INCREASING LOCAL FOOD PROCUREMENT BY MASSACHUSETTS STATE AGENCIES

Executive Summary

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EXECUTIVE SUMMARY

In recent years, there has been increasing demand for locally grown food as consumers, policymakers, and advocacy groups recognize the health, environmental, and economic benefits of purchasing food from local farmers. Many states have noted the potential for public institutions to serve as leading purchasers of locally grown food (meaning, food produced within the state), and have enacted legislation instructing state institutions to apply a purchasing preference for food grown within the state. In 2006, Massachusetts enacted one such law, codified in the General Laws of Massachusetts at Chapter 7, Section 23B (Section 23B). Section 23B requires state agencies, as well as state colleges and universities, to prefer food products grown or produced in Massachusetts over foods grown or produced in other states. In order to effectuate this broad preference for Massachusetts-grown food products, the law requires state agencies—but not state colleges or universities—to purchase food products grown in Massachusetts, unless the price is more than 10% higher than the price of comparable out-of-state food products.

While Section 23B reflects the state legislature’s desire to increase the amount of Massachusetts-grown foods, not much local food is being purchased by Massachusetts state agencies. Many state agencies have yet to achieve full implementation of the 10% price preference as required by Section 23B. Discussions with agency officials and purchasers revealed that little progress has been made since Section 23B’s enactment in establishing contracts with vendors who source agricultural products from Massachusetts farms.

Under Massachusetts’ procurement law, state agencies are required to form Procurement Management Teams to oversee the creation of a Request for Response (RFR) that seeks bidders to satisfy a procurement solicitation. A procurement contract must meet a number of requirements including:

- it must be the best value to the state, as evidenced by nine different criteria;
- it must be awarded to a Small Business Purchasing Program participant if the contract is between $50,000 – $150,000 and other contract requirements are met;
- for procurements over $150,000, it must contain a supplier diversity plan; and
- for contracts procuring food, it must comply with Executive Order 509, which established nutrition standards for agency procured food.

As a general rule, agencies are required to procure goods under existing statewide contracts. There are three statewide food contracts: the prime grocer contract, the dairy contract, and the baked goods contract. The prime grocer contract is the largest state agency food contract and requires bidders to supply both locally available and non-locally available food. To be in compliance with Section 23B, agencies are required only to include basic contractual language provided by Operational Services Division (OSD) (the state agency in charge of procurement). Vendors are required to make a firm commitment to purchase food grown in Massachusetts in their contract proposals in order to comply with Section 23B.
Interviews and discussions with key stakeholders from around the state revealed various barriers to successfully implementing Section 23B’s goal of increased local food procurement. As discussed above, the bar for agency compliance with Section 23B is very low. Further, the bar for vendor compliance is also low; vendors that expressly acknowledged that they did not purchase locally grown food were still awarded contracts. Unlike other procurement support programs, there is very little information about Section 23B or how to increase local food purchasing on OSD’s website. There is no mechanism to track nor report the amount of locally grown food. Without adequate tracking and reporting mechanisms, it is nearly impossible to measure and report ongoing progress in implementing Section 23B.

Although Section 23B provides a price preference for locally grown food purchased by agencies, it does not provide much incentive to purchase local food. Other states have used a benchmark to give agencies an indicator to work toward; a benchmark requires an agency to purchase a set amount of food or spend a certain amount of money on local food. Massachusetts does not have any kind of benchmark to push agencies to purchase local food. There are existing programs that provide procurement support to certain types of businesses – small business and minority-owned and women-owned business enterprises – that farmers could use to connect to agency purchasers, but have not done so. Farmer enrollment in the Small Business Purchasing Program and the Supplier Diversity Program is almost nonexistent. Finally, the prime grocer contract requires bidders to be able to provide food that can be locally grown as well as food that cannot be locally grown. This could preclude local farmers from bidding on the prime grocer contract as vendor or subvendor.

Taking these barriers into consideration, the following recommendations can be pursued to increase local food procurement by Massachusetts state agencies:

- **Advocate for the creation of educational materials on Section 23B for agency purchasers and farmers.** Besides the basic contract language ensuring compliance with Section 23B, state agency food purchasers may not be fully aware of nor understand Section 23B and its requirements. To address this issue, there are several solutions, including the creation of educational materials and a local food purchasing directory, as well as providing informational sessions for farmers and agency purchasers.

- **Advocate for the establishment of a tracking mechanism and reporting requirement for local purchasing.** Although Massachusetts has a strong procurement preference law, there is currently no mechanism for tracking the amount of food that is being procured locally. Without this information, it is difficult to assess what opportunities exist for purchasing local food and any progress that is being made. Advocates should ask the legislature to establish a tracking mechanism within Section 23B. Additionally, requiring reporting of local food purchasing will establish a baseline and assist agencies in setting goals and finding ways to achieve those goals.

- **Advocate for legislation to establish a benchmark for Massachusetts’ local purchasing.** One way to increase state agency accountability under Section 23B is to establish yearly benchmark goals for amounts of locally grown food purchased by each agency. The benchmark would take the form of a target percentage of food purchased by state agencies for a future year (e.g., by 2020, locally grown food will represent 15% of total dollars spent on food purchases).
- **Encourage farmers to enroll in E.O. 503’s Small Business Purchasing Program.** The Small Business Purchasing Program (SBPP) requires agencies to award contracts between $50,000-$150,000 to SBPP participants. Although this existing program is a good option for farmers, it appears that no farmers are participating. Unless a new policy is created, establishing a program focused specifically on Massachusetts local food businesses, advocates can alternatively encourage farmers to enroll in Massachusetts’ SBPP so that they can increase their chances of being awarded small food procurement contracts.

- **Encourage farmers to enroll in the Supplier Diversity Program.** The Supplier Diversity Program (SDP) encourages agencies to select bidders that work with minority-owned and women-owned business enterprises (M/WBE) by giving 10% of response evaluation points to a bidders’ supplier diversity plan. To support these businesses, OSD maintains a list of M/WBE that are listed above other suppliers, sets a benchmark for agencies to meet, and provides other administrative support to agencies. For farmers that meet the SDP criteria, this could be another way to connect with agency purchasers to increase local food procurement.

- **Advocate for a new policy establishing a Massachusetts-grown Agricultural Products Purchasing Program.** Advocates can use Section 23B to garner support for a new policy (established through legislation or an executive order) to create a Massachusetts-grown Agricultural Products Purchasing Program (MAPPP). Under this policy, state agencies would be directed to give “special consideration” in their food procurement practices to Massachusetts farms or farm aggregators who enroll in the program. It would call for enhanced accountability, the development of benchmarks, an annual review of progress, as well as information-sharing processes, none of which is provided for under the current language of Section 23B. Another benefit of establishing this policy is that it would address the challenges state agencies currently face in tracking whether food products originate in Massachusetts. Under this policy, agencies would know whether a vendor sources a significant amount of food from local farms based on the vendor’s MAPPP enrollment status and self-identification as a Massachusetts farmer or aggregator.

- **Advocate for splitting produce contracts.** Farmers and aggregators otherwise able to meet the volume of agency produce contracts nevertheless face the barrier that certain food items specified in the state contracts are not grown in Massachusetts and thus they cannot fulfill the RFR. To overcome this barrier, OSD can split the prime grocer contract and agencies can split their contracts so that all of the food able to be grown in Massachusetts is included in one contract, and all other food is included in another.

- **Advocate for a regional preference in Section 23B, which would provide a 5-7% preference for food procured from New England.** While the purchase of in-state food will do the most to strengthen the Massachusetts economy, agencies can add variety to their menus by sourcing beyond the state borders. Regional food systems are now recognized as valuable resources for maintaining healthy diets and economies. New England, in particular, has a strong and growing regional food economy that could contribute to and benefit from a regional food preference. When local food is not available, regionally sourced items should be in a second preference tier and be given a 5-7% preference, for example.
In addition to these overall recommendations, several opportunities to modify the purchasing practices of particular agencies to increase local purchasing were identified. These opportunities are discussed in more detail in the report. With assistance from advocates such as the Massachusetts Farm to School Project (the client for this report), agencies can make significant progress toward purchasing fresh, nutritious, locally-grown foods, invigorating Massachusetts’ farming economy, and supporting a sustainable, local food system.