

New Law May Mean Higher Food Costs, More Paperwork for School Districts

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School districts could face higher food costs and more paperwork under a bill set to take effect on January 1, 2024.

Senate Bill (SB) 490 will require school districts that receive federal meal reimbursements of one million dollars or more to buy all of their agricultural products from domestic sources unless certain exceptions apply. The law will also require school districts to include new language in their food purchase bid and contract solicitations regarding this requirement, retain documentation regarding these food purchases for three years, and make this documentation available to the public on request.

Background

Existing law requires most public agencies in California to buy their agricultural products in the State, unless the cost of the in-State product is more than five percent higher than the lowest out-of-state bid or price for the product or the in-State product is not comparable in quality. Existing law additionally requires California's public agencies that buy out-of-state agricultural products to accept a bid or price from a vendor who packs and processes these products in-State before accepting a bid from a vendor who packs and processes such products out-of-state.

Different rules apply to school districts. School districts are only required to accept a bid or price from a California producer if the bid or price does not exceed the low out-of-state bid and the quality of the California product is comparable. The National School Lunch Act additionally requires school districts that receive federal funds for free and reduced-price school meals to buy domestic products to the extent possible.

Higher Hurdles for Non-Domestic Food Purchases

SB 490 will require all public agencies, including school districts, that receive one million dollars or more in federal reimbursement for providing prepared meals, and that solicit bids for the purchase of agricultural food products, to buy those products in the United States, unless one of the following exceptions applies:

- The bid or price received for the domestic product is more than 25 percent higher than the bid or price received for the non-domestic product.
- The quality of the domestic product is inferior to the quality of the non-domestic product.

- The product is not produced domestically in sufficient or reasonably available quantity of a satisfactory quality to meet the school district's needs.

The law exempts from its provisions the Child and Adult Care Food Program and the Summer Food Service Program, and it will not apply to agricultural food products purchased from or provided by the U.S. Department of Agriculture.

School districts and other public agencies subject to these new rules will be required to include language in their bid and contract solicitations stating that only the purchase of agricultural food products grown, packed, or processed domestically is authorized, unless an exception applies. In addition, public agencies will be required to maintain documentation relating to these purchases for three years, and to make this information available to the public on request.

The law additionally authorizes school districts to report to the California Department of Education (CDE) any agricultural product price increases that exceed 25 percent of the previous year's price and encourages school districts to retain documentation to support such complaints. The CDE will be required to post aggregate information derived from these reports on its website.

The law will sunset on January 1, 2029.

Takeaways

SB 490 could mean higher food prices for school districts, as the bill defines "agricultural product" to include meat, poultry, fish, eggs, nuts, honey, and dairy in addition to fruit and vegetables. Given the high dollar threshold for exemption, the bill's impact could fall most heavily on larger, high-need school districts. In a signing message, Governor Newsom acknowledged that SB 490 could result in costs that exceed the funding budgeted for universal school meals, adding that any additional funds needed to implement the bill should be included in the annual budget process. The bill does not apply to contracts that are already in place when it becomes effective on January 1, 2024, which could provide school districts a small, additional grace period with respect to some of their food contracts.

If you have any questions about SB 490, or bid and purchasing requirements for food in general, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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