



Office of Elementary, Middle, Secondary and Continuing Education
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April 20, 2004

TO: Public School School Food Service Directors/Managers

FROM: Fran O'Donnell, Coordinator

RE: Purchasing Farm-Fresh Food Directly from Local Farmers

New York State is encouraging more districts to purchase fresh produce directly from local farmers. Unfortunately, there is a perception that buying directly from farmers is difficult, time consuming and burdensome. We would like to clarify the current requirements so districts are prepared to facilitate the process. Districts purchasing directly from farmers and growers may follow an expedited process. They are exempt from the bidding provisions of subdivisions 1 through 8 of section 103 of the General Municipal Law (GML). GML is a State statute which stipulates the procedures school districts must use when involved in large volume purchases resulting in a competitive bidding situation. The law was enacted in an attempt to eliminate favoritism and promote open and fair competition when procuring goods and services.

What does a district need to do if they want to purchase directly from farmers?

- 1. Ensure that all purchases are made competitively by notifying, at a minimum, all farmers and growers in your school district** that you plan to purchase e.g., 10 cases of apples per week between September 2004 and June 2005. If you only intend to purchase apples locally during the fall in your area, indicate that in your announcement. Specify the type and size/count of the apples as well as your delivery terms. This should include delivery days, time of delivery, methods of billing/payment and any special services required. Your flexibility in accommodating farmers, who are not often in the delivery business, will help to optimize the vendor-customer relationship. Reducing the number of deliveries and increasing receiving time can produce a win-win situation. At a minimum, you must notify those whose products are grown or produced upon land that is taxed by the local district. **This can be accomplished by putting an announcement in the district newsletter or a district mailing** and retaining a copy of the notice for audit purposes for six years plus the current year. The goal is to inform all potential farmers of your intent to purchase. Your announcement can include all the products you intend to purchase for the 2004-05 school year. If you participate in the Summer Food Service Program, explore the local products available so you can obtain them directly from the farmers for the summer. In fact, now is a good time to get that information out. Provide the

phone number, e-mail or address of the contact person. See [attachment B](#) for a sample announcement.

- 2. Determine the wholesale price in effect on the date of purchase for the product, since the price paid to the farmer cannot exceed the wholesale price.** Refer to Market News Text Reports for Fruit and Vegetable @ www.ams.usda.gov/fv/mncs/fwires.htm. Click on U.S. Wholesale (Terminal) Market Price Reports. Select the product of interest, and then New York, New York. Print and retain this information. The wholesale price is the price the farmer/grower charges for the product at his place of business. The wholesale price is not the price charged by your produce vendor since that price includes markup charges involved in handling, storing and marketing their inventory. If the farmer delivers the product to the school, he may add a delivery charge.
- 3. If the quantity to be purchased exceeds \$1,000 in total value and you receive more than one quote at the same lowest price, divide the purchase among all such growers or producers** (e.g., three farmers submit the same price per bushel/case of apples, which is at or below wholesale price). If only one farmer's price is at or below wholesale, then the district may purchase from just the one farmer.

Are there other limitations or restrictions?

There are just a few that should have minimal impact on the process:

- (a) Purchasing directly from a farmer/grower means without an intermediary between the producer/grower and the board of education. You cannot use this process to purchase from a broker, distributor, etc. In those instances, you must follow GML if you meet the dollar thresholds.
- (b) Purchasing directly also includes purchasing from an association or other unincorporated organized group comprised of 10 or fewer producers/growers who own and operate their own farms and who have combined to sell products to a board of education.
- (c) You cannot purchase more than \$50,000 annually of a product from a single producer/grower or association as defined in (b) above.

Purchasing locally has many benefits. Specifically:

- Fruits and vegetables are important components of a balanced diet. Promoting their consumption is consistent with Dietary Guidelines, the Food Guide Pyramid and the nutritional requirements of the Child Nutrition Programs.
- Purchasing locally creates a strong link between public schools and the farm community.
- Farmers gain new markets which assist the local economy.

- In New York State, school cafeterias serve over two million meals per day during the school year and 300,000 meals per day during the summer. These meals provide a wonderful opportunity to educate children about the importance of agriculture and could benefit the health and nutritional well-being of our children.
- Fresh, attractive produce helps to merchandise the school meal offerings and provides children with a variety of healthy choices.
- Purchasing directly from farmers builds good will and encourages community support.

If you have questions contact Debra Vercruyse, Todd Bradshaw or Elizabeth Lattanzio at (518) 473-1525.

[Attachment A](#) is an optional form for you to complete of products you plan to purchase directly from farmers/growers in school year 2004-05. We will share this information with the NYS Department of Agriculture and Markets. Completion of this form does not eliminate the requirement to notify local taxpayers of your intent. What the form does is to alert farmers outside your area of your intent to purchase directly as they may also have products available. The NYS Department of Agriculture and Markets will share this information with farmers on their farm to school website: <http://www.prideofny.com/farm2school.html>. You can e-mail the form to DVERCRUY@mail.nysed.gov or fax it to Debra at (518) 473-0018 by May 21, 2004.

[Attachment B](#) is a sample notice to use to inform local farmers/growers of the intent to purchase products directly from them.