Recognizing government’s purchasing power, policymakers from New York to California have begun to pioneer how government procurement (or purchasing) policies can be used to ensure healthy food and beverage options; and a growing number of public jurisdictions (federal agencies, states, counties, cities, schools, park and recreation districts) have established policies or guidelines for food service providers.

These policies ensure that healthier food options are available in cafeterias and vending machines, at public meetings and concession stands, and for meals served to dependent populations. Dependent populations include children and youth in child care centers, schools and juvenile facilities; employees at work sites; inmates in jails and prisons; patients at public hospitals; and seniors at nursing homes or day facilities.

At the federal level, the General Services Administration and Health and Human Services agency have released *Health and Sustainability Guidelines for Federal Concessions and Vending Operations*, and the Centers for Disease Control and Prevention (CDC) published *Improving the Food Environment through Nutrition Standards: A Guide for Government Procurement*.

To craft a comprehensive procurement policy, the CDC *Guide* recommends “assessing the existence of the following types of policies (and adherence to these policies):

- Healthy vending – contracts or permits;
- Guidelines or nutrition standards for gatherings (conferences, meetings, parties, etc.);
- Guidelines for nutrition standards for cafeterias or lunch rooms;
- Menu labeling; and
- Work-site wellness.”

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For each setting, they advise evaluating the following questions:

- What nutrition standards are used by the department, program or food service setting?
- What settings do these policies and standards cover?
- Are they voluntary or mandatory standards?
- What has been the level of compliance and adherence to the standards?
- What barriers or facilitators exist to meet existing standards and policies?
- What lessons have been learned from implementing these standards and policies?

**Reasons to Adopt a Healthy Procurement Policy**

Policymakers have identified many compelling reasons to adopt healthy procurement policies:

- The nation is facing an obesity crisis, and providing healthy food options helps individuals control their weight and helps governments minimize long-term, obesity-related health costs, estimated at $150 billion a year.

- Most people do not meet the goals set forth in the *Dietary Guidelines for Americans*. Common shortfalls – for fruits and vegetables, whole grains, and low-fat milk products – are due in part to limited access in public places.

- Bulk purchasing of food items gives government entities the opportunity to provide healthy options at a reduced cost to consumers.

- Because governments purchase large amounts of food, a shift in their buying practices not only sustains demand for healthier products, but also creates an economic impetus for companies to *develop* healthy products or *reformulate* existing products.

- Customers often choose unhealthy meals or snacks due to their availability or low cost, and appreciate having healthy options available.

- After start-up costs, which are not exorbitant, there is typically little or no difference in the work required to provide healthy food, as opposed to meals or products high in fat and sugars.

- Establishing healthy food standards and policies for public venues provides a model for the private and nonprofit sectors to do the same.

- Healthy procurement policies often build-in “buy local” provisions which can help local economies and businesses.

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2 Sources include:
Center for Science in the Public Interest, *10 Reasons to Offer Healthier Options at Public Facilities*, [www.cspinet.org/new/pdf/10-reasons-to-adopt-procurement-policy.pdf](http://www.cspinet.org/new/pdf/10-reasons-to-adopt-procurement-policy.pdf);
• Healthy procurement policies that result in healthier diets for dependent populations like hospital patients or prison inmates can help governments reduce their long-term costs for obesity, diabetes and heart disease, conditions that can result from unhealthy diets.

• Public schools in California are required to have procurement standards for vending machines, competitive foods and meals. Municipal and county facilities that follow suit can create integrated and consistent environments for children and youth.

• Policymakers typically face fewer legal restrictions and requirements when they modify procurement policies and contracts, as opposed to passing a new law or creating regulations.

Where it Started
New York City (NYC) was the first major city in the United States to establish a comprehensive set of healthy procurement policies in 2008, building on the work of early innovators like the County of Santa Clara in California.\(^3\)

Success in NYC and subsequently in Massachusetts set the stage for other jurisdictions to develop and implement healthy procurement policies.

Following a public process that involved extensive research, review, and collaboration managed through the Mayor’s Food Policy Task Force, NYC Mayor Bloomberg issued Executive Orders that established:

1) **standards for all meals and snacks purchased and served by NYC agencies**, enacted initially in September 2008, revised October 2011.  
   See [City Agency Food Standards](http://www.nyc.gov/html/nycfood/html/about/access.shtml)

2) **standards for all beverage vending machines on City properties**, enacted in May 2009.  
   See [City Agency Beverage Vending Standards](http://www.nyc.gov/html/nycfood/html/about/access.shtml)

3) **nutrition standards for all food vending machines on City property**, enacted in December 2011.  
   See [City Agency Food Vending Standards](http://www.nyc.gov/html/nycfood/html/about/access.shtml)

The standards apply to all foods purchased or served by the City at schools, senior centers, homeless shelters, child care and after-school programs, jails and other correctional facilities, parks, public hospitals, and other City agencies and facilities. Taken together, the changes affect approximately 290 million meals and snacks annually.


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\(^3\) For more information on the healthy procurement effort in Santa Clara County, see [http://www.publichealthadvocacy.org/PDFs/03_BANPAC%20vending%20fact%20sheet%20Santa%20Clara%20County_final.pdf](http://www.publichealthadvocacy.org/PDFs/03_BANPAC%20vending%20fact%20sheet%20Santa%20Clara%20County_final.pdf)
Healthy Procurement in California
California has been a leader in establishing nutritional standards for foods and beverages that can be purchased on state property and in public schools and licensed child care and after-school programs. (See Appendix A for a list of procurement-related state legislation.)

Many cities and counties throughout California have adopted healthy procurement policies, although none to date has utilized an approach as comprehensive as NYC.

The California Center for Public Health Advocacy (CCPHA) is a leader in this arena, having led efforts to establish statewide nutrition standards for public schools and, in partnership with California Food Policy Advocates (CFPA), for licensed child care centers.4

As of February 2012, 5 counties, the City and County of San Francisco, and 22 cities in California had adopted a healthy procurement policy. The jurisdictions include:

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For more information, go to the CCPHA website, which maintains a list of local jurisdictions which have adopted measures to increase consumption of healthy beverages, including some procurement-related ordinances and standards. See: http://www.publichealthadvocacy.org_/PDFs/beverage_policies/CABeveragePolicies_Cities_Counties.pdf or http://www.kickthecan.info/node/500

4 CCPHA’s Kick the Can: CA campaign works with advocates, organizations and policymakers to reduce access to sugary drinks, using vending contracts as one of many tools. In partnership with California Food Policy Advocates (CFPA), the campaign also works to ensure access to affordable, potable water, as required in AB 2084, co-sponsored by CFPA and CCPHA. For more information, go to http://www.publichealthadvocacy.org/healthy_bev.html and http://cfpa.net/water-in-schools
Implementing a Healthy Procurement Policy

ChangeLab Solutions (formerly known as Public Health Law & Policy) has outlined seven steps to guide public agencies interested in developing a procurement policy.5

1. **Inventory** – assess where and how procurement takes place. Determine locations (vending machines, snack stands, stores, cafeterias, food courts) where food is offered, and assess types of foods and compatibility to nutrition standards, signage, labeling and pricing.

2. **Partners** – determine who needs to be involved in developing the policy.

3. **Control** – ascertain who actually has the power to set procurement policy.

4. **Standards** – develop consensus about how “healthy” will be defined, and choose among options (AHA, USDA, CDC, etc.) to establish guidelines.

5. **Adopt Policy** – establish clear authority for implementation of the policy, set clear goals, address fiscal realities, and establish positive incentives.

6. **Implementation** – as new contracts are negotiated and phased in, keep partners involved, identify new vendors and address barriers.

7. **Enforcement** – support enforcement through education and strong and clear contracts.

Many public health experts recommend adding a “Step 8” – evaluation.6

8. **Evaluation** – monitor changes in offerings, sales and satisfaction. Identify where the policy has been successful and what obstacles might be preventing additional success.

Public health experts at the Public Health Law Center caution that healthy procurement policies need to be drafted carefully, with particular attention to four federal legal issues:

- **Randolph Sheppard Act**, a federal law that gives a priority to blind individuals over others who bid to operate vending facilities;
- **First Amendment** (free speech) protections and restrictions;
- **Federal menu labeling requirements and preemption**, established in the federal Patient Protection and Affordable Care Act (Section 4205);7 and
- **Ensuring that policies and contracts are both clear and consistent** to support enforcement and guarantee equal protection and due process for partners, contractors, and customers.

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Additional healthy procurement and vending guides, fact sheets, model agreements, and best contracting practices are available at [http://changelabsolutions.org/publications/understanding-healthy-procurement](http://changelabsolutions.org/publications/understanding-healthy-procurement)


See the resources below from ChangeLab Solutions and the Public Health Law Center for additional information about legal issues that may be necessary to consider when drafting a healthy procurement policy. Experts recommend that an attorney assist in the drafting of any healthy procurement policies, contracts, protocols, Request for Proposals (RFPs), or Invitations for Bid (IFBs).

**Healthy Procurement Resources**
Compiled below are a select set of resources to help leaders understand, draft, implement and evaluate healthy procurement policies for public agencies.

**U.S. General Services Administration (GSA):** [www.gsa.gov](http://www.gsa.gov)
- Concessions and Cafeterias: Healthy Food in the Federal Workplace
  - Includes:
    - Health and Sustainability Guidelines for Federal Concessions and Vending Operations
    - Frequently Asked Questions for Concessions Operators about the Health and Sustainability Guidelines for Federal Concessions and Vending Operations
    - GSA Wellness and Sustainability Criteria for Concessions Operations
  - [2010 Dietary Guidelines for Americans](http://www.cnpp.usda.gov/dietaryguidelines.htm)
  - [Choose My Plate](http://www.cnpp.usda.gov/choosemyplate.htm)

**Centers for Disease Control and Prevention (CDC)** [www.cdc.gov](http://www.cdc.gov)
- Improving the Food Environment through Nutrition Standards: A Guide for Government Procurement

**ChangeLab Solutions** [www.changelabsolutions.org](http://www.changelabsolutions.org)
- [http://changelabsolutions.org/publications/healthy-procurement](http://changelabsolutions.org/publications/healthy-procurement)
  - Including materials from their National Policy and Legal Analysis Network to Prevent Childhood Obesity (NPLAN) project.
  - [http://changelabsolutions.org/publications/understanding-healthy-procurement](http://changelabsolutions.org/publications/understanding-healthy-procurement)
  - Understanding Healthy Procurement: Using Government’s Purchasing Power to Increase Access to Healthy Food
  - First Amendment FAQs
  - Local Food for Local Government: Considerations for Giving Preference to Locally Grown Food
  - Buy Healthy, Buy Local: An Analysis of Potential Legal Challenges to State and Local Government Local Purchase Preference
  - Developing a Healthy Beverage Vending Agreement

**American Heart Association** [www.heart.org](http://www.heart.org)
- Recommended Nutrition Standards for Procurement of Foods and Beverages Offered in the Workplace

_**Understanding Nutrition**_
**Key Issue: Healthy Procurement in Public Agencies - Page 6**
[www.ccrwf.org](http://www.ccrwf.org)  September 2012
Center for Science in the Public Interest  www.cspinet.org
Fact Sheet on Government Food Procurement Policies
Fact Sheet: 10 Reasons to Offer Healthier Options at Public Facilities
Model Procurement Bill: The Healthy Government Properties Act

Public Health Law Center  www.publichealthlawcenter.org
PowerPoint and webinar on procurement available at

California Center for Public Health Advocacy  www.publichealthadvocacy.org
Kick the Can Campaign Vending Machine Policies
Local Beverage Policies adopted by California Cities and Counties, February 2012

New York City  www.nyc.gov
Standards for all meals and snacks purchased and served by NYC agencies, enacted initially in September 2008, revised October 2011.
City Agency Food Standards

Standards for all beverage vending machines on City properties, enacted in May 2009.
City Agency Beverage Vending Standards

Nutrition standards for all food vending machines on City property, enacted in December 2011.
City Agency Food Vending Standards

California Department of Public Health (CDPH)
California Fit Business Kit:
http://www.cdph.ca.gov/programs/cpns/Pages/WorksiteFitBusinessKit.aspx

Includes modules on: Check for Health: Workplace Environmental Assessment, Vending Machine Food and Beverage Standards, Worksite Wellness Committee, Healthy Meeting Policies, Ordering Farm Fresh Produce for Worksites and more.

Nutritional Environmental Measures Survey - Vending  www.nems-v.com/
Includes tools to assess quality of food in vending machines, based on Institute of Medicine (IOM) Nutrition Standards for Foods in Schools.
Appendix A: Procurement-Related Laws in California (chronological 2001-2011)

SB 19 (Chapter 913, Statutes of 2001), known as the Pupil Nutrition, Health and Achievement Act of 2001 and effective as of January 1, 2004, set various restrictions on the sale of beverages in elementary and middle schools, and established nutrition standards for foods that may be sold in vending machines or during school breaks to pupils. Also required the California Department of Education to create a pilot program that offers an increased reimbursement rate for free and reduced-price meals for high schools that voluntarily adopt food sale requirements.

SB 677 (Chapter 415, Statutes of 2003) ensured that healthy beverages would be sold to elementary, middle, and junior high school students, by restricting the sale of beverages to drinking water, milk, fruit-based drinks, and electrolyte replacement drinks during regular school hours. Other beverages can be sold in school one-half hour before and one-half hour after the school day.

SB 12 (Chapter 235, Statutes of 2005), which went into effect in 2007, set nutrition standards for foods sold in public schools outside of the school lunch program, limiting sugar, fat content and portion sizes. Required that foods sold outside of the federal school lunch program contain no more than 35% of calories from fat, no more than 35% of total weight from sugar, and no more than 10% of calories from saturated fat.

SB 965 (Chapter 237, Statutes of 2005) set standards for beverages sold in public schools, and eliminated the sale of sweetened beverages on high school campuses during school hours. The law called for immediate implementation in elementary schools and gradual implementation in middle and high schools with full compliance effective July 1, 2009.

SB 490 (Chapter 648, Statutes of 2007) required the removal of trans fats from school meals.

SB 441 (Chapter 597, Statutes of 2008) required that any machine operated by a vendor on state property provide at least 35 percent of food items and a minimum of one-third of beverages that meet accepted national guidelines, as defined.

AB 2084 (Chapter 593, Statutes of 2010) established standards for beverages served to children in California’s licensed child care facilities and homes, effective January 2012.
FOR MORE INFORMATION

This key issue on Healthy Procurement in Public Agencies is a component of Understanding Nutrition: A Primer on Programs and Policies in California. Go to www.ccrwf.org to access additional modules.

The primer was produced by the California Center for Research on Women and Families (CCRWF), in partnership with California Food Policy Advocates and the California Department of Public Health’s Network for a Healthy California (Network), a public health effort working with hundreds of partners and organizations to empower low-income Californians to live healthier lives through good nutrition and physical activity.

CCRWF thanks our funders, partners, advisors and reviewers for their contributions to the development of Understanding Nutrition, and takes full responsibility for all errors and omissions. Please email comments to ccrwf@ccrwf.org.

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