



WASHINGTON GROWN FOOD POLICY

Stakeholder Comments

September 2018

Is the policy clear?

Feedback #	Workshop Comment	DES' Response
1.	The way the policy is written is that the WA grown food is the priority and the use of master contracts are secondary.	Agencies must use existing master contracts unless the contract cannot justifiably satisfy agency needs. If there are Washington grown food options outside of a master contract, this may be a reason why the contract may not justifiably meet an agency's needs.
2.	What qualifies for WA grown food? Is there a percentage?	In order to qualify as Washington grown food, the food must be grown and packed or processed in Washington. There is not a percentage. In addition, the statute addresses the origin of the product, not the location of the vendor.
3.	Question about "except when it's inconsistent with international trade commitments" – what does this mean and how will vendors know?	Clarification has been added to the FAQ document.
4.	Does WA Debarment include Federal debarred vendors in its list of debarred entities?	We do not because it is more efficient to refer entities to the Federal list, which is always current.
5.	Would appreciate having no hard requirements for detailed plans for WGF.	The statute requires all food contracts to include a plan, to maximize to the extent practicable, the availability of Washington grown food purchased through the contract. The agency's responsibility will be to determine how a plan fits into the solicitation and to manage contract compliance after award.
6.	Is food disposal under this statute as well?	Food disposal is not under this statute.
7.	From a master contract, what do you do to comply with the policy?	As DES enters into new master contracts for food, DES will determine how a plan fits into the solicitation and will manage contract compliance after award.
	Email Comment	DES' Response
	No email comments.	

Does the policy create challenges or barriers?

Feedback #	Workshop Comment	DES' Response
8.	Comment was that the policy as written now does not create challenges or barriers. But suggested that we are careful with making vendors prepare a detailed plan.	The statute requires all food contracts to include a plan, to maximize to the extent practicable, the availability of Washington grown food purchased through the contract. The agency's responsibility will be to determine how much detail needs to be included in the plan.
	Email Comment	DES' Response
	No email comments.	

Additional Comments

Feedback #	Workshop Comment	DES' Response
9.	Does this apply to actual purchases of food? Or to hiring food companies?	The statute addresses the purchase of food, not the vendor.
10.	Inclusive of the exemption, can we also be exempt from the competitive process if it's through a federal program?	The agency would have to adhere to the competitive requirements of the federal program. If competition is required, the exemption from the competitive process would not apply.
11.	Working under 28B, what options do you have if the vendor does not have WGF?	This policy applies to food purchases under RCW 39.26. Higher education institutions working under RCW 28B.10.029, should consult with their legal counsel to determine options.
12.	Are HE food purchases under 28B.10 exempt from competition?	Higher education would have to adhere to the competitive requirements of the RCW 28B.10. If competition is required, the exemption from the competitive process would not apply. Higher education working under RCW 28B.10, should consult with their legal counsel.
13.	State master contracts include the food requirements	As DES enters into new master contracts for food, DES will determine how a plan fits into the solicitation and will manage contract compliance after award.
	Email Comment	DES' Response
14.	Safe Harbor Provision: The policy needs a section/provision that grants great interpretative discretion to the covered agencies. End.	DES is the agency responsible for implementing procurement law by creating policies. A safe harbor provision is not necessary. If agencies need assistance, DES is available to provide any requested consultation.
15.	Problem Escalation: The policy needs a problem escalation procedure that details the formal process for resolving disputes. The process should be performed outside	DES' practice in these circumstances is to consult with the DES Contracts & Procurement Assistant Director.

	of the Enterprise Policy Team and allow for increasing levels of escalation. End.	
16.	Disclosure of Summary from input: I would like to see and time to review the summarized input. Will this be made available? Please let me know. If it is not in the current timeline, I'd like to make a request for additional time to the C&P AD. End.	The goal of stakeholder review of the summarized input is to ensure DES accurately captured all feedback. DES will allow ample time for review.
17.	An appropriate amount of draft policy review time is needed: Once the new set of drafts are designed from the input, I really believe there needs to be an adequate amount of time for the customer agencies to review and if they are finding the draft to be a challenge, it will allow us to engage DES at a higher level. If this is not in the current timeline, please let me know and I will make a request for additional time to the C&P AD. End This hits the point about the purpose behind having the work sessions/stakeholder meetings... if we invest the time to meet and discuss, we should also have appropriate time to review and submit feedback prior to the final version being sent out.	DES will provide an adequate amount of time for review when there are substantive changes to a draft policy or a new policy is drafted.
18.	How do you get the word out to the farmers / wholesalers / retailers that there is a policy to buy local? One expanded thought, it would be nice to combine with Oregon & Idaho, if they would do the same. I know that makes it much more complex, but it would be good for the North West. An idea only, you are welcome to completely disregard.	This will occur during the solicitation process and at pre-bid conferences. Thank you for the comment.
19.	What's more important, WA Grown or Master Contract compliance? <ul style="list-style-type: none"> • The answer I was provided was WA Grown. • If this is the case, I think it needs to be made explicitly clear this is the intent of the policy. I also caution you to avoid making too many exceptions, such as what is being proposed, as that complicates matters for the folks who are tasked with keeping up with and 	The policy addresses the purchase of Washington grown food. DES master contracts for food offer options which include Washington grown food. Agencies must use existing master contracts unless the contract cannot justifiably satisfy agency needs. If there are Washington grown food options that are not available within a master contract, this may be a reason why the contract may not justifiably meet an agency's needs. However, Washington grown food purchased by state agencies and entities covered under RCW 28B.10 that are outside of a master contract must be of an equivalent or

	<p>advising on DES policies at their respective agencies and for non-procurement folks to understand and interpret the rules. We are a decentralized agency, which means this is a huge challenge for us. Simplicity seems like a great way to help lead folks toward compliance.</p>	<p>better quality than similar food available through the master contract.</p>
20.	<p>4. Agencies must use existing qualified master contracts unless they cannot justifiably satisfy agency needs as documented by the agency. Is a “qualified” master contract one that already includes Washington-grown food? There needs to be clarification on the procedure to require existing food master contracts to adhere to new Washington-grown food procurement policy, or will this new policy go into effect for new food master contracts or contract extensions?</p>	<p>Qualified master contracts in this context does not necessarily mean that it will include Washington grown food. As DES enters into new master contracts for food, DES will include, where practicable, requirements for Washington grown food.</p>
21.	<p>6. The purchase of Washington grown food is exempt from competitive solicitation requirements. I think if multiple Washington companies offer the same food, there can be a competitive bid process from within the state, i.e. apples, milk, apple sauce, all have several competitors within our state.</p>	<p>The statute exempts Washington grown food from competitive procurement requirements, but it doesn’t prohibit it. Agencies can conduct competitive solicitations when appropriate.</p>
22.	<p>What about beverages?</p>	<p>The policy only addresses Washington grown food. It does not address beverages.</p>
23.	<p>The updated format is hard to read and the flow is off. Suggest returning to the current format.</p>	<p>DES has adopted a policy format with considerations for accessibility requirements.</p>
24.	<p>The intent of the policy is unclear. Suggest summarizing the intent of the policy, beginning with the definition of "Washington grown" as outlined in RCW 39.26.010(24), linked to RCW 15.64.060 - other than RCW 39.26.090(9) stating it needs to be established.</p>	<p>DES moved the definition (Section 3) to the beginning of the draft policy for clarity.</p>
25.	<p>Section 1 Food purchases shall be made in accordance with RCW 39.26.090 and RCW 39.26.125. 39.26.090(9) states that DES will establish policy for (a) Food procurement procedures and materials that encourage and facilitate the purchase of Washington grown food by state agencies and institutions to the maximum extent practicable and consistent with</p>	<p>DES will facilitate the purchase of Washington grown food by state agencies by developing policy and supporting documentation, providing options in master contracts, and offering guidance to agencies on the procurement of Washington grown food.</p>

	<p>international trade agreement commitments; and...</p> <p>How does DES intend to facilitate the purchase of WA grown food by state agencies?</p>	
26.	<p>Section 1. Food purchases shall be made in accordance with RCW 39.26.090 and RCW 39.26.125.</p> <p>RCW 39.26.125 is a list of exceptions for competitive solicitations, and not inclusive of the exceptions outlined in the DES Sole Source Policy DES-140-00 or other specific DES-approved agency exemptions and/or other areas of exemptions (i.e. Governor's Orders, etc.).</p> <p>Suggest adding language to include not only the exceptions listed in RCW 39.26.125, but to also reference exceptions as outlined within the DES Sole Source Policy, and/or other approved exemptions, not otherwise listed.</p>	<p>Washington grown food is exempt from the competitive process and the sole source policy does not apply. A reference to the exceptions listed under RCW 39.26.125 has been added to the sole source policy.</p>
27.	<p>Section 2. Agencies are encouraged to purchase Washington grown food to the maximum extent possible except when it is inconsistent with international trade commitments.</p> <p>It is unclear of what the international trade commitments are and how they interact with this policy.</p> <p>Suggest adding clarification language of the intent of the international trade commitments and a linked reference to what they are.</p>	<p>Additional information, including links, have been added to the FAQ document.</p>
28.	<p>Section 3. "Washington Grown Food" means food that is grown and packed or processed in Washington. RCW 39.26.090(9)(a) refers to Washington grown food. It's unclear how "and packed or processed" come into play and if it was derived from another source.</p>	<p>In addition to being grown in Washington, the food must also either be packaged or processed in Washington, per the definition of Washington Grown Food in RCW 15.64.060(4).</p>
29.	<p>Section 4. Agencies must use existing qualified master contracts unless they cannot justifiably satisfy agency needs as documented by the agency. Redundant. This is true for all purchases and the language is included in the Delegated Authority Policy (3b of updated format). Suggest removing Section 4.</p>	<p>In addition to the policy statement that agencies must use existing master contracts unless they cannot justifiably satisfy agency needs, there is an additional requirement when purchasing Washington grown food, which is as follows:</p> <p>Washington grown food purchased by state agencies and entities covered under RCW 28B.10 that are outside of a master contract must be of an</p>

		equivalent or better quality than similar food available through the master contract.
30.	<p>Section 5. All food contracts must include, to the maximum extent practicable, a plan for the availability of Washington grown food except when it is inconsistent with international trade commitments.</p> <p>This section is a copy/paste from RCW and is unclear what the intent of the plan is and what needs to be included in the plan. Suggest adding the intent of a plan and clarification on what needs to be included in the plan.</p>	<p>The intent of the plan is to first encourage vendors to source Washington grown food and to provide agencies with a contract commitment which can be managed for compliance.</p> <p>An example of DES' strategy for including a Washington grown food plan and solicitation language is provided in a FAQ document.</p>
31.	<p>Section 6. The purchase of Washington grown food is exempt from competitive solicitation requirements.</p> <p>DES compiling a list of exemptions in one reference point is helpful to all agencies for efficient and effective procurement practices.</p> <p>Suggest adding Washington Grown Food to the Sole Source Policy as an exemption, or determining another location that is better suitable for an exemption list.</p>	A reference to the exceptions listed under RCW 39.26.125 has been added to the sole source policy.
32.	<p>Food –</p> <p>I know I brought up the suggestion to include a link to the WA State Commodities export commitments to address <i>except when it is inconsistent with international trade commitments</i> (that is because I had a really hard time finding ONE link that would address this with “WA Food in relation to international trade commitments.”</p> <p>I couldn't find an up to date schedule specific WA only site for <u>WA state food commodity trade commitments</u>. (I'll gladly add it to my list if you can please send or include??)</p> <p>International Trade Commitments seems like a very large moving target. It also seems like it is a highly specialized area (obviously I am not an expert in this, how many people reading this policy will be experts and know where to find answers?) Is it WA state Trade commitments</p>	Additional information, including links, have been added to the FAQ document.

importing and exporting? Some of the links below are useful. But isn't this really its own specific discipline? Can people easily comply? **Include the direct link.**

Resources that I have (take what you want and leave the rest!!)

Usually when discussing these areas or imports and exports I include the (Harmonized Tariffs) (sometimes you can back into info this way.) However tend to piece things together from various sites and info avail (the one relating specifically to WA that I could find was from 2012 attached). The only info I find is based on how I first approached imports/exports and is quite pieced together via NAFTA; CASTA-DR; and the various sites below. I don't know how useful a lot of these links are any more given the dethatching of information that has been occurring recently. (again sorry – I am sure you have all this figured out.)

- NAFTA (North America Trade (US, Mexico and Canada) and CAFTA-DR (Regional trading unit: Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, US)

The United States has free trade agreements in force with 20 countries. These are: [Australia](#) [Bahrain](#) [Canada](#) [Chile](#) [Colombia](#) [Costa Rica](#) [Dominican Republic](#) [El Salvador](#) [Guatemala](#) [Honduras](#) [Israel](#) [Jordan](#) [Korea](#) [Mexico](#) [Morocco](#) [Nicaragua](#) [Oman](#) [Panama](#) [Peru](#) [Singapore](#)

- U.S. Trade representative [website](#) then click on Washington; but this is historic info usually 2-3 years behind.
- US Census Bureau Foreign Trade Schedules [Link to Schedules](#) - U.S. International Trade in Goods and Services (FT900) (animal, vegetables, oils, beverages, spirits, vinegars, tobacco, minerals, petroleum, pharmaceuticals; plastics; wood; skins; textiles; etc.,

	<ul style="list-style-type: none"> • United States Department of Agriculture / foreign agriculture service: Link to foreign agriculture service • USTR Link to trade and investment framework agreements helps with • U.S. International Trade additional info and updates – can be useful. Link to International Trade press releases (includes: technology, petrol related, as well as services - the human factor) • HTSUS (Harmonized Tariff Schedule - US) takes effect January 1, 2018 and USITC (United States International Trade Commission) Link to Harmonized Tariff Schedule which has more to do with import's but can prove quite useful 	
33.	Additional suggestion – note clarify: “It does not matter where the vendor is located, you must meet section 3 requirements.”	The geographic requirements of the statute apply to food, specifically where it is grown and where it is packaged or process. Not to where the vendor is located (e.g. a vendor could be based in Portland but sources food meeting the above requirements
34.	Food purchases shall be made in accordance with <u>RCW 39.26.090, RCW 39.26.100, and RCW 39.26.125. (added RCW 39.26.100)</u>	RCW 39.26.100 lists exemptions from the entire chapter of RCW 39.26. Washington grown food is not exempt from the entire chapter of RCW 39.26. Adding this to RCW 39.26.100 would require legislative action.