



**INCREASING LOCAL FOOD
PROCUREMENT BY
MASSACHUSETTS STATE
COLLEGES & UNIVERSITIES**

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INTRODUCTION

Not too many years ago, people ate food grown nearby when it was fresh and in season. Over time, our agricultural system transformed, our transportation capabilities accelerated, and we gained the ability to source large quantities of food for easy and affordable consumption. With this abundance of food choice and quantity also came an unsustainable food system that continues to supply the country today, often to the detriment of small farmers who previously held this role. In recent years, an increasing interest in local food consumption, alongside concern over rising global food prices, environmentally-damaging farming practices, and a lack of transparency about the ingredients utilized in processed food products, have inspired food advocates at the local, state, and regional level, to return to procuring more foods locally.

Though the interest in purchasing local foods often stems from environmental and nutritional concerns of consumers, the economic benefits that accompany local food initiatives are becoming more apparent as well. Utilizing local products helps communities “stimulate growth in local agriculture, encourage development of local food system infrastructure and increase access to good food.”¹ Money spent at a local farm circulates within that community between six and fifteen times, supporting local farms, businesses, people, and communities.² Within the last several years, communities and citizens have realized the benefits of buying locally and have steadily joined local food advocates by voting with their food dollars. The tremendous growth in farmers markets and community-supported agriculture programs over the past few years demonstrates both the remarkable increase in consumer interest in local products and potential market for expansion.³

Among the proliferation of farmers markets, community-supported agriculture, and the popular movement to reconnect with local food, is an interest in affecting procurement standards at many private and public institutions—from state agencies to schools to public hospitals. College and university dining halls offer an especially well-targeted opportunity to focus on purchasing local foods because, of all the state institutions, “colleges and universities across the country tend to be more receptive to showcasing locally and sustainably grown foods, and are able to buy higher priced items, when local and sustainable food issues are important to their student body.”⁴

Recognizing the potential for colleges and universities to serve as leading purchasers of local food, in October 2010 the Massachusetts legislature amended Chapter 7, Section 23B of the General Laws (hereafter “Section 23B”), which had previously told state agencies to prefer foods produced in Massachusetts, in order to extend this responsibility to the state’s public institutions of higher education. Though a significant show of support for the local food movement, Massachusetts is not alone in enacting laws that prefer state-sourced products. Indeed, it appears that all states have adopted some

¹ MICHIGAN GOOD FOOD WORK GROUP, *Institutional Food Purchasing (Report No. 3 of 5)* at 2 (Nov. 2010) available at <http://mlui.org/downloads/InstFoodPurchasingReport.pdf>.

² Kelli Sanger and Leslie Zenz, *Farm-to-Cafeteria Connections: Marketing Opportunities for Small Farms in Washington State 2* (Jan. 2004) available at <http://agr.wa.gov/Marketing/SmallFarm/docs/102-FarmToCafeteriaConnections-Web.pdf>.

³ See United States Department of Agriculture, Agricultural Marketing Service, *Farmers Market Growth: 1994-2011*, <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateS&leftNav=WholesaleandFarmersMarkets&page=WFMFarmersMarketGrowth&description=Farmers%20Market%20Growth&acct=fmrdirmt> (last visited Apr. 18, 2012), (documenting the growth of operating farmers markets from 1,755 in 1994 to 7,175 in 2011).

⁴ Sanger and Zenz, *supra* note 2, at 26.

form of either direct or indirect schemes to create a preference for in-state products or businesses.⁵ However, Massachusetts' amendment did not extend the full preference law to state colleges and universities, as it left colleges and universities out of the section of the law that requires that a specific price preference be given to in-state products, and thus many state schools have not significantly increased efforts to procure local foods. Concerned that the amendment to Section 23B had not achieved its desired impact, the Massachusetts Food Policy Alliance (MFPA) and Massachusetts Farm to School Project (a member organization of MFPA) requested an investigation of the effect this law has had on procurement at public colleges and universities and, more broadly, an analysis of the barriers and opportunities that hinder or help efforts to increase the use of local foods in these institutions' dining halls. The MFPA, a group of more than thirty organizations whose mission is "to bring together diverse stakeholders across the food system, from farmers to consumers, to create a sustainable, systemic, effective, and inclusive food policy for Massachusetts,"⁶ considers increasing local food in university dining halls as one of their main priorities. The Massachusetts Farm to School Project is a grassroots initiative that works to facilitate sustainable purchasing relationships between farms and institutions statewide to support the local agricultural economy and improve access to healthy food for all.

In order to present the most accurate picture of the current procurement practices occurring in Massachusetts, we analyzed the Massachusetts law, conducted interviews with diverse stakeholders involved in college and university dining in Massachusetts, and researched laws in other states that apply local procurement preferences. The report begins with an overview of the way in which dining services programs function at both self-operated and food management company-operated programs. The report next presents an analysis of Section 23B, its legislative history, and a discussion of whether and how the law has influenced institutional procurement practices in Massachusetts, as well as a comparison to preference laws from other states. This is followed by a description of some of the main barriers to local food procurement by colleges and universities and a discussion of some best practices and inspirational stories of local procurement successes at colleges and universities in Massachusetts. The report concludes with recommendations as to how advocates such as the MFPA and the Mass Farm to School Project can work to increase local procurement by state institutions of higher education, either by working within the existing legal framework or by pushing for future legislative change.

Research Methods

Massachusetts has a total of twenty-eight public colleges and universities: four University of Massachusetts (UMass) campuses, nine four-year universities, and fifteen community colleges. For this report, we focused on four-year schools and the UMass system because students in these schools eat many of their meals on-campus. By contrast, most community colleges in the state only incorporate small food vending operations, though future research focused on these schools may be useful. To gain a direct understanding of the operation of these campus dining services and to identify barriers and opportunities to utilizing more local food in Massachusetts state colleges and universities, we interviewed representatives at eight schools, including food management representatives, school administrators, an aggregator working to connect local farmers to universities, a farmer who supplies a

⁵ See ChangeLab Solutions, *State Laws Promoting Use of Locally Grown Food and Agricultural Products in Public Contracts* (2012), available at: http://changelabsolutions.org/sites/philpnet.org/files/Local_Food_StateLaws_Table_FINAL_20120328.pdf; Kingsley S. Osei, *The Best of Both Worlds: Reciprocal Preference and Punitive Retaliation in Public Contracts*, 40 PUB. CONT. L.J. 715, 718 (2011).

⁶ MASSACHUSETTS FOOD POLICY ALLIANCE, <http://mafoodpolicyalliance.org/default.aspx> (last visited Apr. 27, 2012).

state university, and a state senator. At those schools that contract food management companies to run their dining services, we contacted the head of dining services of each school (an employee of Aramark, Chartwells, or Sodexo at food management company-operated schools) as well as contacting the university officials who oversee dining services. At the only self-operated program at a state college or university, we spoke to the university official in charge of dining services.

Overall, we received positive responses, and, having formulated a list of carefully tailored questions, conducted interviews with university officials from six different schools and with food management company officials at three.⁷ The lists of questions we posed appear in Appendix D, and the list of interviewees appears in Appendix C, Table 2. These questions and responses form the basis of our report, informing the description of the challenges to procurement, the recognition of key decision makers in the dining system, and potential avenues to operating a successful local food procurement initiative.

EXECUTIVE SUMMARY

Massachusetts General Laws, Chapter 7, Section 23B requires state agencies, as well as state colleges and universities, to prefer food products grown or produced in Massachusetts over those from other states. In order to effectuate this broad preference for Massachusetts food products, Section 23B requires state agencies—but not colleges and universities—to purchase food products grown in Massachusetts, unless the price is more than 10% higher than the price of out-of-state products. Although the state legislature considered applying this percent price preference to academic institutions in its 2010 amendment to the law, such language was removed from the final version of the bill. Thus, the current law only requires colleges and universities to make “reasonable efforts” to prefer in-state foods, without any monitoring or enforcement mechanism to ensure compliance. Yet the absence of powerful legal language does not mean that Section 23B is wholly without utility. To the contrary, the law stands as a reflection of the desire of the state legislature to increase the amount of Massachusetts-grown foods offered in state colleges’ and universities’ dining halls.

Some colleges and universities in Massachusetts recognize the importance of purchasing local foods, and these schools feature available local foods in their dining halls and often take the opportunity to highlight those foods that are produced locally. Most state schools, however, are not implementing local procurement programs, as required by Section 23B. Throughout the research and drafting of this report, discussions with university and food management officials revealed that many had only limited awareness of Section 23B. Even individuals familiar with the law expressed only a superficial understanding of its requirements and objectives. Some university officials acknowledged that the law applied to them, but felt that they discharged their responsibilities by communicating the bill’s mandate to their food management representatives. University officials and food management representatives who exhibited knowledge of the bill also professed a belief that their companies and institutions were in compliance with Section 23B, though in our research their local procurement practices seemed quite limited and did not necessarily comply with the spirit of the law.

Our interviews and discussions with key stakeholders from around the state revealed various supply-side and demand-side barriers, both real and perceived, to successful local food procurement programs. Supply side barriers include the limited seasonality of certain foods, the lack of reliability of supply (due

⁷ N.B.: We were able to meet with food management officials from Chartwells and Sodexo but not from Aramark.

to weather and other variables), the high cost of liability insurance, the lack of affordable food safety certification programs, and the fear of straining existing relationships with distributors by selling directly to institutional clients or aggregators. On the demand side, dining services administrators and other institutional buyers are reluctant to purchase local food due to perceived higher costs, student apathy or lack of awareness in purchasing local foods, existing contractual obligations and rebate practices, financial arrangements that prioritize increased profits in the short term, and logistics and access hurdles, including the inconvenience of working with multiple vendors.

Taking into consideration these barriers, we make the following recommendations to increase local food procurement in Massachusetts state colleges and universities:

- ❖ ***Spread awareness on campuses and mobilize student demand.*** Successful local food programs often develop and grow because of student engagement; however, students may lack knowledge of effective outreach techniques. The creation of food policy groups or campus sustainability committees, such as the Office of Campus and Community Sustainability at UMass-Dartmouth, can dramatically increase student awareness and support for local food on campus. Advocates such as the MFPA and the Mass Farm to School Project can maintain institutional knowledge and coordinate student groups and administrative efforts across different campuses, perhaps by forming a Local Food Procurement Working Group that includes local advocates, interested university administrators, university food activists and other relevant stakeholders.
- ❖ ***Educate university administrators.*** University administrators may be hesitant to embark on local food procurement programs because of misperceptions about the cost of local food and to a lack of awareness about existing solutions to facilitate local food procurement. Informed advocacy could counteract this lack of information. Advocates such as the MFPA and the Mass Farm to School Project could disseminate materials to debunk common local procurement misconceptions and urge administrators to use Section 23B to encourage food management companies to purchase more local foods.
- ❖ ***Develop and maintain a public database tracking local purchases of schools.*** A public monitoring system to rank schools based on their procurement practices would raise the level of accountability and encourage competition among colleges to increase local food procurement. A state agency or inter-agency group, such as the Massachusetts Food Policy Council, could track and report on the implementation of Section 23B's local procurement preference.
- ❖ ***Require management companies to keep better records of food sources.*** Schools can add a requirement that food management companies provide monthly or quarterly reports of their food sourcing. This would allow schools to track compliance with Section 23B and also to monitor progress in local food procurement.
- ❖ ***Foster aggregators and connect them with local farmers.*** Aggregators pool and distribute food from multiple small farmers. Not only do they reduce the administrative burden of vetting and sourcing food from multiple small farmers, they may also provide critical logistical support for buyers and help growers obtain access to liability insurance coverage and food safety certifications. For example, Organic Renaissance Food Exchange (FoodEx) serves as an aggregator in Massachusetts and maintains an online ordering and management system to facilitate the purchasing process. FoodEx has helped schools such as UMass-Dartmouth to build an efficient and effective local purchasing program.

- ❖ ***Facilitate GAP certification and increase acceptance of Commonwealth Quality certification.***
Many food management companies require farmers to receive GAP certification of their produce, but obtaining certification can include large capital investments and may be prohibitively expensive. Advocates could encourage policy change to help reduce the costs for farmers trying to achieve GAP certification. Advocates could also encourage institutional purchasers to accept other less-costly certification programs, such as the Massachusetts Commonwealth Quality Seal.
- ❖ ***Partner with the State Board of Higher Education to foster increased local procurement.***
Although the State Board of Higher Education plays a role in setting the policy agendas for Massachusetts colleges and universities, decisions involving the particulars of dining services operations and food procurement are left to individual institutions. The Board could play a more significant role by adopting a resolution promoting the procurement of local food, or a policy to implement local procurement, which could potentially include funding to help schools begin purchasing local food.
- ❖ ***Advocate for legislative changes to strengthen Massachusetts' local procurement laws.***
Another potential way to increase local food procurement is to add colleges and universities to the statutory language of Section 23B(c) that would require them to purchase in-state food products that are less than 10% more expensive than comparable out-of-state products. Alternately, the legislature could pass a law requiring colleges and universities to purchase a certain percentage, say 5%, of their food from local sources and to include language to such effect in their contracts with food management companies.

In conducting our research, we observed several colleges and universities in Massachusetts that have been able to successfully implement local food procurement practices. Among these were UMass-Amherst, which has a self-operated dining services program, and UMass-Dartmouth, which contracts with a food management company. Currently, UMass-Amherst sources 28% of its produce locally, and this percentage has been rising annually. Since it began purchasing locally, the school has greatly increased the number of meal plans sold and consequently its overall profits. UMass-Dartmouth's Office of Campus and Community Sustainability encouraged its dining services to switch to a food management company that prioritized efforts to source local food, and the school has made great strides in increasing the local foods available to its students. Our report details some of the reasons for the success of these two programs in order to serve as inspiration to advocates as well as other schools aiming to increase the amount of local food that they procure.

Through our research we met several inspiring people who have emerged as state leaders in local food. These leaders have started to build the foundations of local sustainable food systems, and, as these systems grow and connect with one another, we see no reason why these key players—with a bit of assistance from advocates such as MFPA and the Mass Farm to School Project—would not be able to work together to create a sustainable structure capable of providing fresh, nutritious foods to Massachusetts colleges and universities around the state while invigorating local farms and the local economy.

I. MASSACHUSETTS STATE REGULATION OF DINING SERVICES

Most, if not all, colleges and universities provide some form of dining services to their students; however, dining services programs come in several forms, and the individual schools generally choose the specifics of their programs. Unlike the funding scheme for academic programs, dining services programs at state schools generally do not rely on state money to operate. Instead, dining services operate like self-contained businesses, in which revenue from students' purchases funds the program. If run well, college dining services operations can even generate additional revenue for the school. This section provides a general background about dining services programs by exploring the two forms utilized by colleges and universities: self-run operations that are managed by the school itself and outsourced dining services, which are run by a food management company. To understand the legal implications of Section 23B on dining services at Massachusetts schools, it is necessary to understand the general operation of dining services and food procurement at colleges and universities.

Overview of Dining Services

General background

Apart from commuter schools, many university students live on campus and utilize a school meal plan as a flexible and affordable choice. As a result, dining services provide meals for thousands of students daily. Each college may either operate its dining services program itself, in what is called a "self-operated" or "self-op" program, or hire a food management company to operate it for them. The self-op system provides the university more control over food procurement; however, because of the large number of meals they serve, dining services programs must focus, above anything else, on the reliability, safety, and affordability of their food supply. Over time, large food vendors and management companies have established national and global networks that guarantee this easy, reliable provision of meals to large institutions, leading to the current prevalence of food management companies over self-operated dining services. Within the massive networks of food management companies, food products remain available and abundant year round, simplifying the procurement process by eliminating the need to shop by the seasonality of products. In addition, these companies work with large farms that carry their own liability insurance and food safety certifications, benefits to institutions that require such certifications.

For colleges and universities, the modern conveniences offered by large food vendors prove an attractive choice. However, these food management companies generally neglect small, local farms in favor of larger industrial farms that can easily surmount the barriers of supply and seasonality. Though in general self-operated dining services provide universities and colleges more control over food procurement, schools that hire food management companies can still find ways to exercise influence over the companies' procurement practices. Both systems face certain barriers toward procuring more local food, but both can seize the opportunity to make progress in this critical area, whether or not the state sets a preference for local food.

The decision of whether to hire an external business to source food or an independent dining service is a choice generally left to individual schools. Some stakeholders we spoke with wondered whether the

State Board of Higher Education (“Board”) could be involved in pushing state colleges and universities to purchase more local foods. The Board is a thirteen-member body that serves as overseer of the state’s public colleges and universities⁸ and holds various responsibilities under state law.⁹ The Massachusetts legislature regulates state college and universities, including with regard to dining services, but our research found that the Board mainly focuses on broad policy topics, and does not play a role in issues as granular as dining services, leaving the option of procurement preferences to the individual educational institution. Everyone we spoke with indicated that the Board plays no role in their decisions involving dining services, including how to craft their Requests for Proposals (RFP) or setting food management contracts.¹⁰ As described in more detail below, the Board can play a role in setting policy agendas and in encouraging individual institutions to increase local procurement, but it does not currently play such a role. Instead, schools make their own decisions based on their student bodies’ interests, costs, and other school-specific values.

Self-Operated Dining Services

Despite the widespread presence of food management companies such as Aramark, Chartwells, and Sodexo on university campuses in Massachusetts, some universities still operate their own dining services. As mentioned above, for this report we only researched procurement practices at four-year public schools and the UMass system.¹¹ Of these schools, only UMass-Amherst runs a self-op program. This scheme gives UMass-Amherst much greater control over food preparation and procurement. The dining services managers at self-op schools are employees of the school rather than a company and exercise independent authority to enter into purchasing contracts. This independence makes it significantly easier to develop arrangements with local farms.¹²

However, like food management companies, self-op dining services programs often purchase the majority of their foods from one or two major vendors, usually referred to as their “prime vendor(s),” because these vendors have developed an efficient, reliable model.

⁸ Introduction, MASS. DEP’T OF HIGHER EDUC., <http://www.mass.edu/aboutus/aboutus.asp>, (last visited Apr. 27, 2012).

⁹ Under state law, the Board holds various responsibilities, including: working with boards of trustees to identify and define institutional missions; holding colleges accountable for achieving their goals and establishing a comprehensive system to measure quality by defining educational achievement and success with the use of standards and measurements; encouraging economical and effective use of the resources of the commonwealth; developing a five year master plan for public higher education in the commonwealth; approving the awarding of degrees; developing a rational and equitable statewide tuition plan and; reviewing annually the fiscal operations of constituent institutions. MASS. GEN. LAWS ANN. ch. 15A, § 1, 9 (2012).

¹⁰ Interview with Kurt Steinberg, Exec. Vice Pres., Mass. College of Art and Design, in Bos., Mass. (Apr. 6, 2012). One university official who previously served on the Board’s staff verified that the Board’s focus has been on larger policies than dining. Interview with Dale Hamel, Exec. Vice Pres., Office of Admin., Fin., and Tech., Framingham State Univ., in Framingham, Mass. (Apr. 5, 2012).

¹¹ Though universities and colleges that are not 4 year schools may provide some form of dining services to their students, for the purpose of this report we limited our study to 4 year schools as these institutions generally have more developed and extensive dining services and can more easily undertake increases in local procurement.

¹² Scott Carlson, *Colleges Chew on Local-Food Phenomenon*, CHRON. OF HIGHER EDUC., Sept. 26, 2008. (“In the corporate system, a dining manager is always ‘serving two masters,’ [Matthew Biette, Middlebury College] says. By contrast, ‘I can change things this afternoon.’”); David Porter, *Self-Op vs. Contract: What’s Right for Your Campus?*, FOOD MANAGEMENT (Oct. 1, 2006), http://food-management.com/business_topics/management/fm_imp_14934/ (every decision made by the management company is “driven first by that responsibility [to shareholders], not by what is best for a particular campus”); CTR. FOR INTEGRATED AGRIC. SYS., *New Markets for Producers: Selling to Colleges (Research Brief #39)* (Feb. 1999), <http://www.cias.wisc.edu/farm-to-fork/new-markets-for-producers-selling-to-colleges/> (finding that “self-managed food service operations were more likely to make independent decisions and respond to student requests.”)

Although the prime vendor contract requires that the university purchase most or all of its food through that vendor, such arrangements do not necessarily exclude local farms. Self-op programs, for instance, can insist on procuring a certain percentage of local food, either through the vendor or on their own outside the prime vendor contract.¹³ The size of a university's account gives it substantial leverage with vendors, an advantage to negotiating procurement policies. Based on our interviews, schools have met little resistance to the inclusion of a clause that allows the university to buy a certain percentage of its food needs "off contract," or outside of its prime vendor agreement.¹⁴ Furthermore, UMass-Amherst, whose prime vendor agreement permits the dining services to procure 20% of produce locally, even reported that its prime vendor allows the self-op program to exceed the percentage of local food designated in the contract because the vendor respects their mutually beneficial relationship.¹⁵ As its focus on local procurement grows, UMass Amherst is considering increasing the contractual amount of local purchasing to 30%.¹⁶ This method of negotiating local food procurement within self-op dining systems is discussed in more detail below.

Food Management Companies

Unlike the self-operated dining services program at UMass-Amherst, all the other schools included in this report contract with food management companies to conduct their dining services programs, with Aramark holding two school contracts, Chartwells holding six, and Sodexo three. Appendix C, Table 1 lists each school and its dining services provider.

As described above, when using a food management company, universities enter into a contract in which the company is hired to run all aspects of their dining services, including providing labor, purchasing and preparing food, and occasionally providing the capital to construct and/or finance improvements to dining facilities.¹⁷ When selecting its food management company, each college issues a Request for Proposal (RFP), outlining the characteristics of its dining services program and laying out its expectations and goals. One or more food service companies may submit proposals from which the university will select the strongest and enter into a contract. In Massachusetts, Aramark, Chartwells (which is a part of the larger Compass Group), and Sodexo dominate the market, running the dining operations at most four-year colleges and the vast majority of community colleges.

These food management companies supply a full arsenal of business and financial systems, including preparing weekly and monthly statements of profit/loss, laying out costs for food and labor, and conducting a weekly inventory of all food and non-food products.¹⁸ These capabilities allow a university to focus its energies elsewhere while limiting its participation in dining services to conducting performance evaluations and making targeted changes. A college that contracts its dining services to a management company typically does not need to provide any capital; rather, the management company takes on the costs and receives the bulk of the profits. The university gets a negotiated commission,

¹³ Sanger and Zenz, *supra* note 2, at 21.

¹⁴ See University of Massachusetts-Amherst, *Request for Bid # AA07-AS-2303*, 5 (June 20, 2007) (on file with authors) ("The University reserves the right to purchase up to 20% of our fresh produce requirements outside of the 'Prime Produce Vendor Contract' in support of local growers programs."). Presently, UMass-Amherst has increased their local purchasing to 28%.

¹⁵ Interview with Ken Toong, Exec. Dir. Of Dining and Retail Services, Univ. of Massachusetts Amherst, in Amherst, Mass. (Mar. 19, 2012), and in follow-up telephone call of May 9, 2012 with Christopher Howland, Purchasing and Marketing Manager.

¹⁶ *Id.*

¹⁷ Porter, *supra* note 12.

¹⁸ *Id.*

usually between 5 and 10% of the profits, in exchange for the limited efforts the university must put forth to operate the dining service.¹⁹

At each university, day-to-day operations are overseen by an employee of the food management company. Procurement is generally done through the food management company's regional or national buying contracts, leaving the university's dining services manager very little discretion to exercise in procurement.²⁰ Because the food management companies have organized the procurement process to maximize efficiency, university dining managers have little to no contact with vendors, and the regional procurement offices make all or most procurement decisions.²¹ These regional officials, who often have no contact or ties to any particular locale, evaluate potential vendors and ensure that they can provide the necessary supply, possess sufficient liability insurance, and have acquired any needed food safety certifications. The procurement officials then negotiate prices and purchase the needed products. Each week, the university's dining manager logs on to his/her company's network to view the available products and their quantities.²² Often the food available to purchase originates far from Massachusetts.

We observed two major reasons for the reluctance of food management companies to procure local food for university and college dining services. First, they typically have long contracts (as long as ten years), so it is possible that they are not concerned with making an aggressive push to cater to the current needs or wants of the students, including a desire for more local procurement. While they have an incentive to do well to earn a renewal of their contracts, food management companies may only have to perform and impress school administrators during the year or two immediately before their contract expires, a strategy to ensure contract renewal. Therefore, for the large part of their long contracts, it is in the interest of the companies to maximize their profits through the procurement of, above all, affordable food, rather than consistently evaluating the desires of the administrators and the student body. The administrative costs and often higher prices that are associated with local food procurement are not of great interest to companies concerned with maximization of short-term profits.

Second, even a school administration that desires change may feel that it lacks sufficient power to pressure its food management company to alter its procurement policies, short of switching providers altogether. School administrators generally need to maintain a good relationship with the food management companies to ensure their students are consistently and affordably fed, so they may be hesitant to adopt a more aggressive position when negotiating for a change in procurement policies. However, as the local food movement has begun to capture the attention of student populations across the state, school administrations may be able to harness the energy of their students to effectuate change. As a school administrator from Framingham State put it, pressure from students is more effective than pressure from the administration.²³ Therefore, though in our research there was little indication that schools would be receptive to becoming self-op—a potential method to move towards local procurement more quickly—there is space for improvement in the procurement processes of food management companies if schools begin to push for different purchasing preferences and practices.

¹⁹ *Id.*

²⁰ See Lawrence Biemiller, *Fresh From the Farm*, CHRON. OF HIGHER EDUC., Nov. 25, 2005 (describing how it would be difficult to get a campus food-service manager to start buying locally, because the manager “would have to go up the chain of command and get permission to deviate from company-prescribed purchasing methods.”)

²¹ Sanger and Zenz, *supra* note 2, at 20.

²² Telephone Interview with Craig Goodridge, General Manager, Sodexo at Westfield State Univ. (Mar. 26, 2012).

²³ Interview with Dale Hamel, *supra* note 10.

II. REGULATING LOCAL PREFERENCE IN MASSACHUSETTS AND ELSEWHERE

As mentioned above, Section 23B was amended by the Massachusetts legislature in 2010 in order to extend its coverage to state colleges and universities. As the growing local food movement has captured the attention of federal, state, and local policymakers, Massachusetts was not alone in passing such legislation, though the language of Section 23B and its implementation differ from similar efforts in other states. This section explores the law in this light, analyzing the language of the law, its legislative history, and some of the interpretation issues it raises. The section then looks at some of the procurement policies implemented in other states and evaluates the strengths and weaknesses of these various laws as well as the way they have been implemented.

A. The Law: Local Procurement by Massachusetts State Colleges and Universities

Massachusetts' Local Preference Law

In 2010 the Massachusetts legislature amended Massachusetts General Laws, Chapter 7, Section 23B to include state colleges and universities in a statutory section that had previously required state agencies to give preference to food products grown or produced in Massachusetts.²⁴ Section 23B has three sections, two of which now include state colleges and universities, as of the 2010 amendment. Subsection (a) expresses a state preference for the procurement of products grown within Massachusetts, by instructing state agencies, authorities, and colleges and universities when purchasing “products of agriculture” to “prefer products grown in the commonwealth or products produced using products grown in the commonwealth as well as fish, seafood, and other aquatic products.”²⁵ To effectuate this preference for locally grown or produced products, subsection (b) directs the purchasing agent for each state agency or state college or university to “make reasonable efforts to facilitate the purchase of such products of agriculture grown or produced using products grown in the commonwealth.”²⁶ In order to give local food an additional boost, subsection (c) instructs state agencies and authorities—but not colleges and universities—to purchase locally grown or produced products “unless the price of the goods exceeds, by more than 10 per cent, the price of products of agriculture

²⁴ MASS. GEN LAWS ANN. ch. 7, § 23B (2012). The law is reproduced in full in Appendix A. It is important to note that another section of the Massachusetts General Laws also discusses local procurement preferences. Mass. Gen. Laws. Ann. ch. 30B § 20 allows any governmental body in Massachusetts to elect to utilize a percent price preference for in-state products, so long as the preference is advertised and that it does not exceed 10%. MASS. GEN LAWS ANN. ch. 30B § 20 (2012).

²⁵ MASS. GEN LAWS ANN. ch. 7, § 23B(a) (2012) (emphasis added). Ch. 128, § 1A defines “agriculture” as “includ[ing] farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.”

²⁶ MASS. GEN LAWS ANN. ch. 7, § 23B(b) (2012).

grown or produced using products grown outside of the commonwealth.”²⁷ Therefore, Section 23B has three components: (1) a general command to state agencies and state colleges and universities to prefer local food; (2) a duty of state agencies and state colleges to make reasonable efforts to facilitate the purchase of local food, and; (3) a requirement that state agencies or authorities (but not colleges or universities) purchase local food even if it is as much as 10% more expensive than the out-of-state alternative.

Section 23B was not a new law in 2010; rather, the 2010 legislation was passed to rectify the omission of state colleges and universities in the prior version of Section 23B. The language that became the current version of Section 23B was part of a broader bill known as the “Local Farm Products Bill” (H. 2107: An Act promoting better health in public schools through improved contracting with farms in the Commonwealth), which attempted to facilitate farm-to-school programs across all educational levels, including K-12 schools.²⁸ Given the amount of food purchased by colleges and universities, advocates felt that it was critical to require these institutions to utilize the same preference for local foods as other state institutions in order to increase spending on in-state agriculture. Advocates viewed colleges and universities as potential “anchors” for the broader educational system: because of the volume served at these institutions, it would be easier to attract local farms that might not be able or desirous of selling to smaller K-12 school districts, which would require arrangements with multiple school districts to match the volume of a college.²⁹ The large purchases by colleges and universities would contribute to local economic development, support local farmers, and create farm-to-school connections, all while providing colleges and universities with the opportunity to instill good eating habits in their students.³⁰

At its introduction, the Local Farm Products Bill had much stronger language, including holding colleges and universities to the requirement in subsection (c) that they purchase local foods unless the price exceeded that of comparable out-of-state foods by more than 10%.³¹ However, as is common practice, the legislature rolled this bill into a larger bill on school nutrition—known as the “School Nutrition Bill” (H. 4459: An Act relative to school nutrition).³² Advocates were dismayed to discover that when the bill emerged from committee and passed the full House of Representatives, their language regarding local purchases by state colleges and universities had been completely eliminated.³³ Advocates noted that it appeared that the Department of Higher Education (staff of the Board of Higher Education) and the Council of Presidents of Massachusetts State Colleges had argued that the proposal was cost-prohibitive and ran counter to their mandate of keeping student expenses in check.³⁴ The food management companies had previously lobbied these organizations to oppose the language, as they were concerned that implementing a local preference would drive up their costs.³⁵

As the bill moved over to the Senate, advocates like the Massachusetts Public Health Association (MPHA) met with the relevant leaders and tried to convince them that the bill’s mandate would not increase costs. While the universities were sympathetic to MPHA’s goals, they ultimately refused to support the bill in any form, resulting in the compromise language for university and college

²⁷ *Id.* at (c).

²⁸ Email from Maddie Ribble, Dir. of Policy and Commc’n, Mass. Pub. Health Ass’n (May 15, 2012) (on file with authors).

²⁹ Email from Kelly Erwin, Exec. Dir. of the Massachusetts Farm to School Project (Oct. 17, 2012) (on file with authors).

³⁰ *Id.*

³¹ H. 2107, 186th General Court of the Commonwealth of Massachusetts (Mass. 2009).

³² H. 4459, 186th General Court of the Commonwealth of Massachusetts (Mass. 2010) (enacted July 30, 2010).

³³ Telephone interview with Maddie Ribble, Dir. of Policy and Commc’n, Mass. Pub. Health Ass’n (Mar. 21, 2012). Ribble’s insight is based on conversations with parties both within and outside of the state legislature.

³⁴ *Id.*

³⁵ *Id.*

participation that the law now holds, which only requires colleges and universities to make “reasonable efforts” to prefer in-state foods.³⁶

Many advocates acknowledge that this law principally reflects a recommendation of the legislature, as opposed to a legally enforceable edict. Beyond the aspirational language, there is no enforcement mechanism, monitoring scheme, or reporting requirement that would force state colleges and universities to prove their efforts at implementation. The law’s principal utility seems to be in its potential as an advocacy tool, whether to be used by stakeholders making their case for bringing more local foods to college dining halls, by dining services directors aiming to work with local farms but facing recalcitrant administrations, or by innovative food management company chefs pushing their regional corporate leadership to give them more local purchasing leeway.³⁷ The final language of Section 23B contains some ambiguous aspects that remain open to interpretation.

Does the 10% price preference apply to colleges/universities?

The first two subsections of Section 23B refer specifically to state colleges and universities; however, the third and strongest subsection, requiring purchasing agents to give a 10% price preference to in-state foods, uses only the term “state agencies.” Based on the above discussion of the law’s legislative history, we must conclude that the 10% price preference does not apply to state colleges and universities. As described above, the 2010 amendment to Section 23B extended the previous law to cover state colleges. However, while the previous law applied to state agencies, the addition of the words “state college or university” was necessary to extend the law’s applicability to those institutions. Since the 2010 amendment did not change subsection (c), it can be inferred that subsection (c) continues to exempt state colleges from its requirement. Unfortunately, without including colleges and universities in the 10% price preference, the law is less potent or enforceable. However, as described below, the law does show legislative support for increasing the amount of local food purchased by these entities and, as described below, there are many ways in which the law can still be used to help encourage state colleges and universities, as well as food management companies, to increase the amount of local foods included

Is Section 23B binding on food management companies?

Since so many state colleges and universities outsource their dining services to food management companies, it is important to understand whether the law is binding on food management companies. Nonetheless, we conclude that the laws of agency do not clearly support the argument that food management companies are bound by Section 23B unless its language is imported into contracts between schools and food management companies. However, we would like to emphasize that the spirit of Section 23B suggests the legislature intended for state colleges and universities to increase procurement of in-state agricultural products. While the law may not be binding, it seems clear that the legislature intended it to influence procurement practices at both self-op and food management company-operated state colleges and universities.

Whether food management companies are subject to the law depends on whether they act as agents of state colleges and universities for the purpose of food procurement. According to the Third Restatement of the Law of Agency, an agency relationship exists if one of three types of authority can be shown: actual authority, apparent authority, or ratified authority.³⁸ For actual authority to exist, educational

³⁶ *Id.*

³⁷ *Id.*

³⁸ RESTATEMENT (THIRD) OF THE LAW OF AGENCY §§ 2.01, 2.03, 4.01 (2011).

institutions need to expressly authorize food management companies to become their agents.³⁹ Such authorization would be clearly laid out in the contracts between the food management companies and state colleges and universities. The one contract we reviewed, which we think is relatively standard, did not include such language.⁴⁰ Apparent authority hinges on whether food management companies represent themselves to third parties as authorized to act on the schools' behalf.⁴¹ This would depend on the interactions between the food management companies and food vendors and the representations made by the food management companies, but it does not seem that they hold themselves out as agents of the schools. Lastly, ratified authority exists if schools ratify the contracts food management companies formed on their behalves, thereby authorizing the companies to act as their agents.⁴² None of the discussions we had with schools or food management companies led us to believe that apparent or ratified authority is present in their contractual relationships either.

From our observations of the relationships between food management companies and schools, food management companies act more like contractors than agents. While food management companies carry out many different tasks for the schools, they seem to control their own methods of performance, making them more like contractors than agents.⁴³ Further, they appear to enter into procurement contracts with farmers or distributors as the principals, rather than having the schools serving as the controlling entities. Assuming that food management companies are legally liable under the procurement contracts with food vendors, as they likely are, they have entered into the contracts as principals, rather than as agents of the colleges or universities. In other words, if food management companies fail to fulfill their obligations under the procurement contracts, the vendors can hold liable the management companies, not the schools. The language we reviewed in a sample contract between a university and its food management company seems to confirm this conclusion.⁴⁴ This is an important factor in considering whether Section 23B applies to food management companies, because if they are not considered agents of the school in procuring food, they are not accountable for fulfilling legislative goals directed toward colleges and universities.

It is important to note, however, that although food management companies may not have an agency relationship with schools, the lack of such a formal relationship does not mean that they are necessarily exempt from the bill's provisions. As mentioned above, the failure to include colleges and universities in the 10% price preference makes Section 23B difficult to enforce on colleges and universities, whether self-operated or food management company-operated. However, the spirit of Section 23B clearly demonstrates the legislative intent for state colleges and universities of all types (self operated or food management company-operated) to increase their efforts to procure and serve in-state agricultural products. All but one state college in Massachusetts employs food management companies for their dining needs. It seems clear that the legislature would not take all the steps to enact a statute that would only reach the lone school in Massachusetts with self-operated dining services, signaling an intent by the legislature to include all schools, including those contracting with food management companies, in the procurement provision. Furthermore, while a technical distinction exists between a principal and agent for legal liability purposes, in light of the legislative intent, the state legislature seems to have

³⁹ *Id.* at §§ 2.01, 3.02.

⁴⁰ University of Massachusetts Boston, Request for Proposal: Management of the FoodService Operations (on file with authors).

⁴¹ RESTATEMENT (THIRD) OF THE LAW OF AGENCY § 2.03 (2011).

⁴² *Id.* at § 4.01.

⁴³ *Id.* at §§ 1.01 cmt. g, 1.04(6); RESTATEMENT (SECOND) OF THE LAW OF AGENCY § 6 (2011).

⁴⁴ University of Massachusetts Boston, Request for Proposals: Management of the FoodService Operations at 2.18 (on file with authors) ("The Contractor, or his employees or agents performing under this agreement, are not to be deemed to be employees of the University nor to be agents of the University in any manner whatsoever.").

envisioned that food management companies would also act within the legal constraints imposed on state colleges and universities. For these reasons, one can reasonably argue that food management companies are subject to Section 23B under the spirit of the law, even if they are not technically liable under the letter of the law. Given this ambiguity, in order to ensure implementation, state colleges and universities should take steps to implement the Section 23B by incorporating the law – or somehow reflecting it – in any new RFPs and contracts with food management companies.

Though clarification of the law to include food management companies could be a potential avenue of improvement in the future (and will be discussed more fully in subsequent sections), whether or not the law explicitly applies to food management companies matters little because the language is largely aspirational and has little enforceable legal power on state colleges and universities overall.

B. Local Preference Laws in Other States

Massachusetts is hardly alone in enacting laws that prefer products sourced within the state. It appears that all states have established some form of preference for in-state products or businesses,⁴⁵ and the majority of states have adopted either direct or indirect schemes to promote the use of locally grown food by state and/or local agencies.⁴⁶ Though these laws are all directed at state agencies, not all of them include state colleges and universities. Nevertheless, these laws are instructive and can provide insight as Massachusetts advocates consider strengthening local food procurement regulations applicable to public colleges and universities.

Overview of Preference Laws in Other States

State preference laws fall into three general categories: (1) preference to domestic (in-state) bidders where there is no sacrifice or loss of quality and price is comparable; (2) preference to domestic bidders where there is no sacrifice or loss of quality with a differential cost preference for in-state bidders; and (3) reciprocal preference. It should be noted that although all states have enacted a preference scheme, many such schemes are optional and, even where legislation details options for enacting and encouraging local procurement, many of the bills do not have enforcement mechanisms or implementation requirements. Thus, it is important to keep in mind that although all states have preference laws, the laws vary in terms of how the preference is structured (e.g., no cost preference, cost preference, or reciprocal preference), whether the preference is mandatory or optional, what items are included in the preference (e.g., food and agricultural products or other products), and the types of entities that are covered by the preference (e.g., state agencies alone or state colleges and universities as well).

Preference to Domestic Bidders Where There is No Sacrifice or Loss of Quality

Some states give their products what is essentially a “tie goes to local” preference: all other things being equal—including quality, quantity, and cost—the state entity shall purchase the local product. For example, in Iowa, a state agency, “shall use only those products and provisions grown . . . within the state of Iowa, when they are found in marketable quantities in the state and are of a quality reasonably

⁴⁵ See Osei, *supra* note 5 at 718 (addressing state procurement practices in public contracting from the perspective of reciprocal preference laws that have the effect of limiting the participation of out-of-state businesses in in-state public procurement).

⁴⁶ See ChangeLab Solutions, *supra* note 5 (noting that at least 38 states have laws requiring or recommending that state agencies give preference to locally produced food or agricultural products produced in the state; state agencies do not uniformly include institutions of higher education).

suited to the purpose intended, and can be secured without additional cost over foreign products or products of other states.”⁴⁷ Similarly, in Missouri, a state purchasing agent “shall give preference to all commodities . . . produced, processed, or grown within the State of Missouri . . . when quality is equal or better and delivered price is the same or less,” or “whenever competing bids, in their entirety, are comparable.”⁴⁸ Neither Iowa nor Missouri, however, specifically include institutions of higher education in their definitions of “state agency.”⁴⁹

Texas, Connecticut, and Maine have “tie goes to local” procurement policies as well, but the language of those policies specifically includes state colleges and universities. For example, Texas’ statute indicates that an “institution of higher education that purchases agricultural products shall give first preference to products grown, produced, or processed in this state if the cost to the institution and the quality of the products are equal to the cost and quality of other available products.”⁵⁰ In Connecticut, the local preference laws require that the Commissioner of Administrative Service, when making purchases or contracting for a state agency, “give preference to dairy products, poultry, eggs, fruits or vegetables grown or produced in this state” when the price is comparable to dairy products, poultry, eggs, fruits or vegetables not grown in state.⁵¹ “State agency” specifically includes “each public institution of higher education.”⁵² Finally, Maine requires that, “assuming reasonable similarity in quality, quantity and availability with other foodstuffs offered for sale, . . . state or school purchasers shall buy meat, fish, dairy products, excluding milk and eggs, and species of fruits and fresh vegetables, directly from Maine food producers or from food brokers who assist in the distribution of foodstuffs produced or harvested by Maine food producers.”⁵³ Maine explicitly includes colleges and university by defining a state or school purchaser as “any person who purchases foodstuffs for any state institution or agency, the community colleges or the school districts of this State.”⁵⁴

The first two subsections of Massachusetts’ Section 23B, those that apply to state colleges and universities, are consistent with these laws, as they instruct state agencies, colleges, and universities to prefer local products and make reasonable efforts to fulfill this preference.⁵⁵

Preference to Domestic Bidders with a Differential Cost Preference

The next type of preference law goes one step further than the “tie goes to local” laws. In this type of law, not only are state procurement officials told to give preference to in-state products, but, to help effectuate that preference, they are either required or encouraged to compare the bid price of in-state versus out-of-state bidders by reducing the bid prices of in-state bidders by a set percentage and/or increasing the bid price of out-of-state bidders by a set percentage. In Indiana, “a governmental body may give up to a ten percent price preference for agricultural products grown, produced, or processed in Indiana.”⁵⁶ And in Wyoming, state purchasing agents are instructed to prefer in-state products, and they

⁴⁷ IOWA CODE ANN. § 73.1(1) (2012).

⁴⁸ MO. REV. STAT. ANN. § 34.070 (2012).

⁴⁹ IOWA CODE ANN. § 73.1(1) (2012) (statute applies to “[e]very commission, board, committee, officer, or other governing body of the state, or of any county, township, school district or city, and every person acting as contracting or purchasing agent for any such commission, board, committee, officer, or other governing body” but no definition for these terms was found); MO. ANN. STAT. § 34.010 (2012).

⁵⁰ TEX. EDUC. CODE ANN. § 51.941 (2012).

⁵¹ CONN. GEN. STAT. ANN. § 4a-51 (2012).

⁵² *Id.* at § 4-37e.

⁵³ ME. REV. STAT. ANN. tit. 7, § 213 (2012).

⁵⁴ *Id.* at § 212.

⁵⁵ MASS. GEN. LAWS ANN. ch. 7, § 23B(a-b) (2012).

⁵⁶ IND. CODE ANN. § 5-22-15-23.5 (2012).

may apply a differential of not more than 5% to in-state agricultural products for contracts less than \$5 million dollars to effectuate this preference, so long as the quality is equal to those of any other state or country.⁵⁷ The third subsection of Massachusetts' Section 23B falls into this category, as state agencies and authorities (but not colleges or universities) are required to purchase in-state products so long as they do not exceed the price of out-of-state goods by more than 10%.⁵⁸ Thus, in-state products receive a 10% reduction in Massachusetts for purposes of evaluating bid prices.

Another state that has implemented this type of preference scheme is Illinois. Under the Illinois' *Local Food, Farms, and Jobs Act*, the state has issued a goal for state funded agencies and institutions, including "public universities" to procure 20% of their food products from in-state sources by 2020.⁵⁹ In order to meet this goal, in any state contract for food or food products an in-state bidder may be given preference " . . . provided that the cost included in the bid of local farm or food products is not more than 10% greater than the cost included in a bid that is not for local farm or food products."⁶⁰

In order to implement this scheme, the Illinois Act also established a nongovernmental council, the "Local Food, Farms, and Jobs Council," tasked with identifying the state institutions that procure local foods, and tracking their local procurement progress annually.⁶¹ The Council is responsible for developing a certification label for in-state procured products, as well as developing (alongside the state's Department of Agriculture) a geo-coded database that identifies and matches local farmers with schools interested in procurement.⁶² Though compliance with the Act is voluntary, it sets clear goals for local procurement by state institutions and agencies, creates a clear model for implementation and follow up, and requires state agencies and institutions to begin tracking their local purchasing. It also sets overall goals by attempting to achieve 20% local food purchases by 2020.

Reciprocal Preference

The third common type of preference law essentially requires state agencies to increase the bid price of out-of-state bids by an amount corresponding to the amount that the competing state accords to its in-state bidders. For example, in Pennsylvania, state agencies are told to prefer local bids to bids from states that have a preference for products grown in that state.⁶³ The amount of the preference for the Pennsylvania bid is equal to the amount of the preference applied by the competing state.⁶⁴ Consequently, if the Pennsylvania state prisons receive bids to supply apples from a Pennsylvania company and a Massachusetts company, the Pennsylvania bid would get a 10% preference, corresponding to the preference given by Massachusetts' state agencies to their in-state bids.

Evaluating the Strength of State Preference Laws

Although many states have enacted local preference schemes, several of which are described above, there is quite a bit of variability among these schemes with regard to whether they are mandatory or optional, whether the legislature sets out rules to enforce the preference or leaves this task to state agencies, whether the law sets up enforcement mechanisms or not, and whether the laws include state

⁵⁷ WYO. STAT. ANN. § 16-6-105 (2012).

⁵⁸ MASS. GEN. LAWS ANN. ch. 7, § 23B(c) (2012).

⁵⁹ 30 ILL. COMP. STAT. ANN. 595/10 (a) (2012).

⁶⁰ *Id.* at (c).

⁶¹ *Id.* at (d).

⁶² *Id.* at 20, 30.

⁶³ 62 PA. CONS. STAT. ANN. § 107 (West 2012).

⁶⁴ *Id.*

colleges and universities or only state agencies. This makes it somewhat challenging to identify best practices or compare implementation outcomes, though additional research can be conducted if there is a particular legal regime or legislative change that is of interest to Massachusetts advocates.

Some stakeholders have suggested the one method of improving enforcement of the local preference in Massachusetts state colleges and universities is to include them in the Section 23B(c) mandate to give a 10% price preference to in-state foods. Many states such as Maryland,⁶⁵ Hawaii,⁶⁶ Illinois,⁶⁷ Louisiana,⁶⁸ have institutionalized such percent price preferences for state agencies, and the language of these laws illustrate the diverse methods that state's local preference policies can take. Maryland's law in particular applies the percent price preference to state colleges and universities.⁶⁹

Maryland's statute requires state colleges and universities to establish a percentage price preference for in-state food products, not to exceed 5%.⁷⁰ It is important to note that the percentage acts as a cap only and may be applied with discretion, so schools are not required to exercise any in-state preference.⁷¹ However, the statute is clear in noting that public universities should review their purchasing practices and, ". . . to the extent practicable, require the use of a percentage price preference in their purchase of locally grown food."⁷² Thus, the language is stronger than that used in Massachusetts and clearly includes state colleges and universities in the percent price preference.

Maryland's legislation also instructs the state Board of Public Works to "adopt regulations that require State schools and facilities to establish a percentage price preference, not to exceed 5%, for the purchase of locally grown food," defined as food grown within Maryland.⁷³ Subsequently, the Maryland Board of Public Works passed a regulation mandating that:

State schools and facilities shall include in procurement solicitations a price preference not exceeding 5 percent to bids or proposals for locally grown food. A procurement officer:

- (1) Shall specify in any specific procurement solicitation a price preference not exceeding 5 percent; and*
- (2) May limit competition in any specific procurement solicitation to only locally grown foods.⁷⁴*

Thus, the Board's regulation does little more than restate the statutory language, but looking back to the statute it seems clear, again, that the state is telling public colleges and universities to give a price preference to in-state food producers whenever practicable.

In order to investigate the law's practical effect on the dining operations of Maryland public universities, we sent inquiries to officials at several Maryland public colleges. We received responses from Towson University and Salisbury University. Towson University contracts with Chartwells, while Salisbury

⁶⁵ MD. CODE ANN., STATE FIN. & PROC. § 14-407 (West 2012).

⁶⁶ HAW. REV. STAT. ANN. § 103D-1002 (2012).

⁶⁷ 30 ILL. COMP. STAT. ANN. 595/10 (2012).

⁶⁸ LA. REV. STAT. ANN. § 38:2251 (2012).

⁶⁹ MD. CODE ANN., STATE FIN. & PROC. § 14-407 (West 2012).

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ CODE MD. REGS. ANN. 21.11.07.08 (2012).

University has always been self-op. Towson University conveyed the view that the regulation did not affect its operations because, according to its understanding, once it awarded a contract to a food management company, the procurement would no longer be a Maryland procurement and the regulation would therefore not apply.⁷⁵ This view is consistent with the view expressed by some university officials and food management employees in Massachusetts, who also felt that contracting with a food management company to conduct their dining services gets them around Section 23B.⁷⁶ Salisbury University, while a self-op school, has a five-year single-source contract with Sysco from which it obtains 99% of its food needs.⁷⁷ Because there are so few companies that can single-handedly deliver the needed quantity and variety of food, the university's choice to include all needs in one massive contract effectively shuts out all local bidders.⁷⁸

The views expressed by Towson and Salisbury Universities reflect the current reality of dining services contracting. Laws and regulations like Maryland's seem to envision a world where a college or university procures potatoes separately from carrots as opposed to satisfying all of its food needs through a single service provider. As discussed above, if a university contracts with a food management company to conduct its dining services, it generally contracts for that company to take over the entire dining services program, as opposed to separating each bid by, for example, type of food. Presently, three main companies dominate the university food services market in Massachusetts: Compass Group (of which Chartwells is the main subdivision operating at universities in the state), Aramark, and Sodexo.⁷⁹ These are all multinational companies with vendors sourcing food from across the country and the world. Similarly, as demonstrated above in the case of Salisbury University, a self-op school looking to get all its food from a single source will never be in a place to compare bids on individual products between local and out-of-state. The few companies that can provide a comprehensive food supply, such as Sysco, operate on a global scale similar to the major food management companies.

Our investigation of Maryland's experience revealed that even laws that create a percent price preference have not necessarily brought about the desired effect of the state's procurement goals because some schools continue to excuse themselves from the obligation of adhering to the preference policy due to existing contracts with their food management companies or to the nature of procurement on such a large scale. It seems, therefore, that a strategy to amend Section 23B to include colleges and universities in Section 23B(c)'s 10% price preference may have little effect on increasing local foods in state college and university dining halls, unless it were paired with some language clarifying that the law applies to anyone procuring food for sale at a state college or university, including distributors and food management companies.⁸⁰

⁷⁵ Email from Joseph Oster, Assoc. Vice Pres. Auxiliary Services, Towson Univ. (Apr. 6, 2012) (on file with authors).

⁷⁶ See, e.g., Telephone Interview with Kevin Blaney, Reg'l Exec. Chef, Chartwells (April 4, 2012).

⁷⁷ Email from Paul Land, Dir. Auxiliary Services, Salisbury State Univ. (Apr. 30, 2012) (on file with authors); email from Paul Land, Dir. Auxiliary Services, Salisbury State Univ. (Apr. 5, 2012) (on file with authors).

⁷⁸ See email from Paul Land, Dir. Auxiliary Services, Salisbury State Univ. (Apr. 30, 2012) (on file with authors) (only capable bidders are US Foodservice, Sysco Food, and Performance Food Group).

⁷⁹ Other food management companies hold a small number of university contracts in the state, such as AVI, which has the contract for Wellesley, and Fitz-Voigt, which has the contract for Greenfield Community College

⁸⁰ The natural follow-up question to our initial inquiry is whether the law affects practices at the contract negotiation stage. We asked this question, but did not get a direct response. However, we believe we would get the same response owing to the language of Maryland's regulation. The regulation does not require that contracts contain a clause mandating a certain percentage of local foods, but instead only mandates that the college make it known that it will give a price preference if the bidder is providing local food. As discussed, procurements for dining services are not done on such a granular level. But changing the law to require contract language mandating a certain percentage of local food is a possibility that we will discuss later.

III. OVERCOMING CHALLENGES AND BARRIERS

While amending Section 23B may have an impact on the procurement of local foods, there are several barriers and challenges that schools and food management companies identified as reasons for their lack of participation—or limited participation—in changing their procurement preferences. We met with representatives of eight schools, including university and food management officials from Chartwells and Sodexo, to discuss these barriers and challenges (as well as potential solutions) to increasing the presence of local foods on campus. This section presents these barriers and potential solutions, as well as case studies of successful procurement of local foods by Massachusetts schools, both self-operated and food management company-operated, followed by some case studies of successful local procurement programs that have broken down some of these barriers.

A. Barriers

There are various barriers to supporting local food procurement at Massachusetts colleges and universities that need to be explored to facilitate a successful procurement program. We identified several of these challenges through our conversations with schools, food management companies, and farmers, and have grouped them into two subsections: supply side barriers and demand side barriers. Supply side barriers include the multiple obstacles to supplying food from farmers, whose ability to supply large quantities of foods for school dining services is inhibited by issues from the seasonality of certain products to the high cost of liability insurance. We then detail the barriers presented on the demand side—the issues that dining services administrators face when considering the procurement of local foods—including the inconvenience of working with multiple vendors and the financial considerations that must be taken into account when operating a for-profit service.

Supply Side Barriers

This report uses the term “supply side barriers” to refer to barriers that reduce local farmers’ competitiveness with prime vendors or other larger food distributors. Some of the major barriers include reliability of produce, seasonality, lack of affordable liability insurance, lack of affordable food safety certification, and fear of tarnishing existing relationships with distributors.

Reliability

Many dining services programs purchase from large distributors because they can guarantee exact quantities of specific items year round. Given these distributors’ extensive networks, they can offer various items in any quantity, no matter the season. Dining services directors merely have to visit an online database of available foods, and click the desired product. The convenience and ease of this system has helped establish loyal relationships with these large distributors. By contrast, small local farms generally do not operate on a scale large enough to meet a college or university’s needs on their own, and the reliability of procuring food from these farms is not as guaranteed.

Small local farms generally face two distinct sets of issues surrounding reliability: quantity of production and weather. In terms of production, local farmers may experience difficulties producing a large supply of food on a continual basis—a feat accomplished mostly by large-scale industrial farms. Even for those schools that work with a collection of small farms, they still face greater uncertainty about output than they would if they worked with a large distributor. Weather presents another challenge to local farmers,

as bad weather may affect small, local farms disproportionately because they may not have the technology or resources to cope with unforeseen circumstances. Moreover, the more an institution relies on food from one geographic location, the more susceptible it is to weather-related problems that may affect that area. However, by procuring food from many local farms, schools may be able to distribute the reliability risk across the board. Some medium-sized farms may be able to compensate for any shortfalls smaller farms experience, while a geographical range of several suppliers could protect against crop loss due to severe weather in one region.

However, there are potential challenges inherent in this solution. Working with a range of small farms increases the administrative costs and burdens on the institutional purchasers, and institutions generally state that they prefer to work with a few large vendors rather than many small vendors.⁸¹ In order to increase the reliability of the food supply while at the same time reducing the administrative burden, some schools have had success by forging cooperation among a network of farms through some sort of aggregator that compiles local food products and deliver them to schools. An aggregator is a person or an institution that “aggregates food and facilitates sales to wholesale customers or directly to consumers.”⁸² As explained in the case study below, UMass-Amherst works with a reputable farmer, Joe Czajkowski, who works as an aggregator, procuring products from a group of small farms and delivering them to UMass. This aggregation reduces the reliability risks of working with just one local farmer while providing the convenience of one point of contact for the university. Other aggregators, such as the Organic Renaissance Food Exchange (FoodEx), have emerged on the college dining scene in Massachusetts, and we will examine how these aggregators help overcome various logistical and other challenges in Section B: Case Studies of Successful Local Procurement in Massachusetts.

While colleges and universities should work with local farms, their first priority is to ensure the security of their food supply in order to feed their students. For these reasons, colleges and universities cannot shift to complete dependence on local farms; however, they can incorporate local foods by starting to work with these small farms at low levels of purchasing. Schools can increase the percentage of local food they procure annually as local farms demonstrate their reliability and increase their productivity.

Seasonality

Since farms in Massachusetts cannot grow all foods in all seasons, local farms will have difficulty supplying schools that do not change their menus according to the seasons. Seasonality is distinct from reliability because farmers and institutions can plan in advance to deal with the limited diversity and availability of certain foods in certain seasons. Due to its cold climate, most of the harvests in Massachusetts take place in the summer and in the early fall when students are on summer break. This mismatch between the peaks and troughs of the demand and supply amplifies the challenge of seasonality. To ensure year-round supplies that meet their demand, as mentioned above, institutions may need to procure food from non-local sources as well as local sources.

Schools that adjust their menus to account for seasonality are able to purchase from local farms throughout the year, and also tend to serve fresher, more nutritious meals that introduce or accustom students to valuable types of produce. Joe Czajkowski indicated that he is able to supply fresh produce year-round, just with different choices in winter than in summer.⁸³ Therefore, schools can compensate for seasonality by creating flexible menus that respond to local seasonal offerings. In a similar vein,

⁸¹ Sanger and Zenz, *supra* note 2, at 2.

⁸² Renée Johnson et al., Cong. Research Serv., R42155, *THE ROLE OF LOCAL FOOD SYSTEMS IN U.S. FARM POLICY* 17 (2012).

⁸³ Telephone interview with Joe Czajkowski, Joe Czajkowski Farm (Apr. 18, 2012).

Chartwells creates their menus at the local level, not the national level, and they modify their menus to reflect the availability of different food products.⁸⁴ Having this type of approach allows them to more easily purchase local foods throughout the year. Lastly, although not ideal, frozen local foods may also help alleviate seasonality problem.

Lack of Affordable Product Liability Insurance

Large institutions, such as food management companies and other institutional purchasers, often require vendors to carry product liability insurance, even though at the state level Massachusetts does not require vendors to hold a certain amount of insurance coverage.⁸⁵ In general, some institutions require as much as \$5 million of liability insurance coverage, which far exceeds the \$1 million coverage typically carried by small producers, if they have insurance coverage at all.⁸⁶ This is a significant barrier to small farmers in Massachusetts, because even though it is a state without insurance requirements, liability insurance is often required by distributors and/or institutional clients.⁸⁷ While some local farmers have large enough operations to afford expensive high-coverage product liability insurance, high premium requirements frequently bar small producers of limited resources from purchasing insurance high enough to sell to institutional buyers.

Working with aggregators may provide a solution. Some aggregators have started to cover the food they handle under their own liability insurance policies.⁸⁸ An aggregator may amass a sufficient amount of business to afford liability insurance, which also provides coverage for small local farms that sell their products through the aggregators. For example, FoodEx, mentioned above, carries an umbrella insurance policy that covers its members' farm products and enables them to penetrate institutional markets.⁸⁹

Lack of Affordable Food Safety Certification

Many food management companies or institutional buyers require or prefer farms to have food safety certification under a program such as Good Agricultural Practices (GAP) or the Commonwealth Quality Seal. GAP is a set of voluntary guidelines issued by the FDA and USDA in 1998.⁹⁰ Some food management services have since adopted GAP certification as a required prerequisite for purchasing from farmers, and some require farmers to have at least attended GAP training.⁹¹ This federal food safety program is more stringent (and costly) than the alternative, the state-run Commonwealth Quality Seal program that operates in Massachusetts. Though not intended as a replacement for GAP, Commonwealth Quality provides training that, when complete, gives a seal to vendors to allow consumers (and food management companies) to “identify locally sourced products that are grown, harvested and processed right here in Massachusetts using practices that are safe, sustainable and don’t harm the environment.”⁹² Though it is slightly more cost-effective, one challenge is that Commonwealth Quality is less well-known, so it may not be accepted by all institutional purchasers or food management companies, particularly those that use regional purchasing agents who are not as familiar with

⁸⁴ Telephone interview with Kevin Blaney, *supra* note 76.

⁸⁵ Kristen Markley, *Food Safety and Liability Insurance: Emerging Issues for Farmers and Institutions* 13 (Dec. 2010), http://www.foodsecurity.org/pub/Food_Safety_and_Liability_Ins-EmergingIssues.pdf.

⁸⁶ *Id.*; see telephone interview with Joe Czajkowski, *supra* note 83.

⁸⁷ Markley, *supra* note 85.

⁸⁸ *See id.*

⁸⁹ Telephone interview with J.D. Kemp, Founder, OR FoodEx (Apr. 16, 2012).

⁹⁰ *Good Agricultural Practices and Good Handling Practices Audit Verification Program Users' Guide*, USDA, 1 (Apr. 2011), <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=stelprdc5097151>.

⁹¹ Markley, *supra* note 85.

⁹² COMMONWEALTH QUALITY, <http://www.mass.gov/agr/cqp/> (last visited Jun. 29, 2012)

Massachusetts programs. However, precedent exists for other institutions in Massachusetts, such as grocery stores, to accept Commonwealth Quality certification. For example, Whole Foods Market and Trader Joe's purchase products from Commonwealth Quality-certified producers.⁹³

Small local farms typically cannot afford to undertake these expensive certification processes.⁹⁴ In particular, GAP was developed with larger industrial farms in mind, and can be quite expensive and cumbersome for small farms that produce a range of different types of food products. When farms take the risk to get certified with the hope that it will bring them more business, they sometimes find themselves unable to afford the certification process. Aggregators may be able to assist in GAP or Commonwealth Quality certification of farms, but other innovative and less expensive solutions are also needed to address the issue of affordable, appropriate food safety certification for small farms. This report discusses some policy recommendations with respect to food safety certification below.

Fear of Damaging Existing Relationships with Distributors

Farmers who have relied on distributors to find markets for their products may be hesitant to engage in alternate models, such as direct sales to colleges and universities or sales using aggregators. Farms that want to sell to larger markets are often reliant on distributors to purchase a majority of their products so they can sustain their businesses. According to one Congressional Research Service report, direct-to-consumer transactions account for only 18% of local food sales while intermediate marketing outlets account for 57% of sales.⁹⁵ The report defines intermediate marketing outlets as grocers, restaurants, and regional distributors.⁹⁶ The data suggests that distributors serve as a critical marketing outlet for the farms, and it may be difficult, and sometimes undesirable, for farms to go against this system.

While large farms may fear jeopardizing their relationships with intermediaries, small local farms may be well positioned to take advantage of direct sales and aggregation. Throughout our interviews, we heard about one form of direct sales sometimes referred to as "contract farming," through which a school sits down with a local farmer and tells her the quantities and varieties of produce the school would like to purchase.⁹⁷ The farmer then does her best to grow the requested produce. Both sides remain flexible and the school agrees to purchase as much of the requested produce as the farmer harvests, including any surplus produce.⁹⁸ Similarly, small farms may also want to form relationships with aggregators, described above, who are filling the void by connecting local farmers with larger institutional buyers. These aggregators play a relatively similar role to distributors; however, they fill a specific void by focusing on pooling products from small, local producers in order to meet the demands of purchasers that have an interest in supporting these small, local farms.

⁹³ Coral Beach, *Massachusetts Launches Quality Seal Program*, Packer Daily (June 15, 2011, 2:47:09pm), <http://www.thepacker.com/fruit-vegetable-enevletter/packer-daily/Massachusetts-launches-quality-seal-program-123937489.html>.

⁹⁴ Markley, *supra* note 85. For more information on Commonwealth Quality Seal, see COMMONWEALTH QUALITY SECTORS, <http://www.mass.gov/agr/cqp/sectors/produce/participant-information.htm> (last visited Apr. 27, 2012); also see COMMONWEALTH QUALITY SEAL, <http://extension.umass.edu/agriculture/index.php/services/commonwealth-quality-seal> (last visited Apr. 27, 2012) (explaining that the difference between GAP and Commonwealth Quality (CQ) is that GAP is federal, issued by USDA, and CQ is state. In addition GAP has more stringent requirements than CQ. While CQ is not intended to replace GAP as it is not generally accepted by all companies, it can be considered as an alternative.).

⁹⁵ Johnson et al., *supra* note 82.

⁹⁶ *Id.*

⁹⁷ Interview with Ken Toong, *supra* note 15; email from Ken Toong, Exec. Dir. of Dining and Retail Serv., Univ. of Massachusetts Amherst (May 15, 2012) (on file with authors).

⁹⁸ *Id.*

Demand Side Barriers

In addition to supply side barriers involving the challenges to local farmers, demand side barriers can equally inhibit the growth of local food procurement. “Demand side barriers” refer to the real or perceived challenges that exist within Massachusetts colleges and universities that prevent or limit local food procurement. Often involving school food managers and food management companies, these barriers stifle the demand for local food because of perceptions of higher cost, existing contractual obligations and rebate practices, and logistics and access hurdles.

Perception of Higher Costs

The cost of local food is often cited as an operational barrier that makes local procurement infeasible. However, this perception is often misguided. At least two Massachusetts universities attested that locally grown food can be competitive with the prices of food products sold by distributors.⁹⁹ These universities revealed that local produce may actually be *less* expensive than non-local food, especially when they procure such produce directly from the farmers or through local food aggregators, rather than through large distributors.¹⁰⁰ This is because by purchasing directly from farms, schools may circumvent the costs imposed by distributors or middlemen. In actuality, distributors often mark up the prices of local foods, hoping to capitalize on the growing trend towards a preference for purchasing these foods. To address cost concerns, advocates for local procurement should emphasize that local food often costs less if the school purchases directly from the farms or via local food aggregators.

Schools should take a step back and evaluate whether it is always necessary or always makes good business sense to purchase solely from distributors. Schools will likely need to utilize distributors to source produce from non-local sources, due to geographical barriers. However, the barriers to identifying *local* food sources are relatively low, and are in fact comparable between large distributors and schools. Since the process of connecting with a local farmer or food vendor is more affordable and manageable, local foods are particularly suitable for direct purchasing by schools and institutions. Therefore, with respect to local sources, institutional buyers should have the capability to bypass the middlemen and in doing so, local food prices can be reduced below non-local food prices. Even in the cases where local foods are indeed more expensive, dining services can stay within their budgets by instituting cost-saving measures in other parts of their operations. For example, Massachusetts College of Art (MassArt) reduced its solid waste costs by instituting a composting program and shaved its food costs by decreasing portion sizes.¹⁰¹ UMass-Amherst runs a similar waste-reduction program by weighing the amount of waste and reducing its portion sizes accordingly.¹⁰² Such measures can help dining services programs to reserve capital to invest in purchasing local foods and improving the local food system.

It is important to note that one additional area of potential increased cost in local purchasing comes from the administrative burden of contracting with many small farms rather than one distributor. As mentioned throughout, this type of administrative cost can be managed by working with aggregators or

⁹⁹ See PRACTICAL FARMERS OF IOWA, *Expanding Local Food Systems by Marketing to Iowa Institutions* 15 (May 2002), <http://www.practicalfarmers.org/assets/files/expanding%20local%20Food%20Systems.pdf>; CTR. FOR INTEGRATED AGRIC. SYS., *The College Food Project: UW-Madison Case Study* (July 2001), <http://www.cias.wisc.edu/farm-to-fork/collegefood/the-college-food-project-uw-madison-case-study/>.

¹⁰⁰ Interview with Ken Toong, *supra* note 15; telephone interview with Kevin Blaney, *supra* note 76.

¹⁰¹ Interview with Kurt Steinberg, *supra* note 10.

¹⁰² Interview with Ken Toong, *supra* note 15.

farmer cooperatives that create one point of contact to manage the logistics of purchasing from multiple farms.

Finally, with regard to the perceived costs of purchasing local foods, it is important to note that, as described below, in the case of UMass-Amherst, increasing the amount of local foods in the dining hall lead to an increase in the number of students utilizing the school meal plan, which ultimately increased profits for the dining services program overall.¹⁰³

Rebate or Kick-Back Practices

Rebate practices are widespread in the food management industry and pose significant barriers to schools looking to purchase more food directly from local farms. Under rebate arrangements, food management companies receive rebates from vendors and/or distributors in exchange for purchasing a certain amount from a particular company. This practice incentivizes the use of large vendors/distributors for food management companies, as purchasing a high percentage of food from the prime vendor leads to more rebates. Further, food management companies' reliance on using vendors who distribute rebates means that they often exclude vendors who are not willing or able to pay rebates, such as small farmers, from their lists of preferred vendors.

More has been written about rebate practices at the K-12 level, possibly due to the fact that the profit-sharing model used at K-12 schools differs from that used by most colleges and universities and makes it easier for food management companies to engage in rebate practices.¹⁰⁴ However, the rebate practice could still affect colleges. Since many of the same food management companies that operate at the K-12 schools also operate at colleges in Massachusetts, these companies likely utilize the same list of preferred vendors for both types of institutions, and may receive increased rebates for the volume of the foods they purchase across their K-12 school and university contracts. Even at the K-12 level, food management companies usually do not pass on the rebates to K-12 schools as required by the USDA rules.¹⁰⁵ Rather, they derive a large part of their revenue from the rebates.¹⁰⁶

Fortunately, the rebate practice has met some recent resistance. In Massachusetts, a new piece of legislation may alter the higher educational rebate system. State Senator Karen Spilka introduced a petition in January of 2011 to enact legislation that prevents new contractors from obtaining rebates. The bill requires that newly formed contracts between companies and colleges and universities disclose any rebates provided by vendors and submit the funds to the respective educational institution.¹⁰⁷ After passing through both the House and Senate and the Joint Committee on Higher Education, the bill was accompanied by a study order and at the time of this report, was under further review in the committee on Senate Ethics and Rules.¹⁰⁸

Other states have undergone or are currently questioning the rebate practice as well. For instance, the New York Assistant Attorney General, John F. Carroll Jr., launched an investigation into this practice and

¹⁰³ *Id.*

¹⁰⁴ Lucy Komisar, *Cafeteria Kickbacks*, THE INVESTIGATIVE FUND (Mar. 1, 2009), http://www.theinvestigativefund.org/investigations/corporateaccountability/1095/cafeteria_kickbacks (K-12 contracts are “typically cost-plus, meaning clients pay the cost set by the supplier, plus a percentage of that as a fee set by the food-service firm. There are generally no cost caps, so rebates — which are not deducted from what the food-service company charges clients — mean higher meal prices.”).

¹⁰⁵ Procurement, 7 C.F.R. § 210.21(f)(iv) (2012).

¹⁰⁶ *More Rebate Settlements Coming, NY AAG Tells SNA*, FOOD MANAGEMENT, http://food-management.com/news_briefs/rebate_settlements_sna_carroll0314/ (last visited Apr. 19, 2012).

¹⁰⁷ S. 577, 186th General Court of the Commonwealth of Massachusetts (Mass. 2011).

¹⁰⁸ *Id.*

reached a settlement with Sodexo in early 2011 whereby the food management company paid the state's school districts and the State University of New York \$21 million in rebates it had received from vendors but had failed to share.¹⁰⁹ With increasing scrutiny of this industry practice, dining services companies will likely reduce their rebating practices over time. If efforts like these continue to take effect, the rebate practice should no longer pose as large a barrier to procuring food locally. In the meantime, schools can continue to push for local purchasing initiatives that will put pressure on food management companies to devote a portion of their budgets to local purchases, albeit without rebates.

Existing Contractual Obligations

Whether related to rebate practices or not, many state college and university dining services have contractual clauses binding them to purchase from selected prime vendors. Even at self-op programs such as UMass-Amherst, the dining services program had to take steps to incorporate a clause within its prime vendor contract that would allow it to procure a certain percentage of food outside the contract, i.e., locally.¹¹⁰ Food management companies offer different procurement models. For example, Sodexo has a national model, where the corporate procurement office has contracted with major vendors on pricing and exclusivity terms.¹¹¹ Therefore, local branches can only purchase from a list of approved vendors. Other companies, such as Chartwells, provide more leeway to regional offices to accommodate local preferences.¹¹² Under this model, local schools may work with vendors of their choosing, subject to corporate vetting processes and requirements that must be met in order to approve vendors.¹¹³ In both the self-op and food management settings, relaxing the contractual restrictions or preserving space in contracts to purchase a certain percentage of products outside of the contract would open schools' doors to more local food.

Strong student demand for local foods at certain campuses has put pressure on administrators at those schools to take action in favor of procuring more locally grown foods. This rise in demand has caused the food management companies competing for these accounts to rethink their contracts in order to accommodate local foods. UMass-Dartmouth effectively overcame this type of contractual barrier by choosing to switch to a food management company that was more willing and able to work with local farms.¹¹⁴ In the below case study on UMass-Dartmouth, we will discuss how Kevin Blaney, the Regional Executive Chef for Chartwells, has worked to change the landscape of food procurement practices at UMass-Dartmouth and on other campuses throughout New England. UMass-Boston, a commuter school of 16,000 students, also plans to use its upcoming RFP process to increase the amount of local foods on campus and to focus more attention on local food and sustainability issues.¹¹⁵ UMass-Boston's administration hopes to explore ways to ensure that their food management company can procure more healthy, local foods for its students.¹¹⁶

Because large institutions still depend heavily on powerful distributors to supply the vast majority of their food, it is important for advocates to keep in mind that these institutions must carefully maintain

¹⁰⁹ *More Rebate Settlements Coming, NY AAG Tells SNA*, FOOD MANAGEMENT, http://food-management.com/news_briefs/rebate_settlements_sna_carroll0314/ (last visited Apr. 19, 2012).

¹¹⁰ Interview with Ken Toong, *supra* note 15.

¹¹¹ Telephone Interview with Craig Goodridge, *supra* note 22.

¹¹² Telephone interview with Kevin Blaney, *supra* note 76.

¹¹³ Interview with Jeff Augustine, Dir. of Campus Services, Univ. of Massachusetts Dartmouth, in Dartmouth, Mass. (Mar. 28, 2012).

¹¹⁴ *Id.*

¹¹⁵ Interview with Diane D'Arrigo, Ass't Vice Chancellor for Campus Services, Univ. of Massachusetts Boston, in Bos., Mass. (Apr. 5, 2012).

¹¹⁶ *Id.*

their relationships with prime vendors while exploring ways to increase local food on campus. As such, advocates should remain cognizant that food management companies may only be able to make incremental changes, and that they need to be patient and persistent in order to facilitate such changes.

Student Apathy and Lack of Awareness

When students lack awareness about the importance of utilizing local foods and do not push for change, the school administration accordingly lacks the motivation to drive transformation on campus. While the school administration serves as the decision-making body, the students, for the most part, are the end consumers of the foods served by dining services. As mentioned in the previous section, students have the power to exert pressure on the administration to effectuate changes on campus. Some university officials indicated that their student bodies are not clamoring for more local food; in fact, some student bodies instead exhibit a preference for recognizable brands, such as Dunkin' Donuts®.¹¹⁷ This attitude seems more prevalent on campuses where students have less exposure to food system and sustainability issues.¹¹⁸

Campaigns to educate and spread awareness provide great opportunities to create enthusiasm for local foods. Schools such as UMass-Amherst generated interest in local food by inviting student participation in projects like permaculture gardening and activities like making the world's largest stir-fry and the longest California sushi roll utilizing locally grown vegetables.¹¹⁹ At other universities, a small group of students passionate about local food, such as at the leaders of the Yale Sustainable Food Project, have raised awareness among the general student population. This group helped pilot a residence dining hall project to serve "all local, seasonal, and sustainable food."¹²⁰ Shaping these ideas and educating students about local food would be an effective way to encourage the growth of local food on campus.

Besides individual campus initiatives, organizations such as The Real Food Challenge (RFC) have emerged to launch "real food initiatives" that aim to promote healthy, fair, and sustainable food sourcing on university campuses across the country.¹²¹ The RFC facilitates the creation of real and local food campaigns by leveraging the power of youth to create a healthy, fair, and sustainable food system and encouraging students to reach out on their campus and create excitement over real food. The RFC's primary goal is to shift \$1 billion of existing university food budgets away from industrial food products and junk food and towards local, community-based food that is produced through fair, ecologically-sustainable, and humane methods.¹²² Several colleges and universities—including U-Mass Amherst, UMass-Dartmouth and UMass-Boston, Bridgewater State College, and 21 other private colleges and universities in Massachusetts—have active Real Food Challenge student groups.¹²³ These student groups work to increase the purchases of local, sustainable, "real" food by their school dining services and push the schools to sign on to the Real Food Campus Commitment, which means they pledge to purchase 20% real food by 2020.¹²⁴

¹¹⁷ *E.g.* Interview with Dale Hamel, *supra* note 10; telephone interview with Jay Bry, Vice Pres. for Admin. and Fin., Fitchburg State Univ. (Apr. 4, 2012).

¹¹⁸ *Id.*

¹¹⁹ Interview with Ken Toong, *supra* note 15.

¹²⁰ *History*, YALE SUSTAINABLE FOOD PROJECT, http://www.yale.edu/sustainablefood/about_history.html (last visited Apr. 19, 2012).

¹²¹ Real Food Challenge, *Homepage*, <http://realfoodchallenge.org/> (last visited June 11, 2012).

¹²² Real Food Challenge, *Start*, <http://realfoodchallenge.org/start> (last visited June 11, 2012).

¹²³ Real Food Challenge, *All Participating Schools*, <http://db.realfoodchallenge.org/schools/> (last visited Aug. 5, 2012).

¹²⁴ Real Food Challenge, *The Real Food Campus Commitment*, <http://realfoodchallenge.org/commitment> (last visited Sept. 11, 2012).

Financial Arrangements

There are several types of financial agreements a college or university can undertake with a food management company, each of which strikes a different balance between the amount of control the school has over the dining and procurement processes and the breakdown of how costs and profits are shared between the school and the management company. The most common financial arrangement between universities and food management companies in Massachusetts is a “profit-sharing” arrangement. In a “profit-sharing” scheme, the school takes a commission on the sales or profits made by the food management company. Under this model, the food management companies manage the profit and loss, so that they have every incentive to lower costs, including the costs of food products, supplies, and administration of the procurement process. While schools do not have to deal with the complexity of running a profitable business under this financial arrangement, it limits the involvement of the school administration in procurement decisions. It also encourages food management companies to focus on reducing costs and increasing profits in the short term, which can be a barrier to efforts to increase local purchasing.

On the other hand, a “management fee” model (not as common in Massachusetts universities), in which the school pays a fixed management fee to the food management company and bears the burden of profits and losses, would enable the school administration to exert greater pressure over specific procurement decisions. Assuming that the school pays its food management company a satisfactory amount of management fees, the company should be indifferent toward the costs of food, which would be borne by the school. With less incentive to keep the food costs low, food management companies would be more open-minded to procuring local and higher quality food, even if it came at a higher cost. This model does not drastically differ from the “cost-plus” scheme, which prevails at the K-12 level, whereby the schools generally pay the costs of foods as well as a management fee to the company.¹²⁵ However, as discussed above, the rebate system has plagued this model at the K-12 level. If the school systems free themselves from the rebate system, perhaps with the assistance of the legislature, schools at all levels that use the “management fee” model should have more leverage to push for procurement of local food.

It should be noted that the management fee model has its own downsides. First, since the financial and operational performance of the dining services program has no short-term repercussions for food management companies under this model, the companies do not always act in the best interest of the schools. This problem may be addressed if schools can easily terminate contracts with food management companies that perform poorly, but given the small universe of food management companies, choices of companies are limited. Second, dining services programs may end up unprofitable because schools working with food management companies do not have the ability to manage the financials in order to ensure fiscal success. The additional work could be too burdensome or beyond the capability of university administrators. Third, the management fee model suffers when vendors and distributors apply the rebate practice. For all of these reasons, we believe that the management fee model may provide the most opportunity to increase local procurement so long as competent school officials closely monitor food management company practices. Under the more common profit-sharing model, colleges and universities may have less leverage when it comes to oversight; however, they may be able to achieve concrete change by incorporating mandatory percentages of local food into their RFPs and contracts with food management companies.

¹²⁵ Komisar, *supra* note 104 (K-12 contracts are “typically cost-plus, meaning clients pay the cost set by the supplier, plus a percentage of that as a fee set by the food-service firm.”).

Logistics and Access

Institutional buyers generally work with large distributors because dealing with numerous small farms directly entails many logistical issues. For example, buyers prefer to have one truck deliver their daily purchases as opposed to many separate shipments arriving at the loading dock throughout the day.¹²⁶ Some small farmers also do not have the knowledge or capacity to package food properly for shipping and storage. With one large distributor, the buyer only has to deal with one single account for ordering and making payments, greatly reducing administrative costs.

However, over the course of our interviews, we identified various types of aggregators who have made strides toward solving these access and logistical problems. In addition to growing food for UMass-Amherst and other institutions on his 400 acres of land, Joe Czajkowski, referenced above, aggregates produce from neighboring farms using his informal network and local knowledge.¹²⁷ Over time Joe has learned which farms carry quality produce and selects his sources carefully. Similarly, FoodEx, a Boston-based business that offers logistical support to local producers and buyers, has created an online food marketplace where buyers will be able to post their needs and farmers will be able to sign up to fill portions of or entire orders.¹²⁸ FoodEx provides logistical support throughout the state, enabling buyers to purchase local products with the same convenience offered by large distributors.¹²⁹ Aggregators can thus provide a transparent and sustainable alternative to large distributors, disrupting their long-standing monopoly. The paradigm is shifting over time as aggregators emerge to fill a gap in the distribution system and provide the service of bringing together food from small, local farms to institutional buyers interested in supporting the local food system.

B. Case Studies of Successful Local Procurement in Massachusetts

Several colleges and universities in Massachusetts have had success in breaking down barriers to increasing local food procurement. In this section, we will discuss some of the elements that have created success in both a self-operated dining services program (UMass-Amherst) and a food management company-operated dining services program (UMass-Dartmouth).

Self-Operated Case Study: UMass-Amherst

UMass-Amherst runs a self-operated dining services program, and sets the gold standard for local procurement in Massachusetts. By setting clear goals for local food purchasing, UMass-Amherst has steadily increased the procurement of food from local farmers and raised the quality of its dining services. Currently, UMass-Amherst sources 28% of its produce locally, and the dining services program raises this percentage gradually every year.¹³⁰ As an even greater indicator of its success, since UMass-Amherst began to increase its local purchasing and make its menu more innovative and seasonal, the school has greatly increased the number of meal plans sold, and thus its overall profits. The school currently sells 16,075 meal plans even though only 12,000 students live on campus, meaning that 4,075

¹²⁶ See Sanger and Zenz, *supra* note 2, at 32 (according to one food service manager, “buying from a single vendor is much cheaper. Just cutting a check costs \$75 when you figure in all the levels of bureaucracy and the UW audits. Each time a truck delivers to a loading dock, the stop costs \$150 in labor on both sides, so larger shipments are more cost-effective.”).

¹²⁷ CZAJKOWSKI FARM, <http://czajkowskifarm.com/> (last visited Apr. 27, 2012).

¹²⁸ ORGANIC RENAISSANCE FOOD EXCHANGE, <http://www.orfoodex.com/> (last visited Apr. 27, 2012).

¹²⁹ Telephone interview with J.D. Kemp, *supra* note 89.

¹³⁰ Interview with Ken Toong, *supra* note 15.

off-campus and commuter students now purchase meal plans.¹³¹ This is a great paradigm of success that should be an example for schools all over the state that are considering increasing their local purchases. Some of UMass-Amherst's success factors include:

1. Passionate people in management: Although UMass-Amherst has many institutional advantages, without the right people to manage the program all of these would be in vain. Many of the changes needed to address logistical barriers to local food procurement must be effectuated by the dining services managers, as these individuals have discretion in running the day-to-day operations of dining programs. Flexible managers who design the menus around seasonal, local produce have an easier time collaborating with local vendors and aggregators. Although integrating local produce into the menu may present some challenges, a manager committed to utilizing more local food can find innovative solutions to break down these barriers and forge a successful local food procurement program. Because managers can make operational changes that have a high impact on local procurement, they may become trailblazers at self-op dining programs or strong local food advocates at dining services run by food management companies. Ken Toong, head of UMass-Amherst's dining services, for example, has been a crucial leader and innovator in changing purchasing and menu practices at UMass-Amherst in order to increase local purchasing and improve the quality of the meals overall.
2. Utilizing an aggregator: As mentioned previously, utilizing an aggregator who collects produce from small farms and sells it to the university greatly benefits local sourcing efforts. UMass-Amherst fortuitously built a relationship with Joe Czajkowski, who originally grew tobacco, potatoes, and cucumbers, but decided to transition into growing fresh produce to supply regional supermarkets and schools.¹³² In 2004, Joe contracted with UMass-Amherst for them to purchase a large portion of his crop.¹³³ Over time, Joe also took on the role of an aggregator for the school, bringing together supply from other local farmers to help meet a greater portion of the school's dining services needs.

Ken Toong noted that schools would much rather have one dependable and reputable source than deal with many small players of unknown quality and reputation.¹³⁴ The aggregator performs some of the vetting and sourcing functions for the school, thereby creating a win-win situation for the aggregator and the school. Furthermore, the aggregator can ensure the quality of the foods it sources and more easily manage the costs of product liability insurance coverage for the foods that pass through its hands. Aggregators, who generally operate on a smaller scale than large distributors, provide an effective bridge between schools and farmers because they create local and sustainable networks that link fresh, local food with nearby institutional purchasers, increase transparency and fair prices, reduce waste, and do not overburden institutions such as colleges and universities that need to purchase large quantities efficiently.

3. Large student population: With a population of 27,569 students, UMass-Amherst is the largest public university in New England, lending the school two big advantages: market power and the

¹³¹ *Id.*; email from Ken Toong, *supra* note 97.

¹³² CZAJKOWSKI FARM, <http://czajkowskifarm.com/story.html> (last visited Apr. 19, 2012).

¹³³ E-mail from Ken Toong, Exec. Dir. of Dining and Retail Services, Univ. of Massachusetts Amherst, (May 31, 2012) (on file with authors).

¹³⁴ Interview with Ken Toong, *supra* note 15.

ability to reduce costs due to economies of scale.¹³⁵ The volume of UMass-Amherst's account gives it the market power to successfully negotiate with its prime vendors for terms favorable to its needs. As a result, UMass-Amherst has managed to build food procurement flexibility into its contracts. A 2007 request for bids to supply produce included a clause reserving the right of UMass-Amherst to purchase up to 20% of its fresh produce outside of its prime vendor contract.¹³⁶ Because the vendor recognizes the value of their mutually beneficial relationship, UMass-Amherst even reported that it is allowed to exceed the percentage of local food designated in the contract and last year purchased approximately 30% local products.¹³⁷

UMass-Amherst's large student population also allows it to purchase in bulk, thereby driving down the unit price for its food supplies while attracting small local farms that can sell their entire crop to one institution. Because of its large population, a school like UMass-Amherst can source several large orders of single crops from several small farmers, making local procurement an easier feat for both the institution and the small farms. These advantages may not be as substantial at smaller colleges, but schools that do not have a critical mass may be able to work together in order to obtain a similar advantage. For instance, MassArt has partnered with nearby Wentworth College and the Massachusetts College of Pharmacy for dining services purposes in order to gain leverage in their negotiations with their food management company and achieve economies of scale through increased purchasing power.¹³⁸

4. Geographic location: UMass-Amherst's location in the Pioneer Valley makes purchasing local food a natural choice. Perhaps because of UMass-Amherst's close proximity to local farmers like Joe Czajkowski and their shared goals for local food system success and local economic development, the university has been able to form close, trusting relationships with small, local farmers.¹³⁹ As a result, they have been able to sustain a long-term business relationship and create successful contracts, even sometimes based on something as informal as a handshake.¹⁴⁰ As a result, they have started to engage in contract farming, a concept discussed above and elaborated upon in the next section.

While food may have to travel further to reach colleges and universities in cities like Boston than to rural schools such as UMass-Amherst, it does not mean that urban schools lack access to fresh local food. All schools and universities have the potential to access food that originates closer than that provided by many of the national distributors. With a bit of campus enthusiasm and the help of aggregators, even schools in urban areas like Boston can establish closer ties with their farmer neighbors and benefit from fresh, local food.

¹³⁵ UNIV. OF MASSACHUSETTS AMHERST, <http://www.umass.edu/umhome/about/> (last visited Apr. 27, 2012); UMass Amherst Installs Campus Outdoor Warning Network, Providing Additional Layer of Emergency Notification, <http://contingencyplanning.com/articles/2009/08/10/umass-amherst-installs-campus-outdoor-warning-network-providing-additional-layer-of-emergency-notifi.aspx> (Aug. 10, 2009).

¹³⁶ University of Massachusetts-Amherst, *Request for Bid # AA07-AS-2303*, 5 (June 20, 2007) (on file with authors) ("The University reserves the right to purchase up to 20% of our fresh produce requirements outside of the 'Prime Produce Vendor Contract' in support of local growers programs.").

¹³⁷ Interview with Ken Toong, *supra* note 15, and in follow-up telephone call of May 9, 2012 with Christopher Howland, Purchasing and Marketing Manager; UMass-Amherst, Campus Sustainability Initiative, <http://www.umass.edu/livesustainably/projects/umass-permaculture-gardens> (last visited Aug. 6, 2012).

¹³⁸ Interview with Kurt Steinberg, Exec., *supra* note 10

¹³⁹ Interview with Ken Toong, *supra* note 15.

¹⁴⁰ *Id.*

5. Pre-season planning and contract farming: UMass-Amherst works with local farmers using a method called “pre-season planning” or “contract farming,” in which the dining services administrator sits down with local farmers and tells them which varieties and what quantities of vegetables the school needs. In response, the farmers (including farmers as local as the on-campus student farm) do their best to meet the request. These agreements are made on the basis of knowledge that weather and unforeseen circumstances inevitably influence the output, but that small farmers may also be able to produce more food than expected. For these reasons, the dining services program stays flexible and agrees to purchase as much of the fruit or vegetable as the farmers produce. This collaborative model creates a mutually beneficial relationship by helping the school to get more fresh, local foods and encouraging farmers to expand their growing practice, knowing that they have an outlet to sell their foods. Ken Toong even noted that some agreements with local farmers were based on a gentlemen’s agreement – they exchanged a handshake instead of entering into a binding contract.¹⁴¹ This type of arrangement can be suitable for small local farmers who may not have the experience and expertise to accurately predict their crop outputs, and it is a great example of the type of close, trusting relationship that has been formed between farmers and purchasers.

6. Prioritization of long-term sustainability: Although self-operated dining services still strive to make a profit for their universities (and, like UMass-Amherst, may be quite successful in doing so), programs such as the one at UMass-Amherst are more likely to focus on providing high quality food and developing positive community relationships that benefit their programs in the long term. By contrast, food management companies are run as for-profit businesses and have to meet short-term annual profit goals in order to satisfy shareholders. Many food management companies appear hesitant to experiment with new food sources or new methods of obtaining foods. They cannot afford to have short-term losses on their annual financial results, even with the prospect of increased quality over time or long-term gains. As noted above, UMass-Amherst has increased the number of students purchasing meal plans, building an extremely successful and profitable operation that is now able to fund many other auxiliary services with the earnings from dining services. They even found that purchasing local fruits and vegetables saved them money from the very start. However, UMass-Amherst was able to create a successful local purchasing program by expending resources in order to build a stronger food procurement process and a more robust local food system. Food management companies may not be willing to make the necessary sacrifices unless pushed to do so by their officers or by their clients (in this case, the universities).

7. Flexibility in menu design: Menu flexibility enables the university to serve its students high-quality, fresh, seasonal food. While many schools set their menus several months in advance, UMass-Amherst designs menus based on the availability and seasonality of local produce, allowing for more local produce to be utilized.¹⁴² In addition to setting seasonal menus that focus on local produce availability, UMass-Amherst has additional flexibility in terms of adding available produce to the meal, even up to the last minute. Furthermore, menu flexibility can help to insulate schools from price shocks because their menu choices could be more sensitive to market availability and market prices.

¹⁴¹ *Id.*

¹⁴² *Id.*

Food Management Company Case Study: UMass-Dartmouth

Of the colleges and universities we interviewed that contract with food management companies to run their dining services, we found several inspiring examples of schools that, through harnessing different types of campus interests, overcame some of the barriers to sourcing local foods. One of these schools is UMass-Dartmouth, which has undergone a significant shift in the attitude of its school administration and, as a consequence, in that of its food management company, towards prioritizing local procurement. By exercising its option to choose a food management company that would source more local food for the school's dining services, the school successfully took charge of increasing local procurement in its dining halls without becoming self-operated. UMass-Dartmouth now contracts with Chartwells, a food management company that included a focus on local procurement in its bid proposal and, as a result, won the school's contract. Some of UMass-Dartmouth and Chartwells' success factors include:

1. **Attitude:** As opposed to schools in which the push for local procurement comes from the student body, students at UMass Dartmouth did not exert a strong push for local food on the university. Instead, the transformation to increased local procurement seems to have developed organically through a university-wide interest in sustainability. After considering renewing its contract with Sodexo, UMass-Dartmouth switched food management companies partly because the Office of Campus and Community Sustainability, which works closely with dining services on sustainability issues, wanted to make more efforts to source local foods, and Chartwells prioritized these goals in its bid.¹⁴³ Many schools maintain a sustainability committee comprised of students and/or staff or have an employee or employees who work to further sustainability goals.¹⁴⁴ These sustainability initiatives could be a great starting place in changing school mindsets around the procurement of locally grown foods.
2. **Innovation:** Operating at UMass-Dartmouth and other schools, Chartwells has increased the use of local food by experimenting with innovative approaches. Much of the success has been driven by Chartwells' Regional Executive Chef, Kevin Blaney, who sought to overcome the logistical barriers to increasing local food procurement. He understood that a university could not handle dozens of different farmers pulling up to the loading docks, so he contacted the Southeastern Massachusetts Agricultural Partnership (SEMAP) to help him connect with local farmers.¹⁴⁵ Kevin also started working with FoodEx to source local foods for UMass-Dartmouth and the other schools he serves.¹⁴⁶
3. **Price and efficiency:** Further contributing to UMass-Dartmouth's successful local procurement are the financial benefits that accrue to both farmers and the food management company. Under Kevin's leadership, Chartwells pays local farmers a higher price than they would get if they were to sell to distributors, yet no more than if they purchased these products through their prime vendors.¹⁴⁷ The FoodEx website helps arrange these financially beneficial partnerships, allowing Chartwells to post its variety, quantity and price requirements for food products.¹⁴⁸ Farmers can view these criteria and determine whether to become a vendor for the

¹⁴³ Interview with Jeff Augustine, *supra* note 113.

¹⁴⁴ *Id.*

¹⁴⁵ Telephone interview with Kevin Blaney, *supra* note 76.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

company.¹⁴⁹ By utilizing an aggregator site such as FoodEx's, food management companies and local farmers can clearly show the products they need to source or can supply, creating a transparent and easy match that promotes local food procurement.

Moreover, Chartwells consolidated the procurement needs of several of its client schools in order to ensure that a single shipment of food products is large enough to make transportation financially viable. FoodEx currently transports food from small farms to UMass-Dartmouth, and the trucks return to their headquarters in Roxbury with food destined for Northeastern University and other colleges that Kevin oversees.¹⁵⁰ This arrangement allows the trucks to be fully utilized on their return trips, thereby reducing the costs of this service and creating a more sustainable delivery process.

4. Leadership and business opportunity: Kevin Blaney embodies passionate management by using innovative models in order to increase the procurement of local foods. In the process, he has demonstrated to his company that local food can make good business sense. Given the growing attention to local foods on college campuses, one could argue that his proven success in local purchasing will make for a good marketing strategy for Chartwells to compete with other food management companies and obtain more and more institutional contracts. Chartwells must change its procurement practices incrementally because it needs to maintain its relationship with its prime vendor, upon whom it still depends for the bulk of its food, but these changes signify a growing investment in the procurement of local foods.

IV. RECOMMENDATIONS

As the case studies above demonstrate, there is great potential for universities and colleges to capitalize on local procurement. Whether the dining services programs are self-operated or run by food management companies, there are various methods to increase a school's percentage of locally produced food. Below are recommendations informed by our research into food procurement methods utilized in Massachusetts and other states. This section is divided into two sets of recommendations. The first set of recommendations is based on working with the current law, and the second set looks at possible legislative change that could strengthen the legal requirement for local procurement at state colleges and universities. We believe that these options will provide a starting place for the Massachusetts Food Policy Alliance to identify the strongest methods that it can use to foster its goal of increasing local procurement by state colleges and universities.

Though legislative change could create an enforceable method to introduce local procurement standards across the board in Massachusetts' state colleges and universities, this change would likely be difficult (yet not impossible) to bring about. On the other hand, working with the current law there are several effective methods of change, ranging from creating a monitoring system to track the amount of local food being sourced by educational institutions to pushing food management companies to make their food sources transparent to their clients. We believe these recommendations will help the MFPA, the Mass Farm to School Project, and advocates from around the state to more fully implement Massachusetts' local procurement policy.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

A. Recommendations for working within the current law

Spread Awareness on Campuses and Mobilize Student Demand

As discussed above, successful farm-to-college programs often develop and thrive because of student engagement. Studies have found that students can play an important role in establishing and maintaining farm-to-college programs.¹⁵¹ However, many students lack the knowledge and ability to use effective outreach techniques.¹⁵² Because local food has only recently emerged as a hot topic, and still contends with other food demands of students, such as recognizable food brands, student groups must find ways to effectively spread awareness on campus. University officials confirmed that students harbor the greatest power for change.¹⁵³ Besides pushing for change, students ultimately steward the program by voting with their dollars, i.e., comprising the market force to support local foods by purchasing these foods when they are available on campus. Students thus have a lot of power in terms of pushing for the types of foods, particularly local foods that are important to them.

Advocates such as the MFPA and the Mass Farm to School Project can tap into student demand by coordinating student groups across different campuses. They may want to work with existing environmental and/or sustainability groups on campuses as a starting place, as well as solicit support from students in marketing, advertising and graphic design programs, who would be excellent resources for creating advocacy toolkits. As discussed above, the Office of Campus and Community Sustainability at UMass-Dartmouth influenced the university to end its contract with Sodexo and switch to Chartwells in order to purchase more local food.¹⁵⁴ Another avenue would be helping to create food policy groups on college campuses. The knowledge and skills of MFPA, the Mass Farm to School Project, and student groups can complement each other. MFPA can provide a roadmap to facilitate change in the dining facilities using its knowledge of campus dining services, while students can offer strategies that would work best with their unique student population by providing insight into the university-specific barriers and helping to spread local food and nutrition awareness. Furthermore, MFPA can serve as a long-term advocate, providing institutional knowledge that can outlive the four years any individual student attends his/her school. We recommend that MFPA and the Mass Farm to School Project work to maintain institutional knowledge and coordinate efforts across different campuses, perhaps by forming a Local Food Procurement Working Group that includes local advocates, interested university administrators, food activists, other stakeholders, and most importantly, relevant students and student groups at each university. To this end, MFPA and the Mass Farm to School Project may want to connect with The Real Food Challenge (RFC), described above, and determine how they can partner to cover a broader base and inspire more campaigns across Massachusetts.¹⁵⁵

Educate University Administrators

We found great disparity in university administrators' knowledge and understanding of the barriers, both real and perceived, to getting local food into their dining halls. In some instances, officials are operating under false assumptions, such as the belief that local food always costs more. In other cases, these officials recognize legitimate barriers, but are unaware of existing solutions. For example, some

¹⁵¹ See Sarah C. Murray, *A Survey of Farm-to-College Programs: History, Characteristics and Student Involvement* 66-67 (June 2005) (unpublished M.Sci. thesis, Univ. of Washington) (on file with authors).

¹⁵² *Id.* at 73.

¹⁵³ *E.g.* Interview with Dale Hamel, *supra* note 10; telephone interview with Jay Bry, *supra* note 117.

¹⁵⁴ Interview with Jeff Augustine, Dir. of Campus Services, Univ. of Massachusetts Dartmouth, in Dartmouth, Mass. (Mar. 28, 2012).

¹⁵⁵ Real Food Challenge, *Homepage*, <http://realfoodchallenge.org/> (last visited June 11, 2012).

officials stated that their schools cannot purchase food from small farmers because these farmers lack sufficient liability insurance and food safety certification. These officials seemed to be unaware that some larger local farms can meet these criteria, and that food aggregators have made strides towards solving these problems so that even small farmers can sell to institutional buyers.

MFPA, Mass Farm to School Project, and other advocates can begin to educate and influence administrators using informational materials, perhaps including a simple pamphlet listing “myths” about barriers to utilizing local foods in universities and then “busting” those myths, similar to what we did in the “Overcoming Challenges and Barriers” section of this report. The pamphlet could include the names and contact information of individuals who have led the way in local procurement at institutions of higher education and would be willing to discuss how to overcome these barriers.

Additionally, MFPA and the Mass Farm to School Project should educate university administrators about Section 23B and the potential for them to use this law to push food management companies to purchase more local foods. Section 23B, as it currently stands, lacks legal teeth, but that does not mean that it is wholly without value. For those university officials that already support increasing local food, it is important to make them aware of the law’s existence and the potential to use it as a tool against countervailing pressure from food management companies that do not want to change purchasing practices. For those officials that need further convincing, Section 23B can serve as a tool for advocates to get in the door, followed by some of the informed advocacy we have outlined in this report. For universities in the midst of contracts with food management companies, officials may seek to amend the contracts or supplement them with language linked to Section 23B. Others may take UMass-Amherst’s approach and develop an arrangement that permits them to buy local food outside of the contract. And when contracts come due for renewal, universities should push to include language linked to Section 23B and/or create set percentages of local food procurement that should be included in procurement.

Develop and Maintain a Public Database Tracking Local Purchases of Schools

One potential method for advocates to help push schools to increase their local purchasing is the creation of a public monitoring system to grade schools on their procurement practices. Similar in construction to the College Sustainability Report,¹⁵⁶ which grades sustainability measures at universities and colleges across the nation, a grading system online or via newsletter that tracks local food procurement at Massachusetts schools would bring a level of accountability and competition into increasing local food sourcing. The database could include specific school details and rank schools based on their ability to meet the state goals of local procurement. Such details could either be self-reported by the schools or graded by current students. With a rising interest in local food among youth, such a public resource would compel competition in schools to go above and beyond requirements and seek to incorporate more local food sourcing into their dining services. By allowing current and potential students to see their school’s local food procurement success and policies, this resource would also harness students’ ability to serve as a market force that demands better procurement policies at their schools.

As described above, some states like Illinois have tasked an agency or council with tracking and reporting on success in the implementation of local procurement. Similarly, MFPA can advocate that a state agency, or perhaps the inter-agency Massachusetts Food Policy Council, be tasked with monitoring implementation of the local preference requirement so that the state can move towards increased realization of Section 23B’s aims.

¹⁵⁶ THE COLLEGE SUSTAINABILITY REPORT CARD, *About*, <http://www.greenreportcard.org/> (last visited June 30, 2012)

Require Management Companies to Keep Better Records of the Provenance of Their Foods

In a similar vein to creating a report card for school's local procurement policies, MFPA can advocate for a state or school-run requirement that food management companies report their own local food procurement data. As food management companies utilize electronic systems for processing school food orders and to track vendors, adding on a required monthly or quarterly report on where a school's food was sourced would not only be a simple measure, but it also would allow schools and citizens to track the companies' adherence to state procurement policies. Such a report would give schools easy data on their own adherence to state preference policies, thereby allowing schools and companies to monitor any progress in increasing local food procurement.

In addition, as mentioned above, many school administrators and food management companies do not believe they must follow state preference laws. Creating a tracking requirement via legislation or regulation would eliminate their nonparticipation in local procurement, or at the very least, expose their nonparticipation. As more students demand local food, and the state continues to push for local preference, a transparent system for tracking food management companies would give schools more control over their dining services.

Foster Aggregators and Connect them with Local Farmers

The local food system needs more aggregators to connect small farms with universities and provide the crucial services of logistical support, assistance with food safety certifications of farmers, and provision of sufficient liability insurance coverage. FoodEx's current clients are primarily in eastern Massachusetts, but it has the capacity to handle the entire state. MFPA and the Mass Farm to School Project can help address the need for aggregation by reaching out to farmers, alerting them to the untapped university dining services market, and encouraging them to connect with aggregators or become aggregators themselves.

One other potential avenue for advocates to follow would be to work with state officials, such as the Massachusetts Department of Agricultural Resources, to create an aggregator certification program and formalize some of the services that aggregators can provide for farmer-members. Under such a program, it might be possible to authorize aggregators to extend their GAP or Commonwealth Quality certifications to cover their farmer-members, or to allow aggregators to conduct certifications of their farmer-members. Such an aggregator certification program would be similar to what the National Institute for Automotive Service Excellence (ASE) does for auto mechanics, which is to test and certify automotive professionals in order to improve the quality of vehicle repair and service.¹⁵⁷ This certification would provide dining services officials with peace-of-mind that this aggregator has been vouched for by an organization like MFPA or by an official agency of the state of Massachusetts that understands dining services and their needs. As part of the certification program, the Massachusetts Department of Agricultural Resources could confirm that the aggregators carry sufficient liability insurance to work with colleges and universities.

Facilitate GAP Certification and Increase Acceptance of Commonwealth Quality Certification

One barrier for small farmers is obtaining GAP certification, a requirement for working with many food management companies as well as other institutional buyers like supermarket chains and restaurants. Obtaining federal GAP certification is very expensive because getting the farm ready for certification can

¹⁵⁷ National Institute for Automotive Service Excellence, About ASE, <https://www.ase.com/Home.aspx> (last visited June 11, 2012).

“include large capital investments, such as water purification equipment, or moderate expenditures, such as training workers to improve hygiene and upgrading record-keeping technologies.”¹⁵⁸ On top of the costs to make these substantive changes, according to some accounts it can cost up to \$1800 for the inspection itself.¹⁵⁹ GAP certification is also more challenging for small farms that grow diverse crops, as each crop must be certified independently. This means that the USDA agent must come out to the farm multiple times per year to certify crops that are grown in different seasons. Massachusetts has another food safety certification for farms called Commonwealth Quality (CQ). While CQ is more cost-effective for small farmers,¹⁶⁰ it is not accepted by all institutional purchasers, particularly those with national purviews who may not be familiar with the program.

Advocates such as MFPA and the Mass Farm to School Project should push for various methods of reducing the barriers to GAP certification, including lowering the requirements and costs of GAP certification that are especially onerous on small farmers. MFPA could push for the state to create a fund that would help pay for first-time GAP certifications for small farms, as the first certification is always the most expensive in terms of the capital outlays required. Alternatively, as described above, MFPA could work to create a system in which aggregators can receive some sort of umbrella certification that applies to their farmer-members. Separately, MFPA can promote recognition of other certificate programs, such as the CQ program that is available in Massachusetts. Beyond GAP and CQ, MFPA and the Mass Farm to School Project may also explore the possibility of working to create another certification system that is better tailored toward small farms.

Partner with the State Board of Higher Education to Foster Increased Local Procurement

As mentioned above, the State Board of Higher Education sets high-level policy for Massachusetts’ colleges and universities. To date, they have not worked on an issue as granular as the sourcing of food in dining halls, but our discussion with a former Board staff member indicated it would be within their purview if they chose to tackle the issue.¹⁶¹ One possibility for the MFPA is to advocate for the Board to adopt a policy promoting local food. This policy can take a variety of forms, from simply a resolution expressing their hope that the amount of local food purchased by colleges and universities increases, to setting a definite goal with a set deadline.

This is an avenue that must be handled with delicacy. While a stronger policy would be preferable from the standpoint of the local farmer, the former Board staff member cited above indicated that any such policy would likely engender protest from university administrators who will see this as leading to an increase in student costs.¹⁶² The Board could alleviate this fear by providing financial incentives to schools to purchase more local foods, or advocating for such an appropriation by the legislature. However, the history of such funding is that the money dries up within a few years while the mandate remains, forcing colleges and universities to pick up the bill at the end of the day. Yet even in this instance, if the Board put funding into place to help schools purchase more local foods in the short term, schools would get the chance to see how purchasing local food can be easy and cost-effective, and, over

¹⁵⁸ Roderick M. Rejesus, N. CAROLINA ST. UNIV., *Good Agricultural Practices: GAP Certification: Is It Worth It?* (Jan. 2009), http://www4.ncsu.edu/~rmrejesu/Food_Safety_Risk/ag-709%20final%20printed.pdf.

¹⁵⁹ Phil Tocco, *GAPs on Your Farm*, <http://www.michiganorganic.msu.edu/uploads/files/31/GAPS%20on%20your%20farm.pdf> (last visited May 2, 2012); see also telephone interview with Joe Czajkowski, *supra* note 83 (indicating that GAP certification costs \$1800).

¹⁶⁰ Markley, *supra* note 85.

¹⁶¹ Interview with Dale Hamel, *supra* note 10.

¹⁶² *Id.*

time, such foods could gradually become comparatively less expensive as more farmers began to produce for the university market.

However, if the outrage from university administrators and food management companies over any policy including set local procurement goals were too great, the Board could still achieve a great deal by adopting a resolution promoting local procurement, similar to the language of Section 23B. While such a statement will not automatically lead to a definitive change in college procurement, adding the Board's voice to the growing chorus of local food supporters will contribute great legitimacy to the effort.

B. Recommendations for legislative change to strengthen the law

In contrast to the above suggestions, which focus on areas of policy advocacy within the current legal framework, this section looks at changes to Massachusetts General Laws, Chapter 7, Section 23B for which MFPA may want to advocate. Such amendments could take a variety of forms, from simply including colleges and universities in the existing language requiring state agencies to give local foods a 10% price preference, to specifying a set percentage of food that should be procured locally at state agencies or state colleges and universities. Though more detailed research and discussion with MFPA, Mass Farm to School Project, and other partners is needed in order to determine what specific bill language would be feasible or successful, a few methods of using legislative change to increase local food procurement are presented below.

Add Universities to Section 23B, Subsection (c)

Advocates such as MFPA and Mass Farm to School Project could push to expand Section 23B(c) to include state colleges and universities in the requirement to give in-state food items a 10% price preference. Such a provision would inject momentum into local food procurement by setting a specific requirement for schools to utilize when choosing whether to purchase local or non-local foods. This would also give schools, students, and outside advocates a benchmark by which to measure the efforts of schools to increase local purchasing. For example, with the current statutory language merely encouraging state colleges and universities to prefer local foods, it is difficult for stakeholders to measure whether or not they are implementing a preference. But with language including a set price preference for local foods, advocates could use this specific language to determine whether schools were following through with this preference. Though it may require extra work for schools, if the requirement for procurement is implemented successfully it would also help to inject funding into the local economy, thus providing benefits to the state as a whole as well as benefits to the school's image as a community leader. Further, as in the case of UMass-Amherst, such an investment in purchasing local foods for school dining services may lead to increased revenue in the long term, thus benefitting schools' overall revenue.

However, as demonstrated above through the experience of Maryland's public colleges who used their contracts with food management companies to evade their state's preference policy, this change may not, on its own, be an effective way to increase the presence of local foods in university dining halls. If following this route, careful language should be used to be clear that food management companies are included in preference policies so that contracts with food management companies would not give schools a way to get out of implementing the preference.

Create a requirement for a percentage of local foods

Alternatively, advocates could seek an amendment directed towards university officials that requires them to purchase a certain percentage of their food from local sources and to include language to such effect in their contracts with food management companies. No other states use legislation like this currently, but based on our research it seems that this would be a more effective way to ensure that each school purchases a certain amount of local food. We have crafted the following proposed statutory language as a sample:

Notwithstanding any general or special law to the contrary, and to the extent permitted by federal law, the dining halls of each state college or university shall serve no less than five per cent of food by cost grown, produced or processed in the commonwealth.

Food grown in the commonwealth includes, but is not limited to, fruits, vegetables, eggs, dairy products, meats, crops, horticultural products, fish, seafood, and other aquatic products, or products processed into value added products as part of a Massachusetts farm operation.

All contracts between food management companies and state institutions of higher education shall include a clause that effectuates the requirement above. Language to this effect should be added to all future such contracts.

This proposed language would solve a number of the problems identified during our interviews and through our research into the Maryland experience. First, the proposed language targets food *served* in university dining halls, as opposed to food *purchased* by universities. This eliminates the argument that schools may escape the requirement by contracting with food management companies to conduct their dining services or prime vendors to supply their food. Second, effectuating the desire for more local foods through altering future contract language is less disruptive because it employs a method already in use by some colleges. Third, the proposed language specifically extends the mandate to food management companies, which would ensure that they would clearly be bound by the rules and thus would help ensure implementation at those schools. Finally, based on the examples of some schools such as UMass-Amherst, which purchases 28% local foods, the 5% requirement is modest and manageable, but it is also sensible given that many colleges and universities serve very little local food currently. Any requirement will serve as a starting point to launch this transformation, and a higher requirement would engender stronger resistance. The provision could be open to amendment in the future to increase the percentage of local food required, or it could at least serve as a starting point to ensure that all schools begin to purchase local foods. Schools will then be able to determine the amount of local procurement that works for them. The final paragraph of the proposed language would place the burden on both the schools and the food management companies to incorporate contractual language effectuating the procurement of local food.

The legislative history of Section 23B indicates that universities might resist this alternative recommendation. Any change that disrupts current dining services operations will raise objections about added workload and possibly costs to university and food management budgets. On the other hand, requiring that colleges and universities procure some percentage of local food, no matter how small, will likely shift the momentum in the right direction. In this way, the schools would have flexibility to determine the best ways to incorporate local food rather than apply a price preference that may have

no practical effect, considering that food is not purchased item by item. Given the benefits of purchasing local food as well as the testimony that local food can be cheaper when procured directly from farms or through aggregators, we believe that colleges and universities will quickly recognize the advantages of purchasing locally and start to cultivate a healthier sustainable food system. Given the political realities—especially in light of the experience during passage of the last law amending Section 23B—getting this proposal passed would likely require huge resources of time, energy and money, but at least it presents a clear legal tool that can be used to achieve the goals of pushing state colleges and universities to increase local food procurement.

CONCLUSION

Massachusetts General Laws Chapter 7, Section 23B serves as an official recognition of the burgeoning local food movement, the possibilities it holds for the Massachusetts economy, and the unique position the state's colleges and universities hold to support the local food system. Institutions of higher education purchase large volumes of food each day, meaning that converting their purchases to local sources has the opportunity to kick-start local food systems and greatly increase economic development. Additionally, they serve students who are otherwise consistently exposed to fast foods and processed foods, creating the potential to improve the health of these students and also cultivate a demand for healthy, local food that will extend well beyond each student's college years. While colleges and universities often take various measures to highlight food purchased from local sources, unfortunately, local foods are still absent from many university dining halls. This absence can be traced to a number of requirements of dining services and food management companies, including issues of efficiency, logistics, reliability, and food safety.

This project set out to better understand the procurement of local foods in dining services programs at Massachusetts public colleges and universities. We sought to identify barriers inhibiting the growth of local food procurement. Through conversations with local food advocates, food management company employees, university administrators, farmers, and aggregators, a clear view of local food procurement challenges and successes was gained. There is no doubt that the parties supporting the status quo are strong. Section 23B is a small step toward breaking down the current barriers, but the law is neither a necessary nor sufficient mechanism to meet the goal of getting more local food into college and university dining halls. For those who recognize the benefits of local food and have made great strides toward getting it into their facilities, no law is necessary. For the remainder of the system, Section 23B, combined with the students, farmers, and local food advocates passionate about instituting change, can catalyze significant improvements to procurement policies at state colleges and universities. Examples of successful efforts by institutions and individuals are reflected in this report and its recommendations. This report, combined with the growing momentum in the local food movement, will hopefully give the MFPA, the Mass Farm to School Project, and other local food advocates the tools and capabilities to tap into the forces already set in motion and achieve the goal of meaningfully increasing local food procurement in college and university dining halls.

APPENDICES

Appendix A: Summary of Recommendations

Table 1: Recommendations for Working within the Current Law

Challenge	Recommendations
<i>Lack of student awareness and involvement</i>	<ul style="list-style-type: none"> • Spread awareness on campuses and mobilize student demand
<i>Incorrect assumptions about local food procurement by university officials</i>	<ul style="list-style-type: none"> • Educate officials through ‘myth busting’ materials that break down some of the myths about local purchasing and present solutions to common barriers • Educate officials on how universities and colleges can push for local food in current or new contracts with food management companies
<i>Lack of monitoring system to track local procurement by colleges and universities</i>	<ul style="list-style-type: none"> • Create a website or newsletter to track and grade the local purchasing of state universities • Advocate for a state agency or the Mass Food Policy Council to create tracking system that monitors schools’ local food purchasing
<i>Lack of transparency of food management company purchases and their adherence to local procurement policies</i>	<ul style="list-style-type: none"> • Require food management companies to keep better records of the provenance of foods they utilize
<i>Logistical challenges to connecting farmers to interested schools</i>	<ul style="list-style-type: none"> • Reach out to farmers, and encourage them to connect with aggregators or become aggregators themselves • Work with state officials, such as the Mass Department of Agricultural Resources, to create an aggregator certification program and formalize some of the services that aggregators can provide for farmer-members
<i>Expensive food safety certification such as GAP or Commonwealth Quality for small farmers</i>	<ul style="list-style-type: none"> • Advocate for lowering the requirements and costs of GAP certification, particularly for small farmers • Push for the state to create a fund that would help pay for first-time GAP certifications • Promote recognition of other certificate programs, such as Commonwealth Quality
<i>Lack of unified message about what colleges or universities need to do with regard to local procurement</i>	<ul style="list-style-type: none"> • Partner with the State Board of Higher Education to adopt a resolution promoting local procurement or a policy implementing a local procurement preference

Table 2: Recommendations for Legislative Change to Section 23B

Challenge	Recommendations
<i>Weak language in Massachusetts’s Section 23B does not set enforceable requirements for state colleges and universities with regard to local procurement</i>	<ul style="list-style-type: none"> • Add colleges and universities to Section 23B, Subsection (c) in order to them in the requirement to give local food a ten percent price preference
<i>Section 23B, even including subsection (c)’s 10% price preference, does not reflect the realities of university procurement and thus may have limited success</i>	<ul style="list-style-type: none"> • Seek an amendment directed towards university officials that requires them to serve a certain percentage of food from local sources and to include language to such effect in their contracts with food management companies

Appendix B: Massachusetts General Laws, Chapter 7, Section 23B

(As amended Oct. 28, 2010)

(a) Notwithstanding any general or special law to the contrary, and to the extent permitted by federal law, a state agency, authority or trustees or officers of a state college or university designated by such trustees when purchasing products of agriculture as defined in section 1A of chapter 128, 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, shall prefer products grown in the commonwealth or products produced using products grown in the commonwealth as well as fish, seafood, and other aquatic products.

(b) To effectuate the preference for those products of agriculture grown or produced using locally-grown products, the state purchasing agent responsible for procuring the products on behalf of a state agency, authority or trustees or officers of a state college or university designated by such trustees shall, in advertising for bids, contracts or otherwise procuring products of agriculture, make reasonable efforts to facilitate the purchase of such products of agriculture grown or produced using products grown in the commonwealth.

(c) The state purchasing agent responsible for procuring the products on behalf of a state agency or authority shall purchase the products of agriculture grown or produced using products grown in the commonwealth, unless the price of the goods exceeds, by more than 10 percent, the price of products of agriculture grown or produced using products grown outside of the commonwealth.

Appendix C: Massachusetts Schools Dining Services Providers; Interviews Conducted

Table 1: Massachusetts Schools and their Dining Services Providers

College	Dining Services Provider
UMass-Amherst	Self-Operated
UMass-Boston	Sodexo
UMass-Dartmouth	Chartwells
UMass-Lowell	Aramark
Bridgewater State University	Sodexo
Fitchburg State University	Chartwells
Framingham State University	Sodexo
Massachusetts College of Art	Chartwells
Massachusetts Maritime Academy	Chartwells
Massachusetts College of Liberal Arts	Aramark
Salem State University	Chartwells
Westfield State University	Sodexo
Worcester State University	Chartwells

Table 2: Summary of Interviews Completed

School	University Official	Food Management Co. Official
UMass Amherst (self-op)	Executive Director of Dining and Retail Services (in-person)	
UMass Boston	Assistant Vice Chancellor for Campus Services (in-person)	
UMass Dartmouth	Director of Campus Services (in-person)	Regional Executive Chef, Chartwells (oversees five schools) (by phone)
Bridgewater State University		Dining Services General Manager, Sodexo (by-phone)
Fitchburg State University	Vice President for Administration and Finance (by-phone)	
Framingham State University	Executive Vice President (in-person)	
Massachusetts College of Art	Executive Vice President (in-person)	
Westfield State University		Dining Services Operations Manager, Sodexo (by-phone)

Appendix D: Research and Interview Questions

This appendix includes three separate lists of questions. We used the first set when meeting with food management representatives, the second set when meeting with university officials, and the third set when meeting with UMass-Amherst, the self-op program.

Questions for Food Management Representatives Located at the College

- How many meals do you serve per day? How many different dining halls do you have? Is there any activity during summer (summer school, catering)?
- What percentage of the budget is for food?
- What are your meal account options? Fixed-price/a la carte/both?
- Please explain how sourcing works.
 - Are sourcing decisions exclusively yours, or does the university have some say?
 - Are your vendor agreements contractual?
 - Are your vendor contracts specific to the school or are they company-wide/regional/national?
 - How cognizant/aware are you of where the food is coming from?
 - How often do you switch suppliers?
- What are the terms of the contract the food management companies have with state schools?
 - Do the contracts require food of a certain level of quality? How is quality monitored and measured?
 - What other obligations do the food management companies have towards the schools?
- Customer satisfaction: have you heard any demands for more local food? If so, how have you addressed them?
- Are your customers aware they are eating local? If so, how?
- What do you see as the challenges to purchasing from local small farmers?
- Are you aware of the MA law (Ch. 7, Sec. 23B)?
 - If so, to what extent? How did you learn about the law? Are you constantly reminded about its existence?
- What is the percentage of your food supplies that is sourced locally?
 - If you get local food, is it an established program?
 - If yes, who initiated it?
 - What is the source (individual farmer, farmer-managed cooperatives, farmers' markets, local/regional distributors)?
 - What stakeholders are involved (students, school administrators, farmers, campus sustainability and environmental organizations, university staff and faculty, etc.)?
- What would be the process of implementing a new program (e.g. Farm-to-College)? Would you need the university to sign-off?
 - What would be required to implement a program?
- What are the barriers to getting local food (food preparation issues; bidding requirements; coordinating purchase and delivery; finding growers/product supply; product price; food safety)?
- Do you have food safety standards above and beyond federal/state requirements?
- If you are attempting to increase local food, what is your goal? "Purchasing local whenever possible"? "Increase local purchasing by X%"?
- How much day-to-day interaction do you have with the university?
- What is the fee arrangement between the food management company and the school? (management fee/percentage of sales/profit-sharing)

- What is the length of your contract?
- Can we see contract?

Questions for Colleges Regarding their Food Management companies

- Criteria for selecting a food management company
 - What are the most critical criteria to you?
 - What are you looking for?
 - How many vendors are there that can handle your needs (to get a sense of college's bargaining power)?
- What is the total annual food budget? Does that cover just residential dining or does it include convenience stores, catering, conference centers, etc? What percentage of that is food?
- How do you evaluate the success or the return on your expenditure? Do you take nutrition and student satisfaction into account?
- Do you have a dedicated Campus Sustainability Coordinator/Director? If so, what role do they play regarding food purchasing?
- Have you ever considered or evaluated running your own food services?
- What is the process for implementing a new food program (e.g. Farm-to-College)?
- Do you desire to have more local foods in your dining halls? Why?
- Are you aware of the MA law?
 - If so, to what extent? How did you learn about the law? Are you constantly reminded about its existence?
 - How have you tried to comply with the law?
- What is the percentage of your food supplies that is sourced locally?
 - If you get local food, is it an established program?
 - What is the source (individual farmer, farmer-managed cooperatives, farmers' markets, local/regional distributors)?
- What is your day-to-day involvement with food services? How do you supervise and monitor their work?
- Over what decisions do you have independent authority?
- Are you aware of local farms/producers who desire to sell to college dining services?
 - If so, how did you become aware of this?
 - Are you desirous of having their products in your dining hall?
 - If yes, how would you prefer to go about procuring such products? Yourself or through the food management company?
- How long is your contract?
- What role does the State Board of Higher Education play in your choice of food services provider?
- May we see the contract?

Questions for UMass-Amherst (Self-Op System)

- Background
 - How many meals do you serve per day? How many dining halls do you have on campus? Is there any summer activity (summer school, catering)?
 - What is the total annual food budget? Does that cover just residential dining or does it include convenience stores, catering, conference centers, etc.?
 - What are your meal plan options? Fixed price/a la carte/both?
 - Please describe how your food purchasing system works.
 - How are decisions about food purchase made? Is it a centralized decision process?

- How do you identify the farmers to purchase food from? What are the criteria you use?
 - How do you deal with seasonality?
 - How do you ensure a reliable source of food from local farmers?
 - Do you have an internal benchmark or goal for the percentage of locally sourced food?
 - Is the purchasing philosophy more closely aligned with local sourcing or farm-direct purchasing?
 - How do you balance your relationships with big distributors against the relationships with smaller farmers?
 - What percentage is local? How is that defined (e.g. within MA, within a certain radius)? Does only food purchased directly from farmers count as local or can it pass through a distributor/cooperative?
- Why did you choose self-op? What prompted this decision?
 - What was unsatisfactory about what the food management companies offered?
- Challenges
 - How do the costs of a self-run system compare to the costs of retaining food management services?
 - What are the main challenges to keeping the costs low or keeping the self-run system viable?
 - What is the required scale of the student body to run a self-op service? What about procuring a certain level of local foods: does a higher student population add to the complexity of farm-direct purchasing or local sourcing?
 - Can all colleges go it alone as you have? If not, for what type of college does your system work well?
 - What difficulties have you found running it yourself?
 - Anything that has been unexpectedly easier?
- Effects on campus
 - Is there any awareness among your patrons (students, faculty, etc.) that they are not eating at a food management company's site?
 - Are your consumers informed that they are eating local? How?
 - Do you receive school-wide support on your endeavor? What are some of the opposing or supporting voices?
 - Do you have data from customer satisfaction surveys that you can share?
 - Do you have any education program for the students or administration to understand the benefits of locally sourced foods?
- Legal Questions
 - Do you have food safety standards above and beyond federal/state?
 - Are you aware of the MA law?
 - If so, to what extent? How have you tried to comply with the law?
- What is your target for the percentage of local food used in a year?
- Barriers to getting local food
- What role does the State Board of Higher Education play?