

# State and Local Government Policy Options to Increase Procurement of Locally Grown Cultural Foods in Maui County, Hawai'i, and Beyond

Amanda Karls

## Executive Summary

This issue brief explores legislative policy opportunities at the state and local government level to increase the procurement of locally grown foods that hold cultural significance for groups of individuals who share a common cultural bond. The brief was prompted by a request from the Maui County Department of Agriculture to identify opportunities to support ongoing efforts to increase local cultivation and consumption of crops including, but not limited to, 'ulu (breadfruit),<sup>1</sup> kalo (taro),<sup>2</sup> 'uala (sweet potato), and pala'ai (pumpkin), which are essential to traditional Native Hawaiian foodways in Maui County and in the broader state of Hawai'i.<sup>3</sup>

As further explored in the callout box on page 10 "[Existing Locally Grown Food and Cultural Food Legislation in the State of Hawai'i](#)," the State of Hawai'i already has some noteworthy laws in place to support the procurement of locally grown foods. Hawaiian laws also officially recognize some of the state's cultural foods (CFs) and protect land used for the cultivation of some CFs. These "important agricultural lands" are further protected by the State's constitution. In fact, based on high-level policy scans, it appears Hawai'i may already have some of the most extensive CF-related legal supports and protections in the country.<sup>4</sup> Additionally, the County Government in Maui already legally recognizes the cultural significance of kalo.<sup>5</sup>

This overall policy landscape provides promising opportunities for additional policy development at state, county, and local levels that specifically support procurement at the intersection of geographic preference and CF priorities in the State of Hawai'i, including in Maui County. For readers outside of Hawai'i, the state's existing policy landscape may also provide models for advocates and policymakers who wish to explore legislative opportunities related to cultural foods and locally grown food procurement.

The Healthy Food Policy Project (HFPP) and the Center for Agriculture and Food Systems do not engage in lobbying and take no position as to whether any approach highlighted in this brief is appropriate for Maui County or any other region or community. Rather, we have authored this resource to elevate some of the policy opportunities related to supporting CF and their associated cultural foodways (CFWs) through local food procurement to help policymakers and stakeholders make informed decisions. Policymaking should be an iterative process, which should be done through ongoing and authentic engagement with residents and other stakeholders.

This issue brief contains legal background information but does not contain legal advice. Please consult an attorney or legal counsel for help evaluating and navigating legal issues.

# Guidance for Navigating this Brief

There are a few considerations that readers may find useful to understand when navigating this brief. They include: focus on locally grown CF procurement (as opposed to CF procurement in general); use of the term “local;” use of the term “culture;” and focus on food procurement by government actors, rather than other types of institutional purchasers.

## LOCALLY GROWN CF PROCUREMENT

First, as noted above, this brief addresses policy opportunities at the nexus of locally grown food procurement and CF procurement. However, it is also possible to prioritize CF procurement without prioritizing locally grown food procurement. In fact, some CFWs may not require locally grown products to satisfy the general needs and values of the particular community. While there are strong historical practices that tie the growing and consumption of kalo, ‘ulu, and other foods significant to traditional Polynesian foodways in Maui County,<sup>6</sup> CFWs—of which there are many examples in Hawai‘i, the broader U.S., and around the world—can migrate with the people who practice them.<sup>7</sup> Keeping that in mind, we hope this brief will be helpful for community groups and policymakers considering public policy decisions related to the procurement of locally grown CFs in other places, even where there is not an entrenched tradition of growing those foods in the relevant geographic area.

## “LOCAL”

Second, within the context of terms such as “locally grown” we acknowledge, “there is no standard definition for what constitutes local food, how many food miles it can travel before it loses the designation, or how many of the associated attributes it must actually have to be considered local.”<sup>8</sup> Instead “these distinctions are dependent upon who is using the term and for what purpose.”<sup>9</sup> Here, we construe the term broadly to include foods grown within a defined geographic area, whether that be within a municipality, county, state, or region.

## GLOSSARY

As used in this brief, these terms have the following meanings:

### Cultural Food (CF)

Food that holds cultural significance for groups of individuals who share a common cultural bond<sup>10</sup>

### Cultural Foodway (CFW)

A foodway that features culturally significant foods and or food practices<sup>11</sup>

### Cultural Food Security

“Availability, access, utilization...and stability of cultural foods,” including through cultural foodways of harvesting preparation, sharing, and consumption<sup>12</sup>

### Foodway

A set of social, cultural, or values-based practices of food production, preparation, and consumption<sup>13</sup>

### Food Procurement

The acquisition of food products by institutions and government agencies to meet the needs of the populations they serve



Photo courtesy of Rogerene “Kali” Arce, Maui County Department of Agriculture

## “CULTURE”

Third, within our focus on the procurement of foods that are both CFs and locally grown foods, we use “culture” and “cultural” (e.g., as used to modify “food” and “foodways”) in a way that largely contemplates traditions that tie kinship and other cultural affinity groups to previous generations of the group.

We also recognize that all humans have culture, which means virtually all of us have cultural foods and cultural foodways. However, here we largely contemplate CFs that are under-resourced by mainstream foodways.

## PROCUREMENT BY GOVERNMENT ACTORS

Finally, while procurement is not necessarily the exclusive domain of government actors, we focus on legislative policy options related to the procurement of food by public institutions and other government actors, including, school districts, state-run hospitals and universities, and correctional facilities. While not extensively covered here, state and local government may also choose to support values-based food procurement or other standards by third parties, such as non-profit organizations, food stores, and private hospitals. This might happen through grant funding to incentivize certain types of values-based purchasing, including of local foods and/or CFs.<sup>14</sup> Consequently, we have included some examples of legislation to support government funding for CF-related procurement by other types of entities below.

# Reasons State and Local Government May Choose to Use Public Policy to Support Distinct Cultural Foodways

In the United States, policy often supports an industrialized food system that reflects mainstream cultural features related to capitalism, convenience, and cultural norms.<sup>15</sup> Meanwhile, distinct CFWs may be under-resourced by the same industrialized food system or otherwise marginalized, due to factors such as colonialism, slavery, displacement, stigma, immigration status, land theft, physical violence, systemic racism, forced assimilation, and language barriers.<sup>16</sup> To counteract resource deficits, state and local governments may seek to use their legislative power and policy tools to shift some of their purchasing power toward CFs that are important to groups within their communities.

State and local governments may choose to use public policy to specifically support these CFWs for various reasons, including promoting health and advancing equity. By prioritizing the procurement of CFs, government can help address historical injustices and support the cultural and nutritional needs of diverse communities while also promoting local economies. For example, supporting CFWs—including the local production of CF crops—can be one way to increase cultural food security, meaning, the “availability, access, utilization...and stability of cultural foods.”<sup>17</sup>

Especially as it relates to long-practiced CFWs, tried and tested agricultural practices may also support reliable yields and, in turn, environmental sustainability, nutrition security, and community resiliency.<sup>18</sup> As Alonso and colleagues point out in their 2018 paper “Culture and food security,” “certain traditional crop combinations offer agricultural complementarities in the form of resource sharing or protection against environmental stresses and a number of traditional crop selection and pest management systems are well adapted to local environments and risks.”<sup>19</sup> CFWs can also support broader health equity, including as it relates to social and emotional well-being and other benefits.<sup>20</sup> Additional evidence demonstrates that the symbolic value of a food may be more influential in motivating individuals to incorporate that food into their diet than its nutritional value.<sup>21</sup> Moreover, the benefits of CFWs can be conferred even when connections to foodways are discontinued and then rediscovered and adapted over time and across generations.<sup>22</sup>



Photo courtesy of Rogerene “Kali” Arce, Maui County Department of Agriculture

# Types of Local and State Policies That May Be Adapted to Support Locally Grown Cultural Food Procurement

---

When conducting research in preparation to draft this brief, we identified a few general types of laws and executive policies with attributes that might be adapted to facilitate the procurement of locally grown CFs. These policies address:

- Government procurement, including:
  - A. Procurement of locally grown foods;
  - B. Procurement of CFs and related concepts; and
  - C. Other values-based procurement.
- Other strategies to support or promote local foods, CFs and related concepts.

While not an exhaustive list, a few examples of each of these types of policies are provided below. In jurisdictions where they already exist, these types of laws and executive policies could serve as a starting point for amendments that more specifically contemplate government procurement of locally grown CFs. In jurisdictions where they do not exist, they offer general approaches to consider as starting points for adaptive use to support CF procurement legislation. Counties and municipalities that wish to support CF procurement in their locales may choose to leverage existing or advocate for new state-level policy. Alternatively, where they have the authority to do so, counties and municipalities may also enact and amend local-level legislation.

In addition to the examples listed by category below, we have also identified some Hawai'i-specific legislation in the callout box on page 10 labeled "[Existing Local-Grown Food and Cultural Food Legislation in the State of Hawai'i.](#)"



## A. Procurement Policies that Address Government Procurement of Locally Grown Foods

Included here are a few different strategies to address government procurement of locally grown foods and examples of legislation:

### GRANT FUNDING FOR GOVERNMENT ENTITIES

- The California Farm to School Incubator Grant Program supports the procurement of California-grown foods in schools by providing grants to schools and school districts. The program is supported by legislation through California Budget Acts to allocate funds to the California Department of Food and Agriculture (CDFA) to establish and continue the grant program.<sup>23</sup>
- Section 2-243(d) of the Municipal Code of the City and County of Denver, Colorado, establishes funding that may be used by agencies of local government, including Denver Public Schools and public schools that include a procurement preference for food from Colorado farms, ranches, and food manufacturing businesses so long as the foods are less than ten (10) percent more expensive than comparable out-of-state foods for its Healthy Food for Denver's Kids Initiative.<sup>24</sup>

### VENDOR AND SUPPLIER BIDDING PREFERENCES

- Alaska law provides a preference for agricultural and fisheries products harvested or processed within the state. Specifically, state agencies may give a 7% bidding preference to vendors offering Alaska-grown agricultural products or Alaska-processed fisheries products. This means that when evaluating bids, the state can consider bids from vendors offering local products as if they were 7% lower in price than they are.<sup>25</sup>
- Section 3.52.010 of the West Frankfort, Illinois Code of Ordinances allows for a bidding preference of up to five percent of the total price for the purchase of goods grown in the city.<sup>26</sup>

### PURCHASING TARGETS

- Maine law directs the state's Commissioner of Agriculture to "establish and promote a Maine foods procurement program with the goal that, no later than 2025, 20% of all food and food products procured by state institutions are Maine food or food products."<sup>27</sup>
- Arkansas passed legislation initially requiring agencies to allocate 10 percent of food purchases to local farm or food products, with the percentage increasing to 20 percent in subsequent years.<sup>28</sup>
- See, also the Hawai'i state examples, in the call out box labeled "A Few Possible Entry Points for Locally Grown CF Procurement Legislation in Maui County and/or the State of Hawai'i."



Photo courtesy of Rogerene "Kali" Arce, Maui County Department of Agriculture

## B. Procurement Policies that Address Government Procurement of CFs (and Related Concepts)

---

There are fewer examples of these sorts of policies. Two examples are listed below:

### SUSTAINABLE, CULTURALLY APPROPRIATE FOOD PROCUREMENT

- Washington, DC has a law that requires covered agencies to incorporate certain practices to reduce the greenhouse gas emissions associated with food and beverages into their food and beverage procurement, “while also ensuring that food and beverage options are culturally appropriate.” D.C. Code § 8-151.09b.
- While this law might be construed to favor locally grown foods for their potentially lower levels of greenhouse gas emissions in, e.g., their

transportation, as implemented the policy may focus on the relative greenhouse gas emissions of broad categories of foods (beef and lamb, other animal-based foods, and plant-based foods), without respect to where they are grown.<sup>29</sup>

### HALAL FOODS IN INSTITUTIONAL SETTINGS

- New York City requires correctional facilities to provide people in their custody with foods sufficient to observe religious dietary laws. The Rules of the City of New York § 1-06.<sup>30</sup>

## C. Procurement Policies that Address Other Government Values-Based Procurement

---

There are a few other types of values-based procurement laws that could serve as models for local CF procurement with some modest modifications:

### PLANT-BASED FOODS IN INSTITUTIONAL SETTINGS

- In New York State the law requires hospitals to offer plant-based meals and snacks to patients and to list these options on all written materials and menus.<sup>31</sup>
- In New York City, a mayoral initiative (not a law) implemented “Vegan Fridays” as part of the city’s overall commitment to healthier food options in schools, which includes various programs and policies.<sup>32</sup>

### GOOD FOOD PURCHASING PROGRAM STANDARDS

- In New York City, the Mayor has directed the Mayor’s Office of Food Policy to “establish a [Good Food Purchasing Program](#), the goal of which shall include the study and publication of data, on an annual basis, that provides transparency about how mayoral agencies’ procurements impact core values relating to local economies, environmental sustainability, valued workforce, animal welfare, and nutrition affecting the health of all New Yorkers.”<sup>33</sup>

- The City and County of San Francisco passed an ordinance to introduce standards and goals for food purchasing by the Department of Public Health and Sheriff’s Department in hospitals and jails, based on the Good Food Purchasing Program.<sup>34</sup>

### MINORITY AND WOMEN-OWNED SMALL BUSINESS PREFERENCES

- California Public Contract Code Section 10115 encourages procurement from minority, women, and disabled veteran business enterprises.<sup>35</sup>
- New York City Administrative Code section 6-129 establishes a program, administered by the department of small business services, “designed to enhance participation by minority-owned and women-owned business enterprises in city procurement.”<sup>36</sup>

## Other Strategies to Support or Promote Local Foods, CFs, and Related Concepts

---

In addition to procurement strategies, state and local governments, including counties and cities, can support local farmers, including those that grow CFs through a variety of other measures. Some possibilities are listed below, along with example models that could support CFs indirectly, or that could be modified to more directly do so.

### Culturally Appropriate Food Funding for Non-Government Entities

---

- San Francisco Administrative Code § 10.100-73 establishes a “Food Empowerment Market Fund” to receive “monies appropriated or donated to address food insecurity in the City’s most vulnerable neighborhoods and equip those communities with tools and skills to produce and prepare their own healthy and culturally appropriate food and to define their own food systems, otherwise referred to as ‘food sovereignty.’” The City’s Human Services Agency is directed to “use monies in the Fund to provide grants to nonprofit organizations to establish and operate food empowerment markets.”<sup>37</sup>
- The State of California has a “Healthy Refrigeration Grant Program.” Recipients of program funds must use the monies to “offer for sale fresh fruits, nuts, vegetables, and minimally processed prepared foods, including culturally appropriate foods, grown in California to the extent that is possible.”<sup>38</sup>
- Minnesota Statutes § 17.1017 establishes the Good Food Access Program, which provides financial support “for the establishment, construction, expansion of operations, or renovation of grocery stores and small food retailers to increase the availability of and access to affordable fresh produce and other nutritious, culturally appropriate food to underserved communities in low-income and moderate-income areas.”<sup>39</sup>
- Minnesota law also establishes an “American Indian food sovereignty funding program” “to improve access and equity to food security programs within Tribal and American Indian communities.”<sup>40</sup>

### Culturally Significant Agricultural Land Preservation

---

- As explained in the callout box above labeled, “Existing Local-Grown Food and Cultural Food Legislation in the State of Hawai’i,” Hawai’i’s Important Agricultural Lands Program directs the state and counties within the state of Hawai’i to “provide preference to important agricultural lands and agricultural businesses on important agricultural lands” and directs the design of incentive and protection programs for such lands. Among the qualifications designating land as an “important agricultural land” are that the land type is “associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture, and energy production.”<sup>41</sup>
- Somewhat relatedly, Maine has legislation to encourage food self-sufficiency for its citizens. Pursuant to the law, the Department of Agriculture is directed to support policies that “ensure the preservation of family farms and traditional foodways through small-scale farming and food production.”<sup>42</sup>



## Local Producer Support Program

---

- Hawaii’s Important Agricultural Lands program, described above also directs the state and counties to develop supports—such as agricultural development, land use, water use, regulatory, tax, and land protection policies—that could be applied to farmers who grow foods on land associated “with traditional Hawaiian agricultural uses.”<sup>43</sup>
- Vermont’s Farm to Plate Investment Program aims to increase economic development in Vermont’s food and farm sector, create jobs in the food and farm economy, and improve access to healthy local foods.<sup>44</sup> A similar program might be adopted with specific supports for producers that grow CF foods.

## Food Advisory Committees

---

- The Massachusetts Food Policy Council includes diverse stakeholders to guide food policy.<sup>45</sup> A CFW-specific advisory committee or subcommittee might be another possible variation for a food policy council.
- Oakland, California has a Department of Race and Equity. The ordinance that establishes the Department, suggests “food systems that support local food production and provide access to affordable, healthy, and culturally appropriate foods for all people” is within the charge of the Department.<sup>46</sup>

## Strategic Planning

---

- By state law, Maine’s Commissioner of Agriculture is directed to implement a strategic plan to end hunger in the state by 2030. Strategies must include, e.g., “ensuring consistent easy and equitable access to healthy and culturally appropriate food.”<sup>47</sup>



Photo courtesy of Lauren Nelson, Maui County Department of Agriculture



The following existing provisions of state law may provide a starting point for the Maui Department of Agriculture and others seeking to advance procurement of locally grown CF foods. They might, for example, be considered for possible CF-specific amendments or incorporated by reference in new state and/or county legislation. Some might also be the basis for appropriations requests. In any event, for these laws to be effective, they need to be properly implemented. Where laws are not being leveraged or enforced, there may also be opportunities for reforms to the laws that include meaningful mechanisms to ensure the laws are functioning as intended.

Outside of Hawai'i, some of these laws might also serve as examples for groups working to pass new food and/or CF-related legislation.

### **"IMPORTANT AGRICULTURAL LANDS" SUPPORTS**

Hawai'i's Important Agricultural Lands law directs the state and counties within the state to preserve and protect lands, including those associated with "traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses."<sup>48</sup> These "important agricultural lands" are further protected by the state's constitution.<sup>49</sup>

Among other things, the Important Agricultural Lands law directs the design of incentives to enhance agricultural viability on important agricultural lands, including programs to promote and support agricultural businesses. The law includes a variety of programs that might be created under the law, such as tax assistance and grant incentive programs. Any of the listed examples could presumably help grow and support the production of CFs making them more readily available for procurement, and potentially more competitive. In addition, the law allows for the development of other types of programs beyond the listed examples—leaving an interesting space for exploring county and state food procurement programs that direct the purchase of food grown on "important agricultural lands."<sup>50</sup>

It is also notable that the stated purposes and objectives of the law provide language articulating a "compelling government interest" related to prioritizing Hawaiian-grown foods associated with Native Hawaiian CFWs.<sup>51</sup> This may be important in the context of Equal Protection considerations, as discussed in the callout box below labeled "Key Legal Considerations."

### **ADDITIONAL FUNDING OPPORTUNITIES FOR TARO CULTIVATION**

State law establishes that the office of Hawaiian Affairs "may seek available federal, state, county, or private funding to restore taro cultivation," including for projects that use taro for "food security" or "community economic development."<sup>52</sup>



### LOCALLY GROWN FOOD PROCUREMENT TARGETS

Like a few other states, the Hawai'i has local food procurement targets for some government food purchases. Specifically, pursuant to Hawai'i Revised Statute section 27-8, state law establishes required annual purchasing targets for procurement of fresh local agricultural and local value-added, processed agricultural and food products by the state's departments of education, health, corrections and rehabilitation, defense, and the University of Hawai'i system. These target requirements apply to food purchased for public schools, youth campuses, public hospitals, public prisons, and any purchases made directly by the University of Hawai'i for use in its academic programs. They start with a requirement of ten percent by 2025 and increase incrementally to a requirement of fifty percent by 2050.<sup>53</sup>

Additionally, Hawai'i has a farm to school program within the state's department of education<sup>54</sup> and state legislation establishes a goal that by 2030, thirty percent of food served in public schools shall consist of locally sourced products,<sup>55</sup> exceeding a 2030 target of eighteen percent required by section 27-8, mentioned above. Either or both existing laws might provide an entry point for advocates who may wish to modify existing statutory language to contemplate traditional foods.

### CF FOOD DEFINITIONS

Although not specific to food crops, the term "Hawaiian plants" is defined by a separate statute (Haw. Rev. Stat. Ann. § 103D-408) to include "any plant species... brought to Hawai'i by Polynesians before European contact, such as kukui, kalo, wauke, niu, noni, and kamani."<sup>56</sup> This definition might be adopted, for example, by reference in CF procurement legislation.

The Important Agricultural Foods law, discussed above, also defines "important agricultural lands."<sup>57</sup> Using this definition to designate foods targeted for procurement might be another approach to consider, even if not specific to just CFs.

### CF FOOD RECOGNITION

The State of Hawai'i has measures in place that recognize the importance of kalo, including its cultural connection to Native Hawaiians.<sup>58</sup> In Maui, the County Government also legally recognizes the cultural significance of kalo.<sup>59</sup>



Photo courtesy of Rogerene "Kali" Arce, Maui County Department of Agriculture

# Key Legal Considerations

Policymakers and advocates working to pass CF procurement legislation, including as it relates to locally grown CFs should be aware of a few legal considerations, including three provisions of the U.S. Constitution: 1) the Free Exercise Clause of the First Amendment, 2) the Establishment Clauses of the First Amendment, and 3) the Equal Protection Clause of the Fourteenth Amendment.<sup>60</sup> Together the first of these two clauses aim to ensure that government remains neutral toward religion.<sup>61</sup> Thus, these two clauses are especially important in understanding the contours of state and local governments' obligations and limitations with respect to accommodating religious dietary requirements, including inlaws that relate to CFWs associated with religious or spiritual practices.

The third clause, which has application beyond government action related to religion, bars government from unjustifiably treating some people more favorably than others based on factors such as race, ethnicity, or religion.<sup>62</sup> This does not mean that state and local governments cannot take any action that has addresses past harms or promotes diversity and inclusion. However, any such actions must be carefully crafted to comply with constitutional requirements.<sup>63</sup> As a recent Congressional Research Service brief points out, "when a statute, regulation, or other government action distributes burdens or benefits based on race, ethnicity, or national origin, courts will impose a rigorous, 'strict scrutiny' test to decide whether it violates constitutional equal protection principles."<sup>64</sup> This test also applies to religious classifications.<sup>65</sup> If challenged in court, to survive the strict scrutiny test, a government must show that the challenged action furthers a "compelling governmental interest" and is "narrowly tailored" to that interest.<sup>66</sup>

In addition to working with local counsel to navigate these issues, interest groups and policymakers should also consider legal factors such as preemption, and any other restrictions on their legislative authority, which may be affected at the local level, for example, by a municipality's legislative authority.<sup>67</sup>

For additional reference, we have included some reading suggestions related to these topics in the Further Reading section at the end of this brief.

## Drafting Tips for Cultural Food-Related Procurement Laws

### 1. RESPECT RELIGIOUS PRACTICES

Ensure that the procurement policies do not inadvertently restrict the ability of individuals to practice their religion.<sup>68</sup>

### 2. ENSURE A SUFFICIENT GOVERNMENT INTEREST AND A TAILORED APPROACH

Keep in mind that laws to require or encourage government entities to buy locally grown cultural foods (CFs) should be designed within the context of the Equal Protection Clause of the U.S. Constitution and other legal requirements. Among other things, governments should define their interests carefully and tailor any interventions that could affected protected groups as narrowly as possible.<sup>69</sup> The State of Hawai'i, has for example, drafted its Important Agricultural Lands law in a manner apparently designed to thwart these sorts of concerns. This is discussed more in the callout box labeled "Existing Local-Grown Food and Cultural Food Legislation in the State of Hawai'i."

### 3. ENGAGE COMMUNITY MEMBERS

Engage authentically with diverse community groups during the drafting process to ensure the legislation reflects the cultural diversity of area.<sup>70</sup>

# A Possible Model for Inclusive Locally Grown CF Procurement Legislation

As noted above, existing legislation related to values-based procurement, including the procurement of locally grown foods, may provide a starting point for imagining new legislation specifically aimed at locally grown CF procurement. Local food procurement target laws—i.e. laws that establish a required or aspirational percentage of local food that governments should or must purchase—may offer a relatively elegant opportunity for statutory amendments to add a secondary target related to CFs. For example, a state with the following hypothetical procurement language might amend it as follows (~~strikethrough~~ = deletion, underline = addition):

## EXAMPLE (TO SUPPORT A BROAD RANGE OF LOCAL CF PROCUREMENT)

1(a) Beginning January 1, 2030 each state-funded department and institution, including, but not limited to, schools, colleges, correctional and rehabilitation facilities, public hospitals, and state parks, shall obtain a minimum of twenty-five percent of its food from in-state producers: of which, at least fifty-percent should be culturally-important foods as defined in section 2, below. (b) This requirement shall be implemented in a manner that is inclusive of all cultural groups and religious affiliations.

(2) For purposes of section (1), above “culturally important foods” means all foods designated as such by the Department of Agriculture. A list of such foods shall be developed by the Department of Agriculture in consultation with designated representatives from tax-exempt nonprofit organizations including faith groups and charitable organizations that represent, are led by, or serve cultural groups with foodways that are underserved by the mainstream food system. The list shall be reviewed and revised in collaboration with representatives no less than at least once every ten years.

While all of the language in the sample amendment above is purely illustrative, we point out that we have used the term “culturally important” here, but other terms such as “culturally significant,” “historically important,” “Indigenous,” etc. may be better fits for various circumstances. In any case, such terms ideally merit defining directly in the statutory language and should be crafted with the legal considerations addressed above in mind.



Photo courtesy of Lauren Nelson, Maui County Department of Agriculture

# Conclusion

---

This issue brief highlights the potential for adapting and leveraging existing legislative frameworks to support the procurement of locally grown CF by state and local government entities. While specific laws addressing the procurement of locally grown CFs are uncommon, various existing policies related to locally grown foods, CFs, and other values-based procurement initiatives offer promising models for adaptation.

The examples provided above, ranging from grant funding and vendor preferences to culturally appropriate food funding and agricultural land preservation, illustrate the diverse strategies that might be employed to support CF procurement. Hawai'i's robust legislative landscape, particularly its recognition and protection of important agricultural lands and culturally significant crops, serves as a valuable starting point for efforts in Maui County, and as a potential model for other jurisdictions.

By leveraging these existing frameworks and considering the unique needs and values of their communities, policymakers and advocates can craft targeted legislation to foster local agriculture and ensure the availability of culturally significant foods.

## Further Reading

---

### LOCAL FOOD PROCUREMENT POLICY

- PolicyLink. [Equitable Development Toolkit: Local Food Procurement](#). 2015.
- Michigan State University Center for Regional Food Systems (CRFS) and National Farm to School Network. [Farm to School Local Food Purchasing Incentives: State-Level Policies to Support Farm to School Local Food Purchasing Since 2020](#). 2024.
- National Farm to School Network and Vermont Law and Graduate School's Center for Agriculture and Food Systems. [State Farm to School Policy Handbook 2002–2020](#). 2021.

### CULTURAL FOODWAYS (GENERAL)

- Wright, Kathrine E., et al. ["The Impact That Cultural Food Security Has on Identity and Well-being in the Second-generation U.S. American Minority College Students."](#) *Food Security*, vol. 13, no. 3, 2021, pp. 701-715.

### HAWAI'IAN CULTURAL FOODWAYS

- Hobart, Hi'ilei Julia. ["Contextualizing Hawai'i's Foodways."](#) *Food, Culture & Society* vol. 19, issue 3, 2016, pp. 427-435.
- von Seggern, Janne, and Anita von Poser. ["Re-engaging Foodways: Life-courses of Disconnection and Reconnection with Food, Environment, and Sociality in Hawai'i."](#) *Anthropological Forum*, vol. 34, issue 2, 2024, pp. 226-248.
- Cristobal, Shannon. ["NAIMAS!: The Rise of Filipino Foodways in Hawai'i."](#) *Alon: Journal for Filipinx American and Diasporic Studies*, vol. 2, no. 3, 2022.

### LEGAL CONSIDERATIONS RELATED TO CULTURAL FOOD AND LOCAL FOOD PROCUREMENT

- ["Comment: Are Kosher Food Laws Constitutionally Kosher?"](#) B.C. Envtl. Aff. L. Rev., vol. 21, 201, 212.
- ["Note: Food Fights: Redefining the Current Boundaries of the Government's Positive Obligation to Provide Halal."](#) J. L. & Politics, vol. 17, 713, 716.
- Healthy Food Policy Project. ["Why Preemption is Bad."](#)
- Public Health Law & Policy. ["Local Food for Local Government: Considerations in Giving Preference to Locally Grown Food."](#) 2012.

# Acknowledgments

---

This resource was developed for the Healthy Food Policy Project's Consultation and Resource Development Lab, based at the Center for Agriculture and Food Systems. Amanda Karls was the lead researcher and writer, with input from Laurie Beyranevand, Lihlani Nelson, Austin Price, and Emily Spiegel. Appreciation also goes out to Kaiea Medeiros and Lauren Nelson at the Maui County Department of Agriculture for their thoughtful review and comments on a draft of this resource. Additional support was provided by student research assistant Nicholas Glover.

## About the Center for Agriculture and Food Systems



The Center for Agriculture and Food Systems (CAFS) at Vermont Law and Graduate School equips students with professional expertise, provides law and policy support, and creates broadly accessible resources to cultivate a just agriculture and food system. CAFS acknowledges the longstanding inequities in the food system and envisions an inclusive, transparent, and equitable food system in which law and policy prioritize human, animal, and ecological health and wellbeing; support dignified and economically viable livelihoods; and advance racial, social, economic, and environmental justice. CAFS works closely with local, regional, national, and international partners to provide legal services that respond to their needs and develop resources that empower the communities they serve.

Through CAFS's Food and Agriculture Clinic and Research Assistant program, Vermont Law and Graduate School students work directly on projects alongside partners nationwide, engaging in innovative work that spans the food system.

## Endnotes

- 1 “‘Ulu” is the Hawaiian word for “breadfruit,” a starchy fruit that can be eaten in various stages of maturity, which grows on a perennial tropical tree. See *E Halawai Pu Me Ka ‘Ulu! (Meet ‘Ulu!)*, HAWAII ULU COOP., <https://eatbreadfruit.com/pages/meet-ulu> (last visited Nov. 7, 2024). When freshly cooked, the fruit smells like freshly baked bread. It has been a staple food crop in Hawai‘i for almost one thousand years. See *Breadfruit (‘Ulu)*, ULU MANA INC., <https://ulumanahawaii.com/pages/learn-more> (last visited Nov. 7, 2024).
- 2 “Kalo” is also known as “taro.” *Meet Kalo: Hawai‘i Staple Food and Older Sibling*, HAWAII ULU COOP., <https://eatbreadfruit.com/pages/meet-kalo> (last visited Nov. 7, 2024). The plant’s high-fiber, starchy roots are used in a variety of Hawaiian staple dishes, including poi. *Id.* The leaves and stems of the kalo plant are also all edible when cooked and used in many traditional dishes. *Id.* Hawaiians have been growing kalo for over one thousand years on various types of land, including wetland patches, hillsides, and valleys. *Id.* There are “at least 300 unique Hawaiian taro varieties in cultivation.” *Id.*
- 3 Maui County, Hawai‘i includes the inhabited Hawaiian islands of Maui, Molokai, and Lanai, as well as the uninhabited island of Kaho‘olawe. See *County of Maui County Profile*, [https://www.maui-county.gov/DocumentCenter/View/92753/010\\_05\\_County\\_Profile#:~:text=The%20County%20of%20Maui%20consists,uninhabited%20island%20of%20Kaho%27olawe.&text=The%20county%20is%20the%20second,in%20the%20State%20of%20Hawaii](https://www.maui-county.gov/DocumentCenter/View/92753/010_05_County_Profile#:~:text=The%20County%20of%20Maui%20consists,uninhabited%20island%20of%20Kaho%27olawe.&text=The%20county%20is%20the%20second,in%20the%20State%20of%20Hawaii) (last visited Nov. 7, 2024).
- 4 See *infra* “Types of Local and State Laws that May Be Adapted to Support Locally Grown Cultural Food Procurement.”
- 5 See MAUI, HAW., CODE § 20.38.020 (2009).
- 6 See Hi‘ilei Julia Hobart, *Local: Contextualizing Hawai‘i’s Foodways*, 19 *Food, CULTURE & SOC’Y* 427–35 (2016) (explaining that “local” is a term that “elsewhere defined as spatial (the geographically local)” whereas in Hawai‘i, it is “iterated in a way that also encompasses ideology and identity (the culturally Local)”).
- 7 See, e.g., Shannon H. Cristobal, *NAIMAS!: The Rise of Filipino Foodways in Hawai‘i*, 2 *ALON. J. FOR FILIPINIX AM. & DIASPORIC STUDS.* 301 (2022); Hobart, *supra* note 10, at 427–35; McKinley, *supra* note 9, at 2371–89; Zeller, *supra* note 9, at 18–29; Elizabeth Zanon, *Migrant Marketplaces: Globalizing Histories of Migrant Foodways*, 4 *GLOB. FOOD HIST.* 3–21 (2018).
- 8 *Defining Local Food: An Analysis of State Approaches and Challenges*, CTR. AGRIC. & FOOD SYS. (2021), <https://www.vermontlaw.edu/wp-content/uploads/2024/07/Local-Food-Definitions.pdf>.
- 9 *Id.*
- 10 See e.g., Kathrine E. Wright et al. *The Impact That Cultural Food Security Has on Identity and Well-being in the Second-generation U.S. American Minority College Students*, 13 *FOOD SEC.* 701–15 (2021).
- 11 *Id.*
- 12 See *id.* (citing Elaine M. Power, *Conceptualizing food security for aboriginal people in Canada*, 99 *CANADIAN J. OF PUB. HEALTH* 95–97 (2008)); see also Elena Briones Alonso et al., *Culture and Food Security*, 17 *GLOB. FOOD SECUR.* 113–27 (2018).
- 13 See, e.g., Catherine E. McKinley, *Take care of your families, take care of one another: Indigenist families and foodways*, *Family relations* 72 *FAM. RELS.* 2371–89 (2023) (citing Morgan L. Ruelle and Karim-Aly S. Kassam, *Foodways transmission in the standing Rock Nation*, 21 *FOOD & FOODWAYS* 315–39 (2013)); BENJAMIN E. ZELLER, *RELIGION, FOOD, AND EATING IN NORTH AMERICA* 294–312 (Colum. Univ. Press 2014); Janne von Seggern & Anita von Poser, *Re-engaging Foodways: Life-courses of Disconnection and Reconnection with Food, Environment, and Sociality in Hawai‘i*, 34 *ANTHROPOLOGICAL F.* 1–23 (2024).
- 14 See, e.g., DENVER, COLO., CODE § 2-243(d) (2014) (establishing funding that may be used by non-profit organizations that have a procurement preference for food from Colorado farms, ranches, and food manufacturing businesses so long as the foods are less than ten (10) percent more expensive than comparable out-of-state foods for its Healthy Food for Denver’s Kids Initiative).
- 15 *U.S. Food System Factsheet*, UNIV. OF MICH. CTR. FOR SUSTAINABLE SYS. (2024), <https://css.umich.edu/publications/factsheets/food/us-food-system-factsheet>.
- 16 Eric Holt-Giménez, *Capitalism, Food, and Social Movements: The Political Economy of Food System Transformation*, 9 *J. AGRIC., FOOD SYS., & CMTY. DEV.* 23, 31–32 (2019).
- 17 Wright et al., *supra* note 6, at 701–15 (citing Alonso et al., *supra* note 8, at 113–27).
- 18 *FAO Knowledge Repository BETA*, FOOD & AGRIC. ORG. OF THE U. NATIONS, <https://openknowledge.fao.org/home> (last visited Nov. 7, 2024).
- 19 Wright et al., *supra* note 6, at 701–15 (citing Alonso et al., *supra* note 8, at 113–27).
- 20 See Laura-Anne Minkoff-Zern et al., *Food sovereignty and displacement: gardening for food, mental health, and community connection*, 51 *J. PEASANT STUD.* 421–40 (2024).
- 21 Alonso et al., *supra* note 8, at 113–27.
- 22 Von Seggern & Von Poser, *supra* note 9, at 1–23.
- 23 *CA Farm to School Incubator Grant Program*, CAL. DEP’T OF FOOD & AGRIC., <https://www.cdfa.ca.gov/cdf2sgrant/> (last visited Nov. 7, 2024).
- 24 DENVER, COLO., CODE § 2-243(c) (2014).
- 25 ALASKA STAT. § 36.15.050 (2022).
- 26 WEST FRANKFORT, ILL., CODE § 3.52.010(B)(1) (2007).
- 27 7 M.R.S. § 214-A (2019).
- 28 ARK. CODE ANN. §§ 15-4-3801–3808 (2023).



- 29 *Green Food Report*, DEP'T OF ENERGY & ENV'T, [https://doee.dc.gov/sites/default/files/dc/sites/doee/service\\_content/attachments/FY2023%20Green%20Food%20Report.pdf](https://doee.dc.gov/sites/default/files/dc/sites/doee/service_content/attachments/FY2023%20Green%20Food%20Report.pdf) (last visited Nov. 2024).
- 30 NEW YORK CITY, N.Y. ADMIN. CODE § 6-129 (2023).
- 31 N.Y. PUB. HEALTH LAW § 2827 (2020).
- 32 Kelly McCarthy, *NYC launches vegan Friday at schools as USDA announces new nutrition standards*, ABCNEWS (Feb. 4, 2022, 2:29PM), <https://abcnews.go.com/GMA/Food/nyc-launches-vegan-fridays-schools-usda-announces-nutrition/story?id=82670616>.
- 33 *Commitment to Health and Nutrition: Food Standards and Good Food Purchasing*, NYC (Feb. 10, 2022), <https://www.nyc.gov/office-of-the-mayor/news/008-002/executive-order-8>.
- 34 SAN FRANCISCO, CAL., CODE § 21D (2020).
- 35 CAL. PUB. CONT. CODE § 101151 (1995).
- 36 NEW YORK CITY, N.Y. ADMIN. CODE § 6-129 (2023).
- 37 *Id.*
- 38 CAL. FOOD & AGRIC. CODE § 49015(d)(3) (2023).
- 39 MINN. STAT. § 17.1017(2)(b) (2016).
- 40 *Id.* § 256E.342(1) (2023).
- 41 HAW. REV. STAT. § 205-44(c)(4) (2005).
- 42 7 M.R.S. § 283(2) (2017).
- 43 HAW. REV. STAT. § 205-44(c)(4) (2005).
- 44 10 V.S.A. § 330 (2009).
- 45 MASS. GEN. LAWS, Ch. 20, § 6C (2023).
- 46 OAKLAND, CAL., CODE § 2.29.170.2(B)(7) (2017).
- 47 7 M.R.S. § 2(6)(B) (2021).
- 48 HAW. REV. STAT. §§ 205-41-52 (2005).
- 49 HAW. CONST. ART. XI, § 3.
- 50 HAW. REV. STAT. § 205-46(c) (2005).
- 51 *See id.* § 205-41 (2005) (declaring a “compelling state interest in conserving the State’s agricultural land resource base and assuring the long-term availability of agricultural lands for agricultural use to achieve the purposes of: (1) Conserving and protecting agricultural lands; (2) Promoting diversified agriculture; (3) Increasing agricultural self-sufficiency; and (4) Assuring the availability of agriculturally suitable lands;” and section 205-42 stating “the objective for the identification of important agricultural lands is to identify and plan for the maintenance of a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities that expand agricultural income and job opportunities and increase agricultural self-sufficiency for current and future generations”).
- 52 *Id.* § 10-20 (2010).
- 53 *Id.* § 27-8(a)(6) (2022).
- 54 *Id.* § 302A-405.5 (2021).
- 55 *Id.* § 302A-405.6(a) (2023).
- 56 *Id.* § 103D-408(e) (2023) (“For purposes of this section, “Hawai’ian plants” means any endemic or indigenous plant species, including land, freshwater, and marine plant species, growing or living in Hawai’i without having been brought to Hawai’i by humans; or any plant species, including land, freshwater, and marine plant species, brought to Hawai’i by Polynesians before European contact, such as kukui, kalo, wauke, niu, noni, and kamani.”).
- 57 *Id.* § 205-42(a)(1)-(3) (2023).
- 58 *See id.* § 8-22 (2023) (designating October as “Kalo Appreciation Month” to celebrate the strong kalo tradition in Hawai’i and the cultural connection of native Hawaiians to kalo, the Hawaiian word for taro); *see also id.* § 5-15.5 (2023) (designating kalo as the official plant of the State).
- 59 MAUI, HAW., CODE § 20.38.020 (2009).
- 60 U.S. CONST. amend. I; *Id.* amend. XIV, § 1.
- 61 Catherine Beth Sullivan, *Are Kosher Food Laws Constitutionally Kosher?*, 21 B.C. ENV’T AFFS. L. REV. 201, 212-13 (1993).
- 62 Rain Levy Minns, *Food Fights: Redefining the Current Boundaries of the Government’s Positive Obligation to Provide Halal*, 17 J. L. & POL. 713, 716 (2001).
- 63 *Students for Fair Admissions, Inc. v. President and Fellows of Harvard Coll.*, 600 U.S. 181, 206-07 (2023).
- 64 *Equal Protection: Strict Scrutiny of Racial Classifications*, CONG. RSCH. SERV., <https://crsreports.congress.gov/product/pdf/IF/IF12391> (last updated June 30, 2023).
- 65 *Strict Scrutiny*, CORNELL L. SCH. [https://www.law.cornell.edu/wex/strict\\_scrutiny#:~:text=Strict%20scrutiny%20will%20often%20be,origin%2C%20religion%2C%20and%20alien-age](https://www.law.cornell.edu/wex/strict_scrutiny#:~:text=Strict%20scrutiny%20will%20often%20be,origin%2C%20religion%2C%20and%20alien-age).
- 66 Jessica Mitten et al., *Equal Protection*, 23 GEO J. GENDER & THE L. 267, 271 (2022).
- 67 *See, e.g., Principles of Home Rule for the 21st Century*, NAT’L LEAGUE OF CITIES (2020), <https://www.nlc.org/wp-content/uploads/2020/02/Home-Rule-Principles-ReportWEB-2-1.pdf>; *Why Preemption is Bad for Local Healthy Eating Policy Movements*, HEALTHY FOOD POL’Y PROJECT, <https://healthyfood-policyproject.org/key-issues/preemption> (last visited Nov. 7, 2024).
- 68 U.S. CONST. amend. I, cl. 1.
- 69 Mitten et al., *supra* note 66, at 71.
- 70 *Local, Healthy Food Procurement Policies*, GROWING FOOD CONNECTIONS, [https://growingfoodconnections.org/wp-content/uploads/sites/3/2015/11/FINAL\\_GFCFoodProcurementPoliciesBrief.pdf](https://growingfoodconnections.org/wp-content/uploads/sites/3/2015/11/FINAL_GFCFoodProcurementPoliciesBrief.pdf) (last visited Nov. 7, 2024).