CDPH
California Department of Public Health

ChangeLab Solutions

Understanding Healthy Procurement

Using Government Purchasing Power to Increase Access to Healthy Food

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Introduction

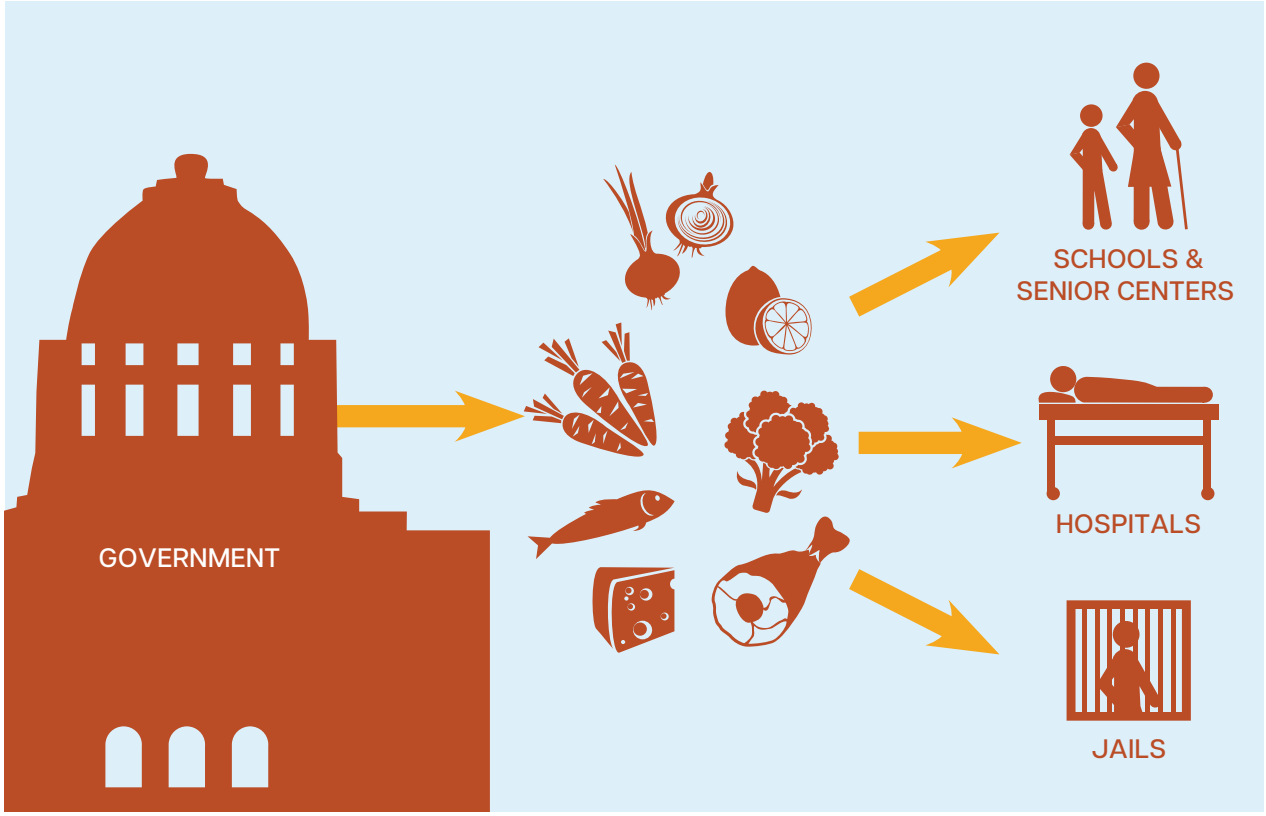
In California, state and local governments provide essential support to help communities live healthy lives. One important strategy is improving *food access*, or the availability of nutritionally adequate, affordable, and culturally responsive food, within communities.[1] There are several ways that state and local governments can improve food access. For example, they can adopt laws and regulations, such as zoning laws, that increase access to healthy food and decrease access to unhealthy food. Through zoning, governments can expand access to fresh produce by establishing farmers' markets and community gardens or limit unhealthy foods by banning fast-food outlets in certain areas.

Another way state and local governments can support healthier living is through the food they serve and sell to community members. In California, government entities purchase, or *procure*, food to provide meals in schools, public universities and colleges, childcare centers, public hospitals, jails, and senior programs. They also offer food for sale to employees and the public in government facilities, which they either procure directly or contract with vendors to provide. Government procurement policies provide guidance on how government entities purchase goods and services. Procuring healthy and nutritious foods can make healthy eating and living easier and improve the physical and mental health of employees, clients, patients, students, patrons, visitors, and nearby residents. Additionally, when government entities leverage their purchasing power to support local food producers, they can drive positive social and economic outcomes across the food system and within their communities.

This guide provides an overview of government procurement, with an emphasis on healthy procurement policies and the ways state and local governments can partner with residents, community-based organizations, and other changemakers to use procurement to promote health. By adopting healthy procurement policies and practices, governments can provide healthier food to community members and make a positive impact on community health. If a government entity's purchasing volume is large enough, they may also be able to influence the types of foods available more broadly in their community by increasing demand for healthier and more nutritious products.

What Is Procurement?

Procurement is the process through which government entities create and execute contracts to buy and sell goods and services. These goods and services are typically procured for use by government employees, students, and community members. Government entities – and the community-based organizations they contract to operate social services – purchase food to provide meals to people interacting with government agencies and to sell to employees and the public in retail outlets such as vending machines, cafeterias, and concession stands on government property. California's Public Contract Code, Penal Code, and Government Code inform purchasing decisions for state and, in some circumstances, local government agencies.[2] City and county ordinances can also shape procurement at the local level.[3] By establishing policies to improve the nutritional value of food they or their contractors buy and serve or sell, government entities can improve public health, lower overall costs, and set an example for private-sector entities to follow.



Who Sets Procurement Policies?

Healthy procurement policies can be established in various ways, depending on state and local laws and practices. While policymakers may set policies requiring healthy food purchasing, procurement standards are typically determined by those with procurement and health expertise, such as food policy task forces or health departments (often in consultation with purchasing departments). As is detailed later in this resource, standards may set limits on calories, fat, or sodium per beverage, snack, or meal; specify the required number of daily fruit or vegetable servings; or prohibit the purchase of certain foods or beverages. The following sections provide an overview of how procurement policy is shaped at the state and local levels.

State Procurement Policies

In California, the state legislature can pass bills requiring state government entities to purchase healthier foods, which the governor may then sign into law to promote healthier communities. For example, in 2024, Governor Newsom signed several bills into law to begin to limit access to processed foods and increase local access to healthy foods.[4] Notable among these bills is AB 2316, the California School Food Safety Act.[5] Effective December 31, 2027, this act will prohibit California schools from serving and selling foods containing synthetic food dye additives that have been linked to cancer, neurobehavioral issues, immune system damage, and other health harms in children.[6] In 2025, Governor Newsom also signed AB 1264, which defines ultra-processed foods, phases in restrictions on schools and vendors procuring and offering ultra-processed foods, and allows the California Department of Public Health to create rules and regulations concerning ultra-processed foods in school environments based on peer-reviewed, scientific research.[7]

Executive orders related to healthy procurement can also be issued at the state level. An executive order is a written directive issued by a city mayor, state governor, or the president of the United States that has the force of law.[8, 9] Typically, executive orders are based in existing statutory or constitutional authority. Although they do not require legislative approval to take effect and cannot be undone by legislative action, they are subject to judicial review and may be invalidated if a court finds they go beyond the issuing official's authority or are otherwise unconstitutional.[10]

In states that grant the governor authority over executive-branch agencies that purchase food, such as California, the governor can issue an executive order requiring those agencies to follow healthier nutrition standards. For example, in 2025, Governor Newsom issued an executive order directing various state agencies to explore ways to limit state-level procurement of ultra-processed foods and provide recommendations for how to best accomplish these goals.[11]

In addition to the state legislature, the California Department of General Services Procurement Division is empowered by state law to oversee government procurement and set state procurement policies.[12] While other state agencies, such as the Department of Education, may also be responsible for procurement to some degree, the Procurement Division is the state entity primarily responsible for the overall management and oversight of government procurement. It performs many functions, including directly purchasing goods, delegating purchasing authority,[13] certifying businesses to operate within the state, and designing innovative purchasing methods to save taxpayer dollars.[14, 15]

A key Procurement Division initiative that impacts healthy procurement is the Environmentally Preferable Purchasing (EPP) Program. EPP promotes purchases "that have a lesser or reduced effect on human health and the environment," by enforcing purchasing standards established under California state law.[16] Although EPP does not currently apply broadly to all food procurement, it does apply to cafeteria and food services. This means that cafeteria and food services run by government entities must offer or use at least one of the following to meet EPP requirements:[17]

- U.S. Department of Agriculture (USDA)-certified organic foods
- California Certified Organic Farmers (CCOF)-certified food and beverages
- Reusable, recyclable, or compostable dinnerware and flatware
- Green Seal-certified food service paper products
- Paper products with a minimum of 30% post-consumer recycled content
- Cleaning chemicals certified by Green Seal, UL ECOLOGO, the U.S. Environmental Protection Agency's (EPA) Safer Choice program, or Cradle to Cradle (Gold level or higher)
- Kitchen equipment certified by Energy Star

Local Procurement Policies

Opportunities for local government entities in California to set healthy procurement policies require consideration of both state and local law. Because the interplay between state and local law can be complex and opportunities may vary by jurisdiction, it is important for changemakers to consult a local attorney to understand their specific legal context.

Although local law must generally be consistent with state law, the California constitution makes an exception for cities organized under a charter.[18] Charter cities have supreme authority over municipal affairs and therefore may adopt and enforce ordinances that conflict with state law, provided that "such ordinances concern municipal affairs rather than issues of state-wide concern."[19] Further, charter cities may include provisions in their charters or pass ordinances exempting them from the state Public Contract Code,[20] and courts have upheld their authority to set local procurement requirements for contracts that concern municipal affairs.[21] General law cities – which are organized under the general law of the State of California – are not granted this exception.[22] Whether local governments in California may adopt and enforce procurement-related ordinances that conflict with state law is a legal question that is outside the scope of this resource. To learn more about opportunities and limitations in your jurisdiction, consult with a local attorney.

Even when authority to set healthy procurement policies exists, the decision-makers who can enact these changes may vary. City councils, for example, can pass local ordinances, but they must be consistent with state law.[23] At the city or county level, the governing body (such as a city council or county board of supervisors) could enact a binding policy (by ordinance, resolution, or motion) requiring city or county departments to purchase and provide healthy foods or directing their employees or the health department to develop healthy procurement standards that city departments must follow. For example, the City Council of Baldwin Park passed a resolution requiring all city vending machines to carry only products that meet certain nutritional standards.[24] Similar requirements exist in other counties and cities across California.[25] Local governments can even go beyond setting nutrition standards by passing resolutions that promote certain types of healthy and nutritious foods. For example, the City of Berkeley passed an ordinance to only serve plant-based food on government property on Mondays.[26] More recently,

Santa Clara County passed a sustainable purchasing policy designed to reduce the climate impact of procurement by county agencies and public institutions such as hospitals.[27]

Local agencies, such as school boards, can also pass healthy procurement policies, so long as they are not preempted by state law and are permissible by local law. For example, the Riverside Unified School District maintains nutritional guidelines for food served at schools as part of the wellness policy issued by the school board.[28]

In addition to legislative changes to establish healthy procurement policies, a mayor or city manager who oversees all executive-branch agencies may have authority to set procurement policies through executive orders. However, in some cities, an executive order may not be binding or may be overridden by the city council. Although there are no examples of such executive orders in California, changemakers can look to cities in other states for models of how this works in practice. For example, in 2022, New York City Mayor Eric Adams issued an executive order to update the city's food standards, implement a schedule to renew the standards every three years, and establish a Good Food Purchasing Program to improve food systems in local communities.[29, 30]

Impact of Federal Law on State- & Local-Level Procurement

State and local procurement contracts are primarily governed by state and local law. However, when a state or local government entity funds a contract with federal money, the contract is subject to requirements established by federal law. Sources of federal money used for state and local food procurement contracts include the National School Lunch Program, School Breakfast Program, Fresh Fruit and Vegetable Program, Special Milk Program, Child and Adult Care Food Program, Summer Food Service Program, and Seamless Summer Option.[31]

Practice Tip: Community-Centered Policy Change

When it comes to community change, it is crucial that the community that will be affected by a policy is involved in its development. Community members are often best positioned to identify policy solutions that are a poor fit and to foresee potential unintended consequences that a well-meaning policymaker might miss. Policymakers must work together with government and community partners and ensure engagement is representative of the community that will be affected. This can be achieved through ongoing dialogue with community-based organizations, directly impacted community members, and allies both inside and outside government.

Parents, students, teachers, farmers, faith leaders, small business owners, community nonprofit workers, and other local stakeholders can engage in the following activities to get involved in the development and implementation of healthy procurement and vending policies:

- Contacting policymakers to propose a new healthy procurement policy
- Attending and speaking at public meetings to discuss new healthy procurement policies
- Obtaining copies of procurement and vending contracts[32, i]
- Reviewing new solicitations for vendors and purchases to ensure they are consistent with existing or newly adopted healthy procurement policies

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i Once contracts are awarded, they become public documents and can be obtained under the state's public records law. Government agencies may prefer requests be made in writing and reference the state's public records laws.

- Reviewing new contracts or permits to ensure they are consistent with existing or newly adopted healthy procurement policies

Policymakers, on the other hand, may consider these orienting questions to ensure that community engagement is meaningful and empowering:

- What procurement policies enhance – or have the potential to enhance – community health in my jurisdiction?
- How can I collaborate with colleagues and community partners to use procurement policy to address the root causes of health disparities in my community?
- What skills, competencies, and lived experiences do I and others bring that can help drive meaningful change?
- How can we build strong, community-driven relationships to guide decision-making and empower those most affected by a new procurement policy?

Regardless of the process used, policy implementation – like policy development – should be rooted in community. Community-based implementation offers the following benefits:

- Identifying actions and policies that help local businesses successfully participate in government contracts
- Creating procurement policies that strengthen the economic health of local businesses by expanding their potential revenue streams
- Supporting revenue streams that lead to business expansion, create more local jobs, and increase local earning and community spending power

Building Trust

It is important to build a foundation of trust between policymakers, government employees, and the community. Past unfair policies may have caused mistrust, but trust can be rebuilt to strengthen cross-sector partnerships and collaboration through healing and repair. Dismantling past dynamics and building trust takes time and requires demonstrating credibility, reliability, openness, and a commitment to community-identified needs. Equally important is supporting change that builds on community strengths, assets, and resilience – in other words, recognizing people as agents in shaping their own well-being. This strengths-based approach focuses on

resilience and aims to use community members' experiences, knowledge, and skills to help drive positive change.

The following resources offer more information on community engagement to support community-centered policy change:

- ChangeLab Solutions, Policy Process Evaluation for Equity
- ChangeLab Solutions, Supporting Equitable Community Engagement
- City Energy, a joint project of the Natural Resources Defense Council and the Institute for Market Transformation, Engaging the Community in Policy Development (PDF)
- The CalFresh Healthy Living Community Impact Framework
- Urban Institute, Changing Power Dynamics among Researchers, Local Governments, and Community Members: A Community Engagement and Racial Equity Guidebook (PDF)

How Is Procurement Policy Implemented?

Getting Started Doing Business with California

The Procurement Division provides support to help businesses — especially small businesses and disabled veteran business enterprises (DVBE) — contract with the State of California. However, it can be difficult for small business owners to know how to get started. To lessen this burden, the Procurement Division published a how-to resource for small businesses and DVBEs interested in selling goods and services to the state. The full resource includes guidance on registering a business on Cal eProcure, where procurement opportunities are listed; applying for small business and DVBE certification; and bidding on and performing state contracts.

The Financial Information System for California (FI$Cal) Procurement Manual (PDF), issued and regularly updated by the Procurement Division, also contains various policies and practices regarding procurement.

The Procurement Division's Statewide Supplier Diversity Program implements strategies and provides assistance to state agencies, cities, and counties "to advance the equitable inclusion and utilization of small and diverse businesses in California's state procurement and contracting opportunities."

A healthy procurement policy typically specifies who is responsible for developing the procurement standards, procuring and providing the food, and enforcing the policy. To ensure roles and responsibilities are set in a fair and sustainable manner, it is important to engage policy implementers early in the policy design stage. For a healthy procurement policy, this includes a range of government employees, such as kitchen staff in schools, jails, and juvenile facilities, who support the health and well-being of their communities by purchasing, preparing, or serving food. For example, the City of Los Angeles established the Los Angeles Food Policy Council before adopting its Good Food Purchasing Policy in 2012.[33] Today, the council has several working groups and strategic partnerships, including with school

districts and other local institutions. To learn more about potential key players in healthy procurement policy, refer to the ChangeLab Solutions companion resource, Homgrown – specifically the section on "key players."

Government entities also contract with nonprofits to provide food to community members who qualify for food assistance. For example, state or local government entities may extend grants to nonprofit organizations, such as childcare centers or senior-serving organizations, to administer the Federal Child and Adult Care Food Program. To ensure the procurement process is easy to navigate and does not impose unnecessary hardships on nonprofits with limited bandwidth, it is important to collaborate with them to identify opportunities and evaluate ongoing contracts.

Finally, states, cities, and counties may contract with or issue permits to individuals or businesses to operate government food service operations. For example, a city might contract with a vending distributor to provide and stock vending machines or with a company to operate a café at its city hall. It may also issue permits to vendors to sell food and beverages in its parks. Whether a government entity uses the contracting or permitting process generally depends on local law and practice.

For more information on centering community in government procurement and policy processes, refer to the following resources:

- ChangeLab Solutions, Equity in Action: Policymaking for Community Health
- ChangeLab Solutions, Strategies for Equitable Policymaking (PDF)
- LISC Los Angeles, Supporting Economic Inclusion in Disadvantaged Communities (PDF)
- National League of Cities, Inclusive Procurement and Contracting
- Urban Institute, Removing Barriers to Participation in Local and State Government Procurement and Contracting for Entrepreneurs of Color

Please also refer to the practice tip on community-centered policy change in this resource.

The Contracting Process

If a government agency decides to "contract out" food purchasing or services, it must follow the applicable state and local laws that govern how contracts are awarded. In California, the state Public Contract Code, Penal Code, and Government Code inform purchasing decisions for nearly all government entities. These laws serve several functions, such as ensuring that public funds are being spent responsibly, preventing favoritism, and providing equal opportunity to all potential contractors that wish to do business with the government.[34] In general, when purchasing food and other goods, government entities are required to award contracts to the businesses that offer the lowest price, a process called *least-cost procurement*.[35] In contrast, when purchasing services – such as design-build services – government entities often consider price alongside other factors, like experience and past performance. This approach is known as *best value procurement*.[36] In this resource, we focus on contracts for goods.

Government entities use a competitive solicitation process to ensure equal opportunities for potential bidders, secure the best value for taxpayers' money, and implement safeguards against favoritism. Typically, the state or city issues a request for proposals (RFP) or an invitation for bids (IFB) specifying the goods and services it wants to purchase. This solicitation should include healthy nutrition standards and any other requirements, such as having bidders demonstrate that they will prepare certain types of foods, use particular cooking techniques, meet nutrition standards, or otherwise show that the food they provide will meet the government's standards. Cities and counties in California can use the contracting process to encourage or require contractors to provide healthy foods on government property[37] or to limit unhealthy foods.[38]

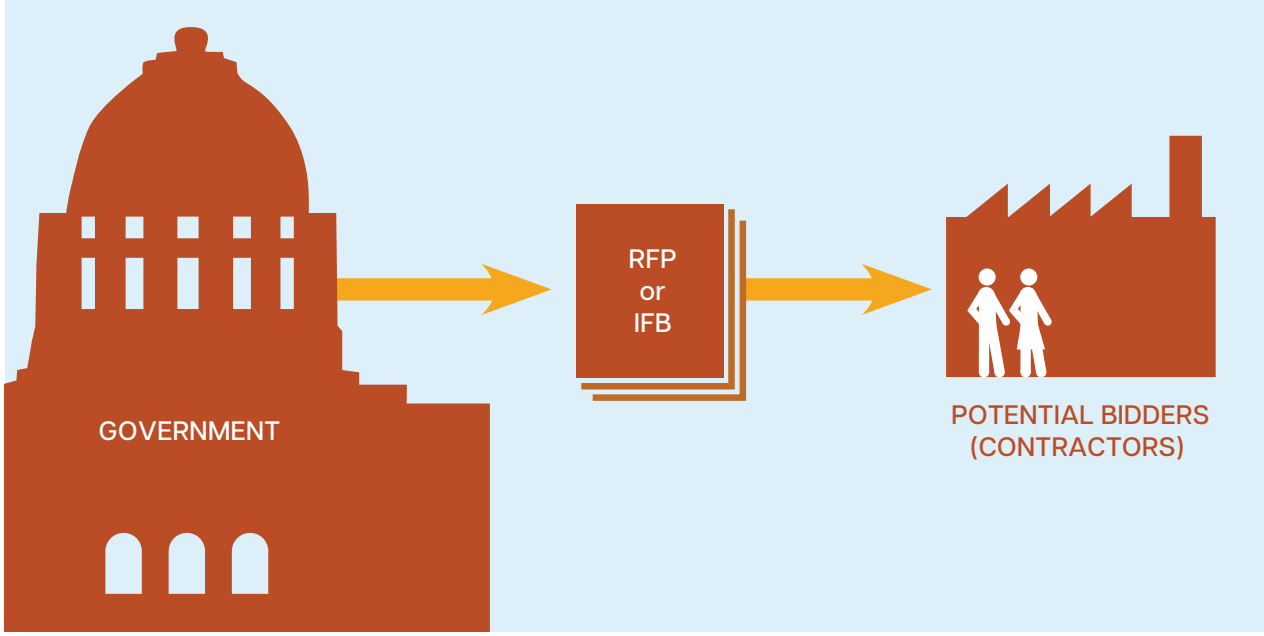
Because the solicitation process can favor larger entities over small businesses, state and local governments may pass laws or implement practices to level the playing field. For example, California state law establishes a competitive advantage for small businesses and DVBEs that respond to IFBs.[39] The preference is applied when the government agency is making a final determination about which bidder should be awarded the contract. Specifically, it allows agencies to award contracts to small businesses and DVBEs even if their goods cost up to 5% more than those offered by other bidders.[40] Government entities can also implement the following strategies to promote fair contracting opportunities:[41]

- Streamlining the bidding process
- Using accessible language in RFPs and IFBs
- Breaking up contracts into smaller units of work that may be more feasible for small businesses
- Considering bidders' relationship with the local community and the value they add to the local economy

To learn more about when and how government entities can apply procurement preferences, see the ChangeLab Solutions companion resource, Homegrown.

Next, potential contractors submit proposals or bids that show how they will comply with the government's criteria. Depending on the goods or services being solicited, the government entity either rates the proposals according to their responsiveness to all the criteria or selects the lowest bidder. For more detailed information about scoring and contract evaluation, refer to the Appendix.

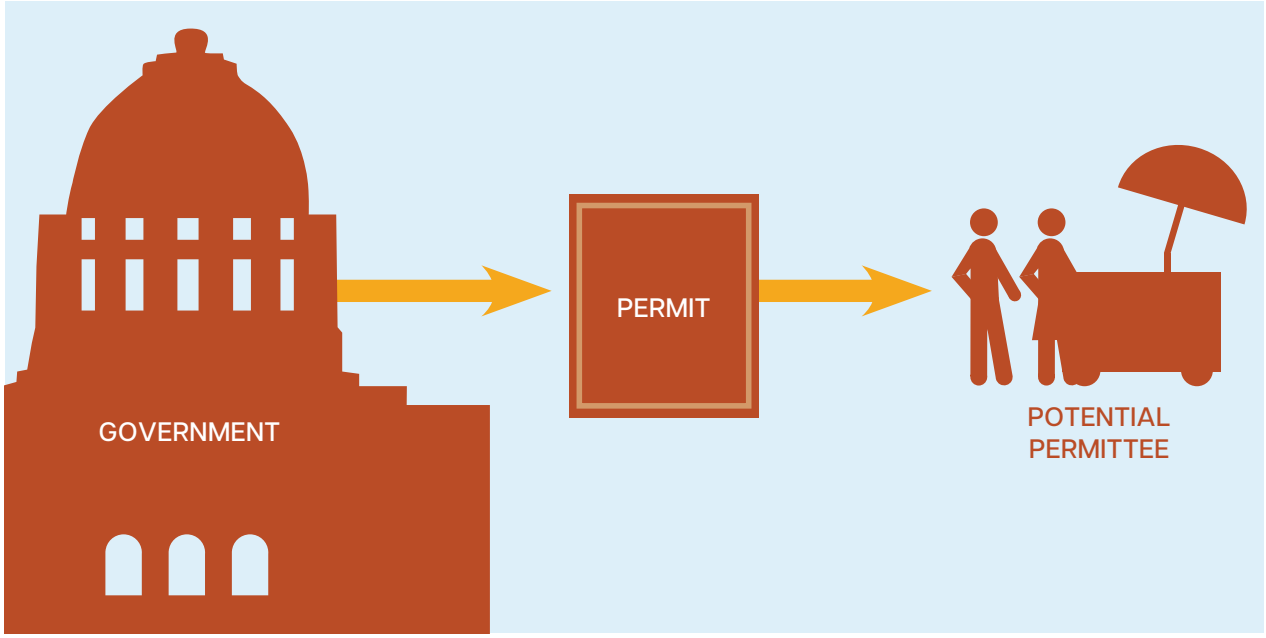
Once the top candidate is selected, the government entity negotiates a contract with them. The contract details the contractor's responsibilities, including complying with health and nutrition standards. It should also contain a range of penalties and nonpunitive interventions for noncompliance, which could include education, technical assistance, monetary penalties (i.e., "liquidated damages"), or suspension or termination of the contract.



The Permit Process

If the city or county uses a permit process, a different application and award procedure applies. The permitting department, which could be a health, parks and recreation, or other supervising department, evaluates applications to determine whether they comply with the permit requirements. As with contracting, local governments in California can use the permitting process or permit requirements to encourage or require permittees to offer healthy foods or limit unhealthy foods.

If an application is approved, the applicant pays a fee and is awarded the permit.[i] The permitting law typically establishes a process for monitoring and enforcing the permit, which likely includes fines for noncompliance and, if necessary, suspension or termination. When selecting enforcement methods, government entities should consider nonmonetary and nonpunitive alternatives for noncompliance, as these methods often have the greatest impact on smaller businesses and new permittees. To learn more about implementation and enforcement strategies, refer to ChangeLab Solutions' Equitable Enforcement to Achieve Health Equity.



i Some jurisdictions may have a waiting list or other process for allocating permits when there are many applicants.

Practice Tip: Support for Small Business Owners & Farmers

Drafting and submitting a successful proposal or permit application can be daunting, especially for a first-time small business owner. To alleviate some of this stress, state and local governments can conduct educational outreach to help small business owners, small farm owners, and first-time vendors in their jurisdiction understand the bidding and permitting processes. Such outreach can also inform permittees and other vendors on permit requirements and avoiding penalties. For more information on permitting law and other administrative law practices, see ChangeLab Solutions' Public Health Law Academy series.

Although the Procurement Division and other state and local government entities provide ample resources to assist with the procurement process, the following tools can also help those new to procurement get started:

- Legal services
  - Lawyers' Committee for Civil Rights of the San Francisco Bay Area, Legal Services for Entrepreneurs
  - New Business Community Law Clinic
  - Sustainable Economies Law Center
  - University of California, Berkeley, School of Law's Social Enterprise Clinic
- Language access and support
  - University of California-Davis California AgrAbility Program
- Food justice organizations
  - Los Angeles Food Policy Council
  - The Cultural Conservancy's Native Foodways Program
- Community-based organizations focused on supporting small businesses
  - Clovis Community College Small Business Development Center
- Farming and rural support
  - Agricultural Institute of Marin
  - California Climate & Agriculture Network
  - California FarmLink
  - Community Alliance with Family Farmers

- Technical assistance
  - APEX Accelerators (formerly known as Procurement Technical Assistance Centers)
  - Small Business Development Center ProBiz
  - University of California Small Business First

Practice Tip: Good Food Purchasing Values

A healthy food system is one that is "built on core values and principles that enable the well-being of all people, animals, and their environments."[42] Healthy food systems incorporate procurement policies that reflect the following good food purchasing values:

Values	Strategies
Implement values-based procurement to create a more accountable and transparent food system.	• Maintain transparent and accessible purchasing data. • Have staff dedicated to engaging with community members to share information about purchasing decisions and processes and gather insights about community priorities. • Develop and implement policies that prioritize small businesses and reduce barriers to entry for new vendors.
Support the growth of vibrant and resilient local economies so communities have the power to make decisions about their local food system.	• Prioritize local suppliers – especially small and mid-sized farms, businesses, and other vendors – that are privately, cooperatively, or nonprofit-owned and operated within the community. • Build partnerships with community members to ensure that food sold and served is responsive to the needs and cultures of all residents. • Leverage institutional buying power to support small businesses and the local economy.

Values	Strategies
Promote sustainable farms and businesses that build healthy ecosystems and reduce the food system's environmental impact.	Procure goods and services from vendors that provide environmentally sustainable food, prioritize community health by minimizing their business's impact on the environment, avoid using harmful pesticides and chemicals, and/or engage in recycling programs and other processes to reduce carbon emissions.
Engage in business with food suppliers and vendors that respect workers' rights, including the right to freedom of association, to unionize, and to engage in collective bargaining.	• Ensure vendors comply with labor laws throughout the contract term. • Award contracts and permits to businesses that are fair trade, cooperatively owned, and/or certified by a qualified food justice organization.
Promote businesses that offer healthy, nutritious, and culturally relevant food and support community food sovereignty.	• Mandate procurement of healthy food in government purchasing. • Partner with the community to understand its collective food needs.

For more information on good food purchasing, refer to ChangeLab Solutions' Using the Power of Procurement for Healthier Communities.

Practice Tip: Institutions Buying Food for Health & Equity[i]

i Infographic sourced from ChangeLab Solutions' Using the Power of Procurement for Healthier Communities.

What Can Healthy Procurement Look Like?

This section explores in more depth the two main categories of government-purchased food affected by healthy procurement policies:

- Meals served to community members residing in public institutions, such as jails, public hospitals, and schools
- Items sold in vending machines, cafeterias, concession stands, and other retail outlets on government property

Meals & Snacks for Community Members Living in Public Institutions

In California, the state, as well as counties, large cities, and school districts, provide food at little or no cost to community members who qualify for food assistance. Some provide this food directly, while others contract with nonprofit providers. Government agencies offer free or low-cost meals through federal nutrition programs such as the National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, and Summer Food Service Program. They also provide meals in jails and prisons, childcare and after-school programs, and juvenile programs and residences.

Many of these meals are funded through federal grant programs. To qualify, state and local governments must comply with federal laws and regulations governing the use of grant funds, including purchasing rules and nutrition standards. State laws may also dictate how federal funds are allocated to local governments.[43]

Additionally, state laws regulate the procurement and provision of institutional meals. States typically regulate the construction and operation of state and local prisons, jails, juvenile facilities, and childcare settings;[44] often, these regulations set minimum standards for the nutritional content and frequency of meals and snacks.[45]

Federal and state nutrition standards act as a baseline, meaning local institutions – such as public school districts – must meet them but may also choose to exceed them. For example, California's nutrition standards for schools exceed federal

standards by placing additional restrictions on foods served during after-school programs. These restrictions concern cooking methods, such as prohibiting deep-, par-, or pan-fried foods and allowing only oils "known for their positive cardiovascular benefit," like olive oil.[46] State and local governments can also impose higher standards through the contracts or grants they award to nonprofit providers. However, federal and state programs usually set funding levels to only meet the baseline standards. A government entity that chooses to exceed those standards — which may require more expensive food — is not guaranteed additional funding and would have to cover the cost with existing funds or identify another source of financing.[47] Several school districts in California exceed baseline standards by committing to healthy purchasing guidelines.[48, 49]

California Grant Programs

California has used multiple grant programs that dictate how federal and state funds are allocated to local government entities, school districts, and other public institutions:

- California Farm to School Incubator Grant Program
  Note: California introduced a bill during its 2025 legislative session to codify this program (AB 675)[50]
- Natural Resources and Agriculture Discretionary Spending Proposals
- California Nutrition Incentive Program
- Senior Farmers' Market Nutrition Program
- Healthy Refrigeration Grant Program

Additional grant programs can be found on the California Department of Food and Agriculture website.

For more information on federal grant programs related to correctional facilities, see ChangeLab Solutions' Farm to Corrections resources.

The Meaning & Importance of "Buying Local"

Many states, including California, have laws requiring state and local government entities to give purchasing preferences to food or agricultural products grown in state or commodities produced by in-state businesses.

State Preference Policies

As discussed, in California, state preference policies give advantages to suppliers who meet specific criteria when responding to a state entity's solicitation for products or services. Criteria may relate to the supplier's geographic location, the origin of the supplier's product, the type of product or service offered, or the supplier's diversity classification (e.g., small business, minority-, veteran-, or woman-owned business).

For agricultural products specifically, California passed AB 822, which requires state entities to purchase from in-state growers if the price is no more than a certain percentage higher than that of out-of-state products. For purchases made by California state-run institutions (excluding public universities, colleges, and school districts), AB 822 gives a 5% price preference for California-grown agricultural products over out-of-state products. It also gives a 5% preference for California-packed or processed products over those packed or processed outside California. For purchases made by California school districts, AB 822 gives tie-break preference to California-grown agricultural products over out-of-state products. The tie-break preference requires school districts to purchase a California-grown product if the price is the same as that of an out-of-state product.[51]

Local Preference Policies

In general, unless state or local law or funding requirements specify otherwise,[52] government entities may apply state or local preferences when purchasing or selling goods.[53] Within the limits set by state and local procurement laws, government entities may choose with whom and on what terms they contract. For example, the City of Davis gives a small preference to local businesses, reasoning that local residents should benfit from local tax dollars.[54] San Francisco also gives a small preference to local businesses, particularly those that are minority- or woman-owned.[55] The city's Administrative Code requires the mayor to establish citywide goals for participation by small and "micro" local businesses in city

contracting.[56] Since local preferences can raise potential legal issues and state and local procurement laws vary, be sure to consult with a local government attorney before employing this strategy.

The Impact of Federal Law

On the federal level, institutions receiving funds through the Child Nutrition Programs (i.e., CNP operators) may apply a geographic preference when procuring local, unprocessed agricultural products for program meals, snacks, and milk. In this context, "local" refers to products that are locally grown, locally raised, or locally caught.[57] For procurement solicitations, CNP operators may require that unprocessed agricultural products be local and disregard products or bids that do not meet this standard.[58]

Strategies to Improve Procurement Policies Within Public Institutions

To improve procurement policies within public institutions and enable local businesses to engage in the procurement process, it is important to address potential barriers to policy implementation. According to research,[59] the following are the primary barriers that make it difficult for institutions to buy local:

- Lack of information about the procurement process
- Lack of capacity to engage with complicated procurement processes and large contracts
- Lack of technical support
- Tight timelines for completing the bidding process

While the state establishes minimum procedural requirements for procurement, government agencies can often go above and beyond these minimums to remove barriers to contracting participation for local and, often, smaller businesses. This can also help ensure that procurement opportunities are accessible to everyone. As discussed above, navigating procurement requirements and becoming a government contractor can be complicated, especially for small businesses that may have fewer resources and less capacity to dedicate to the contracting process. The following strategies can help remove barriers to participation in procurement opportunities and boost financial stability for small businesses – a significant number of which are owned by women and people of color:[60, 61, 62]

- Sharing information about upcoming procurement opportunities to give businesses more time to prepare
- Conducting outreach and providing technical assistance to help small businesses navigate the contracting process and to support businesses after they win a bid
- Unbundling contracts to create smaller contracting opportunities[63]

Healthier Procurement Standards

Establishing healthier procurement standards can leverage state purchasing power to prioritize healthy, minimally processed foods. By integrating nutrition standards into procurement policies, institutions can align their purchases with federal and state laws, as well as any program-specific requirements for the settings where the foods are served. Although the example below concerns vending machines, these standards can be applied to other types of food procurement. For example, the California Education Code sets nutrition standards for food provided at after-school programs.[64]

County-Level Model Policy

Below is a model policy developed by the San Diego County Board of Supervisors for healthier procurement standards for healthy vending machine options on government property:[65]

Beverages: Beverage volumes of no more than 12 ounces (except water), and no more than 250 calories per container. Smaller portions, such as 6 ounces, are preferred when available. Healthy-choice beverages offered in each vending machine should include at least one of the following:

- **Water:** No volume limit; 0 calories
- **Milk:** Nonfat or 1% low-fat milk, such as soy milk, cow's milk, or chocolate or other flavored milk, containing no more than 15 grams of added sugar per 240-milliliter serving or 3 teaspoons of sugar per 1 cup
- **100% fruit or vegetable juice**
- **Fruit-based drinks:** Must contain at least 50% juice and no added caloric sweeteners, such as sugar or high-fructose corn syrup
- **Other noncaloric beverages, including diet sodas**
- **Sport drinks:** No more than 100 calories per container

Snacks and Entrées: Snacks and entrée food items offered in each vending machine must meet the following criteria for each individual package:

- **Snacks:** No more than 250 calories
- **Entrées:** No more than 400 calories (An entrée is defined as a food generally regarded as the primary component of a meal, such as sandwiches, burritos, pasta, or pizza.)
- **Fat:** No more than 35% of calories from fat (excluding legumes, nuts, nut butters, seeds, eggs, nonfried vegetables, and cheese packaged for individual sale). Snack mixes and entrée foods, of which nuts are a part, must meet the 35% standard.
- **Saturated fat:** No more than 10% of calories from saturated fat (excluding eggs or cheese packaged for individual sale)
- **Trans fat:** No trans fats
- **Sugar:** No more than 35% of total weight from sugar and caloric sweeteners (excluding fruits and vegetables not processed with added sweeteners or fats)
- **Sodium:** No more than 360 milligrams of sodium per serving for snacks and 575 milligrams of sodium per serving for entrées

Food Sold to Government Employees & the Public

State and local governments, as well as school districts, procure food to sell to employees and the public. Many provide vending machines offering beverages and snacks for students, employees, and visitors. Some also have cafeterias (e.g., at public hospitals or government office buildings), cafés (e.g., at city halls, libraries, or entertainment venues), or concession stands (e.g., at public pools or recreation facilities). When selling food, government agencies exercise their market participant power. They must comply with the same health and sanitation requirements as private businesses; however, unless there is an overriding law restricting what can be sold at particular venues – such as a state law limiting the sale of certain foods and beverages in schools – they have the authority to decide what foods to sell, just like a private business.

Schools: Leading the Way to Healthier Food Options

Concerned about children's health, state and federal lawmakers have passed laws to increase access to healthy and nutritious foods for children at school. For example, all food sold on school campuses during school hours must adhere to the federal Smart Snacks standards, "including food sold in vending machines, at school stores, and at school fundraisers."[66] Additionally, the federal government requires all school districts participating in at least one of the federal Child Nutrition Programs to develop and implement a school wellness policy. The policy must promote healthy living for students by establishing nutrition education and physical activity environments, providing nutrition guidelines for all foods and beverages available at school, and limiting food marketing to products that meet the Smart Snacks standards.[67]

As mentioned, at the state level, California schools are leading the way by implementing some of the strictest nutrition standards for vending and food sales.[68] For example, California's school nutrition standards prohibit certain foods based on cooking method (e.g., no deep-, par-, or pan-fried foods) or nutritional content (e.g., no items with more than 200 milligrams of sodium or 0.5 grams of trans fat).[69] Some items are also restricted by age (e.g., certain beverages are prohibited in elementary and middle schools but allowed in high schools).[70] The standards are set based on evidence-based findings that limiting childhood exposure to these types

of foods and beverages can improve overall health. California also recently passed a bill directing the Department of Public Health to identify ultra-processed foods linked to harm and begin to phase them out in schools.[71]

Healthier Beverages & Snacks in Vending Machines

Some cities, counties, and other local entities have implemented healthy vending policies that require food and beverages sold in government vending machines to meet certain nutrition standards. For example, San Diego requires that all snacks sold in vending machines at recreation centers and sports facilities meet nutrition standards, including limits on calories (250 per item), fat, added sugars, and sodium.[72] Beverages sold at these venues, such as milk, juice, soda, and sports drinks, also are subject to limits on calories, added sweeteners, and portion size. The Los Angeles County Board of Supervisors has also adopted similar healthy standards for its vending machines.[73]

Calorie Disclosure on Vending Machines

The Patient Protection and Affordable Care Act of 2010 requires nutrition labeling for foods sold at chain restaurants with twenty or more outlets and in vending machines operated by a person or entity that owns or operates at least twenty vending machines.[74, 75] Vending machines require "a sign in close proximity to each article of food or the selection button that includes a clear and conspicuous statement disclosing the number of calories contained in the article [of food]," unless the machine allows prospective purchasers to examine an item's Nutrition Facts panel before purchasing it or otherwise provides visible nutrition information at the point of purchase.[76]

Healthier Standards for Other Government Food Retail Outlets

State and local governments can also set healthier standards for other government food sales. For example, a city could require restaurants on government property to offer healthy entrées or ensure that food they serve meets certain nutritional standards. Additionally, federal law and regulations require certain restaurants to post nutrition information for their menu items.[77, 78] San Francisco and other California cities have adopted nutrition standards that apply to food and beverages sold on city property, including those offered at restaurants and city meetings and events.[79]

An Alternative to Procurement: Regulations to Promote Healthy Food

State and local governments can also improve access to healthy food and decrease access to unhealthy food by exercising their regulatory authority – their traditional role of passing laws to promote community health and general welfare. Legal tools such as zoning, permitting, licensing, and other business regulations can be used to promote healthy food access and limit unhealthy food options. For example, some communities have used regulatory power to limit or ban fast-food restaurants. Many communities, such as the County of Fresno, have permit programs for street and sidewalk vendors.[80] Others, such as the City of Emeryville, permit sidewalk vending but ban vending near schools.[81] Outside of California, New York City uses its Green Cart program to place sidewalk produce vendors in neighborhoods that lack access to fresh fruits and vegetables.[82]

ChangeLab Solutions has developed a variety of model ordinances to promote access to healthier foods and restrict access to less healthy options:

- From the Ground Up: **Establishing land use protections for farmers' markets.**
- Ground Rules: **A legal toolkit providing model zoning language to protect and promote community gardens.**
- Healthy Children's Meals: **Model policy language setting nutrition standards for the foods and beverages in children's meals.**
- Model Healthy Food Zone Ordinance: **Prohibiting fast-food restaurants and mobile vendors within a certain distance of schools.**
- Model Produce Cart Ordinance: **Creating an incentive-based permit program for sidewalk vendors who sell fresh produce.**

Resources

Healthy Agency Food Standards

- Massachusetts State Agency Food Standards (PDF)
- New York City Food Standards: Meals and Snacks Purchased and Served (PDF)
- Washington, DC, Healthy Schools Act of 2010

Healthy Vending Policies, Standards, & Toolkits

Beverage Vending

- Bay Area Nutrition & Physical Activity Collaborative (BANPAC), Healthy Vending Machine Toolkit
- ChangeLab Solutions, Developing a Healthy Beverage Vending Agreement
- ChangeLab Solutions, Model Healthy Beverage Vending Agreement

Beverage & Food Vending Machine Policies

- City of Baldwin Park, CA, Resolution No. 2008-014 (PDF)
- City of Santa Ana, CA, Resolution No. 2006-053 (PDF)
- County of Monterey, CA, 'Healthy' Vending Machine Policy (PDF)
- County of San Diego, CA, Healthy Choice Options in Vending Machines on County Property (Policy No. K-14) (PDF)
- New York City Food Standards, Beverage Vending Machines (PDF)

Healthy Concessions & Mobile Vending on Government Property

- City of Pasadena, CA, City Council Resolution No. 9145 (PDF)
- Kansas City, MO, Parks and Recreation Department, Mobile Vending Policy
- Centers for Disease Control and Prevention (CDC), Food Service Guidelines for Federal Facilities

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Visit CalFreshHealthyLiving.org for healthy tips.

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Appendix

As discussed in The Contracting Process, government entities typically evaluate bids for a contract based on an established scoring process. To understand how score adjustments work, refer to the example below from the Procurement Division illustrating how a small business score adjustment is applied.

Example:

Supplier A — Bidder does not qualify for the [small business] preference: Multiply the low net bid price by preference factor ($12,500 × .05 = $625)

Supplier B — Certified [small business]: Subtracted the preference adjustment from the net bid price ($13,000 – $625 = $12,375)

Results: Since $12,375 is less than $12,500 the award was made to the certified [small business] (assuming all other conditions of the solicitation were met).

Awards based on High Point

Small business preference calculation is performed for awards based on high points.

To apply the preference:

1. Identify the highest ranked bid (the responsive bid with the highest total score) not eligible for the [small business] preference ([California Code of Regulations] Section 1896.8(b)). If the highest ranked bid is eligible for the [small business] preference, the preference is not applied.
2. Multiply the total score of the highest ranked bid by 5% to determine the preference amount (per Government Code Section 14838(b)(2)).
3. Add the preference amount to the total score of responsive bids eligible to receive the preference.

The following are examples based on a value effective IT solicitation where only the [small business] preference was claimed by bidders and a two-envelope method was used.

Preference Calculation

	BIDDER A	BIDDER B	BIDDER C
Responsive & responsible	Yes	Yes	Yes
Eligible preference	None	None	[Small business]
Combined administrative & Technical Score	400	450	450
Score based on price bid	1200	1140	1100
Total Score	1600	1590	1550
Rank	1	2	3
Preference Amount			80
Final Score	1600	1590	1630
Final Rank	2	3	1

The preference calculation is performed as follows:

1. Identify the total score of the #1 ranked bidder (Bidder A at 1600).
2. Determine the preference amount (1600 × .05 = 80).
3. Add the preference amount to the total score of bids eligible to receive the preference (Bidder C: 1,550 + 80 = 1,630).

The award is to Bidder C.

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