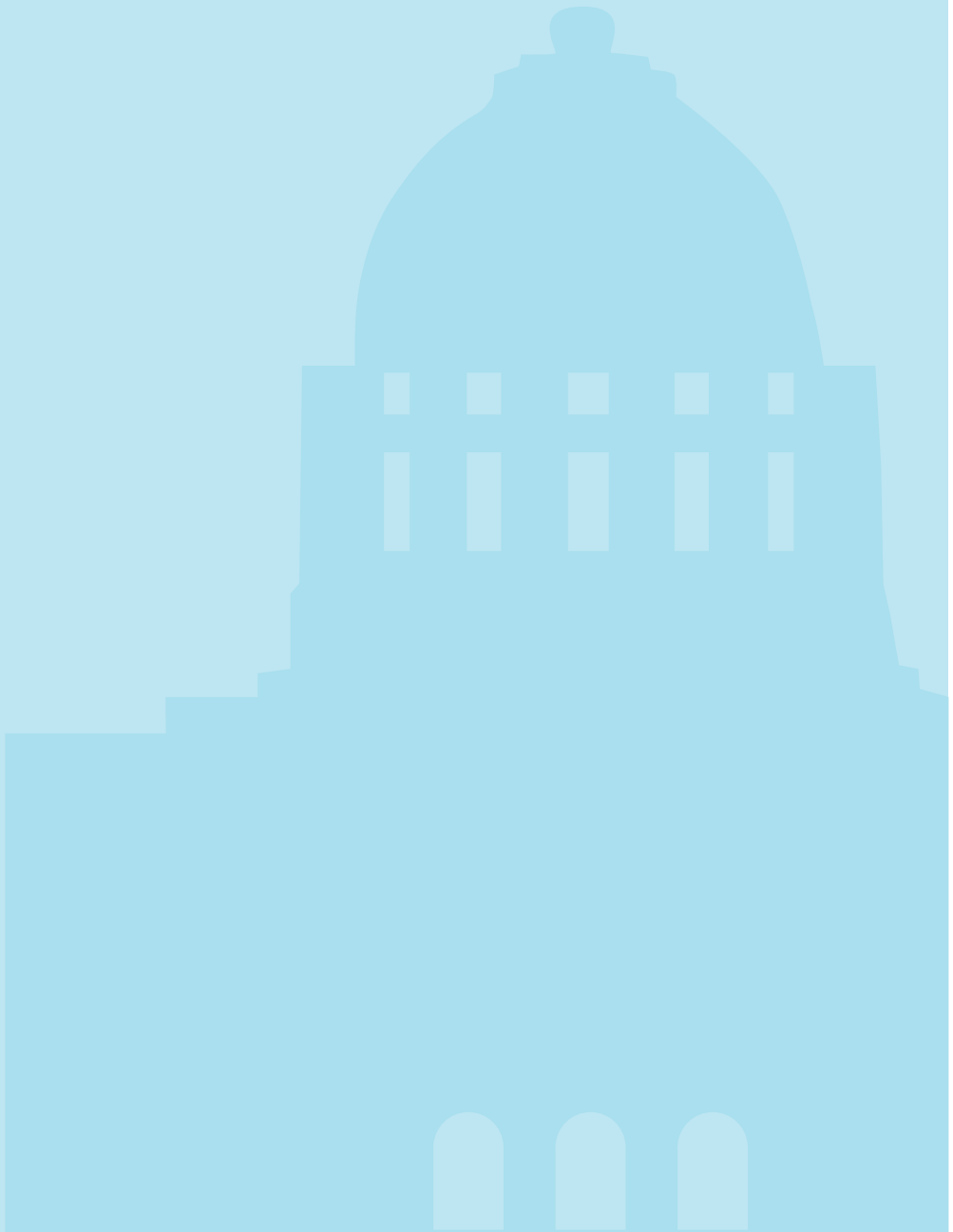
The chart was compiled by conducting searches on Westlaw of all 51 (including Washington, D.C.) state statutes and administrative codes states, using searches for “farm-to-school;” “prefer! /s purchas! procur! buy /p food agriculture;” (and then using “dairy” and “meat”) “prefer! /p purchas! procur! buy /p state local;” “state agencies municipalities city county /s purchas! buy! procur! /s food “agricultural products” /s prefer!;” “purchas! buy! procur! /s local /p prefer!” state agencies municipalities city county /s “buy local” as well as natural law searches for purchasing preferences for food and agricultural products, and products. Follow-up searches were conducted on individual states where the global search revealed no statutes. Individual searches were done for those states, by using the above search terms with the state name and by searching the table of contents for the statutory codes and reviewing procurement and contracting laws.

1. See the accompanying fact sheet, “Local Food for Local Government” for further explanation. Available at: www.changelabsolutions.org/publications/local-food-local-government.

USING THE CHART

State or local law determines government procurement processes for a particular jurisdiction. But all government agencies use a competitive solicitation process to obtain the best value when expending tax dollars, ensure equal opportunities for potential bidders, and provide safeguards against favoritism. Generally, when a government agency is purchasing goods or commodities, it uses a price-based selection process. The agency issues a solicitation (usually called an invitation for bids, or IFB) in which it specifies what goods it wants to purchase. Next, potential contractors submit bids, giving price quotes for the particular goods the agency wants to purchase. The agency selects the lowest responsive bidder and negotiates a contract to purchase the goods from that bidder. Government agencies that want to increase their purchases of state or locally grown or produced food are introducing a factor other than price and quality into their selection process.

The chart lists, by state, whether the state has a preference for goods or commodities produced in-state. It indicates whether that preference is specific to food or agricultural products and, if so, how those terms are defined. Next, it indicates whether the preference applies to state agencies, local agencies, or school districts. Finally, it categorizes the preference given to food grown in-state. In some states, such as Alabama, state agencies must opt for state-grown food when the food is equal in price and quality to out-of-state food. In others, such as Alaska, state-grown food is given a percentage bidding preference. In those states, the procurement law allows the agency to select the locally grown food even if it costs more – up to the percentage amount stated in the law. In those states, legislators have determined that the benefit from buying local food is worth the price difference.



State	Statute	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
Alabama	Ala. Code § 41-16-27	No specific reference to agricultural or food products "Commodities" produced in Alabama or sold by Alabama persons, firms, or corporations	•			•		
Alaska	Ala. St. Ann § 29.71.040	"Agricultural products" and "fisheries products" Agricultural products includes dairy products, timber and lumber, and products manufactured in the state from timber and lumber.		Municipalities receiving state funds			Up to 7% above	
	Ala. St. Ann § 29.10.200	Same		Home rule municipalities			Up to 7% above	
	Ala. St. Ann § 36.15.150	Same	•		• receiving state funds		Up to 7% above	
	Ala. St. Ann. § 03.20.100				•			Establishes farm-to-school program to develop state procurement policies that are "made available to school districts to adopt at their discretion."
Arizona	No statutes located							

State	Statue	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
Arkansas	No statutes located ²							
California	CA Govt. Code § 4331	No specific reference to agricultural or food products "Supplies grown, manufactured, or produced in" state	•	•		•		
Colorado	Col. Rev. St. Ann. § 8-18-103	Agricultural products, defined as "grown, raised, or processed in the state"	•					Must award to resident bidder if bid does not exceed lowest bid or "reasonably exceeds lowest bid" – purchaser determines higher bid to be reasonable and capable of being paid out of existing budget w/o supplemental appropriation.
Conneticut	C.G.S.A. § 4a-51	Dairy products, poultry, eggs, fruits, or vegetables	•			•		
Delaware	No statutes located ³	Agricultural products, defined as "grown, raised, or processed in the state"						
District of Columbia	D.C. Code § 38-823.01	"Fresh unprocessed agricultural products"			•			Preference for "fresh unprocessed agricultural products grown and processed in the District of Columbia, Maryland, and Virginia"

2. Arkansas gives preferences to resident businesses. Ark. Code. Ann. § 19-11-259.

3. Delaware requires state agencies to procure food service operations from the Delaware Division for the Visually Impaired, unless the Division certifies in writing that it is unavailable to do so. 16 Del. Code. § 9606.

State	Statue	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
Florida	F.S.A. § 287.082	No specific reference to agricultural or food products Commodities manufactured, grown, or produced within the state	•			•		
	F.S.A. § 287.0822	"Fresh or frozen meats"	•	•	•	•		
	F.S.A. § 287.084	No specific reference to agricultural products "Personal property"		•	•			Authorizes local governments to give preference to businesses with principal place of business within the state
Georgia	Ga. Code Ann. § 50-5-60	Supplies, materials, equipment, and "agricultural products" Excepts "beverages for immediate consumption"	•					Give preference "as far as may be reasonable and practicable," but specifically requires that "preference shall not sacrifice quality." For contracts over \$100,000 government to consider bidder's estimate of multiplier effect on gross state domestic product and effect of public revenues of state and localities. Georgia vendors get preference over other vendors if the other vendors have resident preference statutes.
	Ga. Code Ann. § 50-5-61	Same	•	•				Same
	Ga. Code Ann. § 20-2-500	Same			•			Same
	Ga. Code Ann. § 36-84-1	Same		•				Same

State	Statute	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
Hawaii	H.R.S. § 103D-1002	“Hawaii products” includes agricultural, aquacultural, horticultural, silvicultural, floricultural, or livestock product raised, grown, or harvested in the state (“class II products”)	•	•			Up to 15% above for certain Hawaii products	The price or bid offered for a Hawaii product item shall be decreased by 15% for class II Hawaii product items bid or offered. The lowest total bid or proposal, taking the preference into consideration, shall be awarded the contract unless the bid or offer provides for additional award criteria. ⁴
	H.R.S. § 3-124-5	No specific reference to agricultural products “Any expenditure of public funds resulting from a contract award” for a “required Hawaiian product”					5% preference for class II Hawaiian products	
Idaho	No statutes located ⁵							
Illinois	30 Il. ST. § 500/45-50	Agricultural products	•					Preference may be given to otherwise qualified bidder using agricultural products grown in state.
	30 Il. .ST. § 595/10	Food or food products. “Local farm or food products” are products grown, processed, packaged, and distributed by Illinois citizens or businesses located wholly within the borders of Illinois. ⁶	•				Up to 10% above	Goal that 20% of food purchased by state agencies be local farm or food products by 2020.

4. “Hawaii products” means products that are mined, excavated, produced, manufactured, raised, or grown in the State and where the cost of the Hawaii input towards the product exceeds fifty per cent of the total cost of the product; provided that:

(1) Where the value of the input exceeds fifty per cent of the total cost, the product shall be classified as class I; and

(2) Where any agricultural, aquacultural, horticultural, silvicultural, floricultural, or livestock product is raised, grown, or harvested in the State, the product shall be classified as class II. Ha Rev. Stats. § 103D-1001.

5. Idaho requires state and local agencies who procure food service operations to give preference to nonprofit organizations representing persons with disabilities. Idaho Code § 67-6903.

6. 30 Ill. Stat. § 595/5.

State	Statute	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
Illinois	30 Ill. § 590/30	"Fresh produce and food products"			•			As part of Local Food, Farms, and Jobs Act, Illinois to establish geo-coded electronic database to facilitate the purpose of fresh produce and food products by schools.
Indiana	I.C. § 5-22-15-23.5	"Agricultural products grown, produced, or processed in Indiana"	•	•	•		Up to 10% above	Discretionary preferential purchasing authority
Iowa	I.C.A. § 73.1	"Products and provisions grown and coal produced within the state of Iowa"	•	•	•			Must use Iowa products if in marketable quantities, quality reasonably suited to intended purpose, and no additional costs. Excludes federal school lunch and breakfast purchases.
Kansas	No statutes located							
Kentucky	K.R.S. § 45A.645	Agricultural products	•					Must purchase Kentucky-grown agricultural products if the products are available and if the vendor can meet the applicable quality standards and pricing requirements of the agency.
	K.R.S. § 164A.575	Agricultural products	Higher education institutions					Must follow § 45A.645

State	Statute	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
Louisiana	L.R.S. § 38: 2251	Primarily food products: "products which are manufactured, processed, produced, or assembled" in state. Includes definitions for meat and meat products, seafood, and eggs.	•	•	•		Up to 10% above, except as otherwise provided as a specific exception ⁷	
	L.R.S. § 38:2251.1	Milk and dairy products	•	•	•		Up to 10% above	
	L.R.S. § 39:1595	Meat, meat products, and seafood	•	•	•		Up to 10% above	
Maine	7 M.R.S.A. § 213	Meat, fish, dairy products, excluding milk and eggs, and species of fruits and fresh vegetables	•		•	•		
	20-A M.R.S.A. § 6602	Produce or minimally processed foods purchased directly from a farmer or farmers' cooperative. "Minimally processed" means only the washing, cleaning, trimming, drying, sorting, and packaging of food items or a combination of those activities.			•			Establishes a Local Produce Fund within the Department of Education. The fund must be used to match \$1 for every \$3 a school administrative unit pays for produce or minimally processed foods purchased directly from a farmer or farmers' cooperative in the state, to a maximum state contribution of \$1,000.

7. The additional requirements apply:

- (1) Produce shall be produced in Louisiana and produce products shall be produced and processed in Louisiana.
- (2) Eggs shall be laid in Louisiana and egg products shall be processed from eggs laid in Louisiana.
- (3) Meat and meat products shall be processed in Louisiana from animals which are alive at the time they enter the processing plant.
- (4)(a) Seafood shall be:
 - (i) Harvested in Louisiana seas or other Louisiana waters; or
 - (ii) Harvested by a person who holds a valid appropriate commercial fishing license issued under R.S. 56:1 et seq.
- (b) Products produced from such seafood shall be processed in Louisiana.
- (5) Domesticated catfish shall be processed in Louisiana from animals which were grown in Louisiana.

State	Statue	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
Maryland	M.D. State Fin. & Proc. § 14-407. CoMAR 21.11.07.08	Locally grown food defined as “food grown in the state”	• “State schools and facilities”		•		Up to 5% above	
Massachusetts	M.G.L.A. 7 § 23B	“Products of agriculture including but not limited to fruits, vegetables, eggs, dairy products, meats, crops, horticultural products or products processed into value added products as part of a Massachusetts farm operation” and “fish, seafood, and other aquatic products”	• State agency, authority or trustees or officers of a state college or university				Up to 10% above	
	M.G.L.A. 30B § 20	Agricultural product, including but not limited to “fruits, vegetables, eggs, dairy products, meats, crops, horticultural products and products processed into value added products as part of a Massachusetts farm operation as well as fish, seafood, and other aquatic products”		•	•		Up to 10% above	Governmental body must establish a preference by majority vote.
Michigan	M.C.L.A. § 45.85	No specific reference to agricultural or food products Supplies		Counties				Other things being equal, supplies offered by bidders who have an established local business in the county shall have preference.
	M.C.L.A. § 388.1631d	Food			• Lunch	• “Competitively priced and of comparable quality”		

State	Statue	Specific reference to agricultural product or food	Type of agency			Preference		
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Michigan	M.C.L.A. § 388.1631f	Food			• Breakfast	• "Competitively priced and of comparable quality"		
Minnesota	No statutes located ⁸							
Mississippi	Miss. Code Ann. § 31-7-15	"Commodities grown, processed or manufactured within [the] state"	•			•		
Missouri	V.A.M.S. § 34.070	"All commodities and tangible personal property manufactured, mined, produced, processed, or grown within the state." Includes any agricultural product that has been processed or otherwise had value added to it.	•			•		
Montana	MT ST 18-4-132	Food products. "Food" means articles normally used by humans as food or drink, including articles used for components of articles normally used by humans as food or drink. "Produced" means planted, cultivated, grown, harvested, raised, collected, processed, or manufactured.	•					Allows procurement of Montana food products by direct purchase when the price does not exceed or "reasonably exceeds" the lowest quote. "Reasonably exceeds" means when the purchasing officer determines that the higher bid is reasonable and capable of being paid out of that governmental body's existing budget without any additional appropriation.

8. M.S.A. § 16C.12 (state agencies) and M.S.A. § 136F.581 (colleges and universities) require the agencies and colleges to "make a reasonable attempt to identify and purchase food products that are grown within the state."

State	Statute	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
Nebraska	No statutes located ⁹							
Nevada	No statutes located ¹⁰							
New Hampshire	No statutes located							
New Jersey	N.J.S.A. § 52:32-1.6	Agricultural and horticultural products and commodities	•	•	•			The Director of the Division of Purchase and Property, to the maximum extent possible, shall make contracts available for agricultural food products and commodities grown or raised in New Jersey, unless the director determines it to be inconsistent with the public interest or the cost to be unreasonable.
New Mexico	No statutes located ¹¹							
New York	McKinney's State Finance Law § 165	"Food products" means food grown, produced, or harvested in NY state, or processing of any such food products in NY state facilities. NY state labeled wines have favored source status and are exempt from competitive procurement provisions.	• Advised for universities					May "mandate that all or some" food products be grown, produced, or harvested in NY state. Commissioner of Agriculture to promulgate list of food products deemed beneficial. Commissioner of Agriculture must certify sufficient in-state products are available.

9. Nebraska provides a preference for in-state providers of goods and services purchased by the Nebraska Commission for the Blind and Visually Impaired. M.C.A. § 18-4-132.

10. Nevada gives preferences to local businesses owned by veterans with service-connected disability. Nev. Rev. Stats. § 333.3366.

11. New Mexico requires a local preference in all public works contracts for all "materials produced, grown, processed, manufactured in New Mexico." N.M.S.A. § 13-4-5. New Mexico also gives a preference to resident businesses. N.M.S.A. § 13-1-21.

State	Statue	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
North Carolina	N.C.S.A. § 143-59	Foods, supplies, materials, equipment, printing, or services	•					Give preference "as far as may be practicable, provided, however, that in giving such preference no sacrifice or loss in price or quality shall be permitted; and provided further, that preference in all cases shall be given to surplus products or articles produced and manufactured by other State departments, institutions, or agencies which are available for distribution." If no state preference, than preference for American over foreign products. N.C.S.A. §143.59.1A.
North Dakota	No statutes located ¹²							
Ohio	OH ST § 125.09	"Products that are mined, excavated, produced, manufactured, raised, or grown in the state by a person where the input of Ohio products, labor, skill, or other services constitutes no less than 25% of the manufactured cost." ¹³	•	•				Authorizes director of administrative services to develop criteria for preferences for Ohio products
	OH. ST. § 125.11			•				Requires director of administrative services to publish model act for local governments to adopt for giving state preferences in procurement

12. North Dakota gives preference to resident contractors. N. Dakota ST § 44-08-01.

13. Ohio St. § 125.01(E).

State	Statute	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
Oklahoma	No statutes located ¹⁴							
Oregon	O.R.S. § 279A.128	“Goods that are fabricated or processed or services that are performed” in state ¹⁵	•	•			Up to 10% above	Can give higher percentage if find good cause.
Pennsylvania	4 PA Code § 7a.41	Agricultural products, includes processed agricultural products that meet certain conditions	•			• “Competitive prices”		
Rhode Island	RI ST § 21-4.1-8	Milk	•	•	•		0.25% above	Applies to Rhode Island milk processor or distributor
South Carolina	S.C.A. § 11-35-1524	Applies to “SC end products” – end product, made, manufactured, or grown in South Carolina. “Grown” means to produce, cultivate, raise, or harvest timber, agricultural produce, or livestock on the land, or to cultivate, raise, catch, or harvest products or food from the water which results in an end product that is locally derived from the product cultivated, raised, caught, or harvested.	•				Up to 7% above	
South Dakota	No statutes located ¹⁶							

14. State law requires that the State Purchasing Director “provide an expeditious process for the sale to and purchase of Oklahoma grown and produced agricultural products by state, local, and federal entities.” 2 Okl.St. Ann. § 5-11.

15. This section was amended in 2011. It previously applied to “agricultural product[s]” produced and transported entirely within the state. 2011 Oregon Laws Ch. 237 (H.B. 3000)

16. South Dakota gives preferences to resident businesses. S. Dakota. Cons. Laws §§ 5-18A-25, 5-18A-26.

State	Statue	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
Tennessee	T.C.A. §12-4-121	Purchases of goods, including agricultural products. Agricultural products includes textiles and other similar products. Also preference for native vegetation for landscaping purposes.	•			•		First preference: agricultural products grown in state; second preference: agricultural products offered by Tennessee bidders. Preference if cost and quality are equal. If no state preference, preference for American over foreign products.
	T. C. A. § 12-3-809	Meat, meat food products, meat by-products	•			•		
	T. C. A. § 12-3-810	Meat, meat food products, meat by-products			•	•		
Texas	V.T.C.A. Govt. Code § 2155.444	All goods, including agricultural products. Agricultural products include textiles and other similar products. Also preference for native vegetation for landscaping.	•			•		First preference: agricultural products grown in state; second preference: agricultural products offered by Texas bidders. Preference if cost and quality are equal. If no state preference, preference for American over foreign products.
	V.T.C.A. Educ. Code § 44.042	Same but also includes agricultural products processed in state. "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form.			•	•		Same
	V.T.C.A. Educ. Code § 51.941	Agriculture products grown, produced, or processed in state	Universities				•	

State	Statue	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
Utah	U.C.A. 1953 § 63G-6-404	Purchases of goods, supplies, equipment, materials, and printing produced, manufactured, mined, grown, or performed in Utah	•		•	•		
Vermont	29 V.S.A § 909.	Food and agricultural products	•			•		"All other considerations being equal and considering the results of any economic analysis"
Virginia	Va. Code Ann. § 2.2-4324	No specific reference to agricultural or food products "Goods produced in Virginia"	•			•		"Whenever the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a percentage preference, a like preference shall be allowed to the lowest responsive and responsible bidder who is a resident of Virginia and is the next lowest bidder."
	Va. Code Ann. § 2.2-4328	No specific reference to agricultural or food products "Goods, services and construction produced in such locality"		•		•		Discretionary preferential purchasing authority

State	Statute	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
Washington	R.C.W.A. § 28A.335.190	Washington-grown food defined as “grown and packed or processed in Washington”						At the discretion of the board, a school district may develop and implement policies to facilitate purchases of Washington-grown food including permitting a price percentage preference, defined as “the percent by which a responsive bid from a responsible bidder whose product is a Washington-grown food may exceed the lowest responsive bid submitted by a responsible bidder whose product is not a Washington-grown food.”
	R.C.W.A. § 43.19.1906	Washington-grown food defined as “grown and packed or processed in Washington”	•					Competitive bidding not required for purchases of Washington-grown food if of an equivalent or better quality than similar food available and if able to be paid from the agency’s existing budget.
	R.C.W.A. § 43.19.1905(1)(o).		•					Washington State empowers and instructs the Director of Enterprise Services to “develop . . . food procurement procedures and materials that encourage and facilitate the purchase of Washington grown food by state agencies and institutions to the maximum extent practicable.”
West Virginia	No statutes located ¹⁷							

17. West Virginia gives preference to resident vendors of commodities. W. Va. Code, § 5A-3-37. West Virginia also gives preference to resident bidders in the purchase or acquisition of materials, supplies, equipment and printing by institutions of higher education. W. Va. Code § 18B-5-4.

State	Statute	Specific reference to agricultural product or food	Type of agency			Preference		
			State	Local	School	Selected if same price and quality	Percentage preference above	Other
Wisconsin	No statutes located ¹⁸							
Wyoming	W.S. 1977 § 16-6-105	Supplies, materials, agricultural products, equipment, machinery. Agricultural product defined as any horticultural, viticultural, vegetable product, livestock, livestock product, bees or honey, poultry or poultry product, sheep or wool product, timber or timber product.	•	•	•		Up to 5% above for contracts under \$5 million	

This tool was developed with support from the Centers for Disease Control and Prevention. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Centers for Disease Control and Prevention.

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18. Wisconsin gives a preference to Wisconsin producers, distributors, suppliers or retailers of materials, supplies, equipment, and contractual services. Wis. Stats. Ann. § 16.75.