

**FARM TO INSTITUTION: A STEP-  
BY-STEP GUIDE TO SELLING  
PRODUCTS TO LOCAL  
INSTITUTIONS FOR MISSISSIPPI  
GROWERS**

**Harvard Law School Food Law and Policy Clinic**

**&**

**Harvard Law School Mississippi Delta Project**

Fall 2013



## AUTHORS

This guide was prepared by Margaret Wilson, student in the Harvard Food Law and Policy Clinic and member of the Harvard Law School Mississippi Delta Project under the supervision of Emily Broad Leib, Director of the Harvard Law School Food Law and Policy Clinic, with assistance from Nate Rosenberg, Joint Harvard Law School /Mississippi State University Delta Fellow and Ona Balkus, Clinical Fellow, Harvard Food Law and Policy Clinic. The following students from the Harvard Mississippi Delta Project were involved in research and drafting of this guide: Ichigo Fujisaki, Anna Gunderson, Breanne Long, Broer Oatis, Tharuni Jayaraman, Julie Rutiz, and Margaret Zisser. Thanks as well to Raishay Lin for helpful editing.

## CONTACT

To learn more about the Harvard Food Law and Policy Clinic, email [flpc@law.harvard.edu](mailto:flpc@law.harvard.edu) or visit <http://blogs.law.harvard.edu/foodpolicyinitiative>.

To learn more about the Mississippi Delta Project, please e-mail [harvarddeltaproject@gmail.com](mailto:harvarddeltaproject@gmail.com) or visit <http://hlsorgs.com/deltaproject>.

## ACKNOWLEDGEMENTS

Special thanks to Robert Greenwald, Director of the Harvard Center for Health Law and Policy Innovation; Priscilla Ammerman, Director of Purchasing and Food Distribution, Mississippi Department of Education; Nicole Bell, Research Assistant for Food Safety & Quality Assurance, Alcorn State University; Judy Belue, Project Coordinator, Delta Fresh Foods Initiative; Ryan Betz, Delta Fresh Foods School Coordinator, Delta Health Alliance; Darnella Burkett Winston, Cooperative Field Specialist, Mississippi Association of Cooperatives; Alli Condra, Clinical Fellow, Harvard Food Law and Policy Clinic; Paige Manning, Director of Marketing and Public Relations, Mississippi Department of Agriculture and Commerce; Abigail Phillips, FoodCorps Fellow, Mississippi Roadmap to Health Equity; Andy Prosser, Deputy Commissioner, Mississippi Department of Agriculture and Commerce.

# TABLE OF CONTENTS

<b>INTRODUCTION</b>	<b>1</b>
<b>STEPS TO START SELLING TO INSTITUTIONS</b>	<b>4</b>
<b>Step 1: Assessing Your Farm and Preparing to Sell to Institutions</b>	<b>4</b>
A. Assess Your Farm’s Capacity for Selling to Institutions	4
B. Determine What Price to Charge	5
C. Which Institutions Would Be Good Clients for Your Farm?	6
D. Decide How You Want to Structure the Commercial Relationship	7
<b>Step 2: Building Relationships</b>	<b>7</b>
A. Resources to Connect With Your Community	8
B. Food Safety Standards	8
C. Liability Insurance	12
D. Creating a Marketing Packet	12
E. First Meeting Discussion Guide	13
<b>Step 3: Creating Agreements</b>	<b>17</b>
A. Current Methods and Sources of Procurement	17
B. The Alternatives	18
C. How the Bid Process Works	19
D. Completing a Bid Document	20
E. Sending an Invoice	20
<b>Step 4: Ensuring Success</b>	<b>20</b>
A. Continue Promoting Your Farm to the Community	21
B. Track Your Progress and Success	22
<b>Step 5: Frequently Asked Questions</b>	<b>22</b>
1. How Does the Farm Bill Affect Farm to Institution in Mississippi?	22
2. What Are the Mississippi Laws and Regulations that Apply to Farm to Institution?	23
3. Is Good Agricultural Practices/Good Handling Practices (GAP/GHP) Certification Required to Sell to an Institution?	24
4. Is Liability Insurance Required to Sell to an Institution?	25
5. How Can A Small or Mid-Sized Farm Enter the Market and Compete for Institutional Customers?	25
<b>APPENDICES</b>	<b>26</b>
<b>Appendix 1: Sample Budget</b>	<b>26</b>
<b>Appendix 2: Iowa Food Safety Checklist</b>	<b>27</b>
<b>Appendix 3: Sample Product and Pricing Form</b>	<b>30</b>
<b>Appendix 4: Sample Invoice</b>	<b>31</b>
<b>Appendix 5: Other Useful Farm to Institution Guides</b>	<b>32</b>

# INTRODUCTION

In a state with rich agricultural resources and a long farming tradition, why are Mississippi's institutions serving fruits and vegetables mostly shipped from other states and countries? Connecting Mississippi growers with institutions within the state offers a promising way to increase fruit and vegetable consumption while improving the economic viability of local farms. This step-by-step guide aims to help growers in Mississippi start to sell locally grown foods to be served in meals at institutions around the state, such as hospitals, schools, prisons, and state and local government agencies.

## Potential Benefits:

When institutions purchase food from local farms, they strengthen the community by spending more money within the community on products from local growers instead of sending their money out of the state. With this increased revenue, growers reinvest more money in the community by purchasing materials and hiring local employees. Sales to institutions also provide the opportunity to reintroduce traditional Mississippi-grown crops, such as collard greens and sweet potatoes, into menus. Not only can individuals eating institutional meals benefit nutritionally from eating more locally grown produce, but students at schools, colleges, and universities would be able to learn more about Mississippi agriculture through presentations and field trips.

Institutional purchasers can add locally grown produce to meals with little to no additional cost. Local farmers are able to keep their prices lower because they are not charging for the transportation of the food from far away. In addition, purchasing locally grown food can actually benefit institutions financially by improving the quality of the meals and the reputation of the meals in the community. For example, schools that have started purchasing locally grown foods to serve in school meals have seen an increase in the number of students purchasing school meals. Lastly, purchasing locally grown foods can help institutions save money because it can lead to a decrease in food waste, as freshly picked fruits and vegetables last longer than produce that has been picked weeks ago and shipped from far away.

## Challenges:

Local farmers and food producers may need to overcome significant challenges when selling to an institution. Many institutional purchasers in Mississippi may be used to purchasing food from large distributors, or, as is the case for schools, a statewide purchasing cooperative. Both of these sources offer streamlined ordering and delivery processes, and purchasers used to working with these sources might not

## Key Terms

*Below are definitions for a few key terms that will be used frequently in this guide:*

- **“Institution”** is used in this report to refer to a range of different types of organizations that procure food items and provide meals to their customers or clients. This includes K-12 schools, hospitals, prisons, colleges and universities, and state and local agencies.
- **“Locally grown products”** means any food products grown on Mississippi farms or gardens, including fruits, vegetables, and nuts grown in Mississippi; meat, poultry, eggs, dairy, fish, seafood and other aquatic products produced and processed in Mississippi.
- **“Small farm”** is defined by the USDA as a farm with less than \$250,000 gross annual sales, on which the day-to-day labor and management are provided by the farmer and/or the farm family that owns or leases the productive assets of the farm. (*Family Farms Overview*, U.S. DEP'T OF AGRIC. NAT'L INST. FOR FOOD AND AGRIC. (June 18 2010), [http://www.csrees.usda.gov/nea/ag\\_systems/in\\_focus/familyfarm\\_if\\_overview.html](http://www.csrees.usda.gov/nea/ag_systems/in_focus/familyfarm_if_overview.html).)

know how to deal directly with local growers. Growers will need to communicate with purchasers about how the product will be delivered and whether it will be pre-packaged or processed in some way. Also, growers should inform institutional purchasers if they are not able to predict as accurately as large companies what amount of produce they will be able to deliver on a certain day. Lastly, local growers need to help institutional purchasers understand that they will have to plan ahead if they want to request that growers grow certain types of products, which could take several months before the crops are ready to harvest to be used in institutional meals.

### *Growing Interest:*

Growers that want to sell their products to institutions should be encouraged by the explosion of interest around farm to school, one specific type of farm to institution program, in Mississippi over the past few years. A farm to school program can take many forms, but generally it entails a school purchasing locally grown food from a farmer in its community to serve in school meals or snacks. In summer 2011, the Mississippi State Legislature created a Legislative Task Force on Healthy Food Access, which identified farm to school as a policy priority.<sup>1</sup> In December 2011, the Task Force submitted a report detailing a number of recommendations for farm to school legislation at the state level.<sup>2</sup> Following this report, Representative Toby Barker introduced two pieces of legislation on farm to school in the 2012 legislative session: a resolution and a bill. The resolution, signed into law on May 3rd, 2012, created a statewide Farm to School Week during the first full week of October.<sup>3</sup> The bill, signed into law on March 26, 2013, established an Interagency Farm to School Council.<sup>4</sup>

The legislation creating an Interagency Farm to School Council directs the body to promote both the availability of healthy, fresh foods in Mississippi schools and the economic development of farmers in the state.<sup>5</sup> Among the Council's many purposes, it will be working to "[assist] Mississippi farmers in marketing and building commercial relationships with food service directors in schools."<sup>6</sup> Thus growers should look to the Interagency Council as a resource to help connect them with interested purchasers.

Mississippi community members are also showing increased interest in farm to school. In fall 2010, Mississippi was chosen as one of ten states to be a site for the FoodCorps program, which places recent college graduates in nonprofits and schools to help develop local gardens and farm to school programs.<sup>7</sup> That same year, the Mississippi Food Policy Council identified farm to school as one of its main research agenda items, and commissioned the Harvard Food Law and Policy Clinic to prepare a report on challenges and opportunities for farm to school in the state.<sup>8</sup> Following that report, in the summer of 2011, the Mississippi Food Policy Council conducted a survey of school food service directors in Mississippi to gauge their interest in starting local farm to school programs. Nearly all of the respondents (95%) said they would like to serve locally grown food in school meals, and about half of respondents said they would be interested

---

<sup>1</sup> Mississippi Healthy Food Advisory Committee Report, As Authorized by H.B. 1170 of 2011, Dec. 2011 (on file with authors).

<sup>2</sup> *Id.*

<sup>3</sup> H. Con. Res. 112, 2012 Leg., Reg. Sess. (Miss. 2012) passed on May 3, 2012 designates the first week in October as Mississippi Farm to School Week.

<sup>4</sup> H.B. 718, 128th Leg., Reg. Sess. (Miss. 2013).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Where We Work*, FOODCORPS, <http://foodcorps.org/where-we-work> (last visited Aug. 9, 2012).

<sup>8</sup> Nate Rosenberg and Emily Broad Leib, *Expanding Farm to School in Mississippi: Analysis and Recommendations*, HARV. LAW SCH. HEALTH LAW AND POL'Y CLINIC AND THE HARV. LAW SCH. MISS. DELTA PROJECT 2 (May 2011), <http://blogs.law.harvard.edu/foodpolicyinitiative/files/2011/09/Expanding-Farm-to-School-in-Mississippi.pdf>.

in purchasing products directly from a farmer.<sup>9</sup> Even before the first statewide Farm to School Week in October 2012, some Mississippi schools had already started farm to school programs. During the twelve months prior to the first Mississippi Farm to School Week, Emerson Family Preschool in Starkville, Jackson Public Schools, Coahoma County School District and Mound Bayou School District had all started purchasing locally grown produce to serve in school meals.<sup>10</sup> Following the initial Farm to School Week in Mississippi, an increasing number of schools and institutions have expressed interest in purchasing locally grown products. As growers meet with institutions and form commercial relationships, they will benefit from knowing how to market their products to institutions and how to advocate for increased purchases from small, local growers like themselves.

### Overview:

This guide aims to help growers and food producers build and maintain successful commercial relationships with institutions. The guide is laid out in the following parts:

- **STEP 1: Assessing Your Farm and Preparing to Sell to Institutions:** This section will help you assess your capacity for selling to institutions, including how often, how much, and what products you may want to sell.
- **STEP 2: Building Relationships:** This section provides resources for connecting with an institution, as well as guidance on what type of food safety standards and liability insurance might be required. This section's discussion guide can help you effectively communicate with the institution to make sure you are on the same page during your initial meeting.
- **STEP 3: Creating Agreements:** This section walks you through how to write your bid. It also provides background information on how institutions may purchase produce and how you can participate by selling either directly to the institution or through a distributor.
- **STEP 4: Ensuring Success:** As you begin your relationship with an institution, it is important to plan ahead to ensure that your program will be sustainable and successful. This section suggests ways to get other community members involved and excited about purchasing local food.
- **STEP 5: Frequently Asked Questions:** This section summarizes the main points addressed in this guide and aims to answer any remaining questions about selling to institutions.
- **Appendices:** The appendices include many helpful additional resources such as a sample budget, a sample product and pricing form, and a sample invoice.

---

<sup>9</sup> Survey conducted by the Mississippi Food Policy Council of Mississippi Food Service Directors (Aug. 8, 2011) (on file with authors).

<sup>10</sup> Colleen McCarthy, *Emerson Family School Pioneers Fresh Food Program*, STARKVILLE DAILY NEWS, Sept. 14, 2011, <http://www.starkvilledailynews.com/node/7318>; Daniel Cherry, *Farm to School Aims to Fight Childhood Obesity*, MISSISSIPPI PUB. BROADCASTING (Apr. 30, 2012), [http://mpbonline.org/News/article/501farm\\_to\\_school\\_aims\\_to\\_fight\\_childhood\\_obesity](http://mpbonline.org/News/article/501farm_to_school_aims_to_fight_childhood_obesity); E-mail from Nate Rosenberg, Joint Harvard Law School /Mississippi State University Delta Fellow (Nov. 21, 2013) (on file with authors).

# STEPS TO START SELLING TO INSTITUTIONS

## STEP 1: ASSESSING YOUR FARM AND PREPARING TO SELL TO INSTITUTIONS

*When deciding what type of institution would best fit your farm, you should consider the following questions: What is your farm's capacity to sell to an institution? What price will you charge? Which type of institution is a good fit for your farm? How do you want to structure your commercial relationship?*

Institutions serve food in a variety of different settings and therefore have different needs from partnering farms. For example, hospitals and prisons operate their cafeterias year-round, as do colleges and universities (although often to a lesser degree during the summer months) and state and local agencies.<sup>11</sup> Given that the peak growing season is in the summer, these institutions may offer an advantage over public K-12 schools, which do not operate year-round. However, these institutions are often quite large and might want to place bigger orders. You should consider how much you can harvest and during what months when determining the type of institution to which you should market your products.

Typically, schools, public colleges and universities, public hospitals, and public prisons will use some sort of bidding process, whether formal or informal, as described in Step 3(C): How the Bid Process Works. Keep in mind that privately-run institutions may use these same bidding processes and have similar requirements, but they may also have purchasing methods unique to the institution. As noted in Step 2(E): First Meeting Discussion Guide, you will need to ask the institutional purchaser what type of bidding process they use to purchase food products.

### A. Assess Your Farm's Capacity for Selling to Institutions

Before contacting an institution, it is important to consider your farm's capacity for providing and delivering products. Knowing the amount you can grow and how you will deliver will make your first meeting with an institutional purchaser more productive. The following questions will likely come up in your first meetings with purchasers, so it will be helpful for you to have thought through the answers. Feel free to write your answers on this report next to each question.

#### 1. How far in advance will you know what quantity of products can be delivered?

- How much have you grown in recent years?
- What crops have consistently grown well on your land?
- How predictable is the amount you have been able to grow in recent years?
- What amount, if any, do you want to sell to other customers, such as at farm stands or farmers markets?



**Suggestions:** If you make a bid to sell a specific amount of a product to an institution, you will be responsible for providing the full amount or else risk damaging your relationship with the institution. Consider underestimating in the bid the amount that you can provide to avoid this risk.

---

<sup>11</sup> Kelli Sanger & Leslie Zenz, *Farm to Cafeteria Connections*, WASHINGTON ST. DEP'T OF AGRIC. SMALL FARM & DIRECT MARKETING PROGRAM 26 (2004), available at <http://agr.wa.gov/Marketing/SmallFarm/docs/102-FarmToCafeteriaConnections-Web.pdf>.

## 2. How do you process and store your products?

- Who harvests your crops, and do you have a back-up plan if they are not available?
- How are products stored on your farm?
- Does any processing take place before distribution (such as washing, chopping, or freezing)?
- Are the products packaged before distribution? If so, how?



**Suggestions:** Some institutions may want food that has been at least minimally processed, such as cut and/or washed. Consider asking the institutional purchaser whether this is something the institution would want. If you do not currently do any processing, consider whether you would be willing or able to do so if asked by an institution, or if you could partner with a local business that could do so.

## 3. How would you deliver the products?

- How far are you willing to travel?
- Do your products require a refrigerated truck so that they stay cool in transit?
- Do you have a truck to deliver the products? How much of the product can it carry at one time?
- Do you have someone who can drive the truck who is not also needed to work the farm that day?
- How often would you be able to make deliveries?



**Suggestions:** If you do not have a truck, consider renting, purchasing one with a neighboring farmer or group of farmers to share, or purchasing one for your own use. If sharing, be sure to agree beforehand to a schedule for who has access to the truck each day. One resource for transportation sharing is Mississippi MarketMaker, explained in Step 2(A): Resources to Connect With Your Community. The Marketmaker Web site has a search box that can be used to find others offering transportation.

## B. Determine What Price to Charge

After assessing your farm's capacity for selling to institutions, determine the price you will ask for your products. As part of determining your price, you should consider the costs mentioned below. Comparing your price to that of other growers or retailers may also be a way to ensure that your proposal is competitive and will have a chance of winning a bid.

### 1. Production costs:

Production costs include not only the cost of growing and harvesting your products, but also delivery costs and the cost of labor. Other costs you should consider include: machinery expenses; improvement expenses for farm property such as buildings, fences, and storage structures; property tax (or rent if you do not own the land); and refrigeration for highly perishable products. To help think through your costs, we have provided a sample budget form in Appendix 1: Sample Budget. Once you have added up your costs, you should divide your total costs by the amount of yield you will be able to sell in order to get a number for cost per unit. If growing more than one product, calculate production costs separately for each product.<sup>12</sup>

---

<sup>12</sup> ALA. COOP. EXTENSION SYS., ALABAMA ENTERPRISE BUDGET SUMMARIES, tbl.17.A (2008), available at <http://www.aces.edu/agriculture/business-management/budgets/2008/Fruit/blueberryms.pdf>. See Appendix 1 for a sample budget estimating costs per acre.



## 2. Pricing for profit:

Once you have determined the cost of production for each unit, including delivery and labor, you will have to set a price above this amount to earn a profit. You may want to offer purchasers a discount if they buy a certain number of units, such as “\$5 each but 5 for \$20,” but it is important to not let the price per unit drop below the cost of production for each unit. In the example above, you could still earn a profit with the above offer if the cost of production for each unit was \$3.50, but not if the cost was \$4.50 per unit.<sup>13</sup>

You could also offer a discount at production cost for the first sale. Institutions are taking a risk on working with small growers, and such a discount would allow you to start the relationship with lower risk to the institution so they can see how much they like working with you. If you choose to offer a price at production cost, however, you should be clear with the institution that you are doing so; this will ensure the institution knows it is getting a bargain and will not be surprised when prices rise in later sales.

## C. Which Institutions Would Be Good Clients for Your Farm?

When thinking about what type of institution to approach, keep in mind these considerations:

- Types of institutions include K-12 schools, colleges and universities, hospitals, prisons, as well as state and local agencies.
- Most institutions operate their cafeterias year-round, though colleges and universities often operate at a lesser degree during the summer months. K-12 schools, however, do not operate year-round and will generally not purchase products during the summer unless they run summer camps, childcare programs or summer feeding programs.
- Not all purchases need to be on a large scale. Some institutions and school districts may conduct independent small purchases that require only an informal price quote that can be given over the phone. More information as to how purchasing may work at institutions can be found in Step 3(C): How the Bid Process Works.
- Some institutions may have limited storage and processing capacity, which can affect the size of your potential sales to them.
- In addition to selling directly to an institution, you can sell to distributors who will then sell to institutions. Learn more about the option of selling to Mississippi food distributors in Step 3(B): The Alternatives.

### Farm to School

October is National Farm to School Month and the first full week in October is Mississippi Farm to School Week, when Mississippi schools are encouraged to serve locally grown foods during at least one meal. If you are interested in making a one-time sale and selling to a school, consider encouraging the purchaser for the school to participate in the national farm to school movement by purchasing your products for use in October. Similarly, other institutions may have special events or holidays where they would want to purchase local foods.

*Source: National Farm to School Month, <http://www.farmtoschoolmonth.org>; H. Con. Res. 112, 2012 Leg., Reg. Sess. (Miss. 2012).*



**Suggestions:** Although you might have certain products you already grow, institutions may ask for other foods. Consider whether you would be interested in branching out to start growing

<sup>13</sup> Matt Ernst & Tim Woods, *Selling Farm Products at Farmers Markets*, UNIV. KY. DEP'T OF AGRIC. ECON. (2010), available at <http://www.uky.edu/Ag/NewCrops/marketing/farmmarket.pdf>.

other products. You can provide a list of products that you are willing to grow even if you do not currently grow them to give the purchaser a sense of their options.

## **D. Decide How You Want to Structure the Commercial Relationship**

### **1. One-time sales:**

Making a one-time sale can be a great first step in building a relationship with an institution. This is a good option to consider when you are first adapting to selling to institutions; by making a one-time sale you can try out the process, see where you face challenges (e.g. with processing or delivery), and think about how to make the process more efficient and successful for future sales. A one-time sale is also a great opportunity to offer a discount. By making the sale a low risk for the institution, you can encourage them to try buying locally and realize the benefits. Once they have had a good experience with a local purchase, they will be more likely to start making regular purchases.

### **2. Scheduled regular purchases:**

Scheduling regular deliveries builds a long-term relationship between the farmer and institution and streamlines the purchasing process. Consider encouraging the institution to aim to spend a certain percent of its food budget on locally grown products (5-10% is a realistic starting goal); you can assure the purchaser that by publicizing this goal, the institution will gain positive publicity in the community.

In your conversation with an institutional purchaser, you can highlight other benefits they will gain from purchasing locally. They will be able to serve higher quality meals with fresher produce which in turn can lead to increased consumption of their meals. For institutions that sell meals (like schools, colleges, and universities), they might experience increased profits as more students purchase meals instead of eating elsewhere or bringing meals from home.

### **3. Contract growing or pre-season planning:**

The final option requires a more in-depth relationship between you and the institution than one-time sales or scheduled regular purchases. With “contract growing,” you develop a contract with an institution in which the institution agrees to buy as much of a given product at a predetermined, set price as you are able to provide. Another option is to develop a contract where the purchaser agrees to purchase a certain amount of a product at a set price in weekly or monthly installments. Both of these contract options enable you to engage in pre-season planning by meeting with an institution early on to find out what they would like to purchase and then growing those products. It is important to keep in mind that after you quote a price to an institution, unless the contract provides for circumstances allowing the price to increase, you cannot charge a higher price. If you cannot honor the quote, the institution will likely have to seek another source and this will damage your relationship.

## **STEP 2: BUILDING RELATIONSHIPS**

*The following guidance is meant to help you locate institutions in your community with the capability to purchase the products that you are interested in selling. This section includes: resources for finding an institution in your community; options for demonstrating that you are using safe growing practices; guidance on liability insurance; and a discussion guide for your first meeting with an institutional purchaser.*

## A. Resources to Connect With Your Community

There are a number of ways to find an institution in your community that could purchase the type and quantity of products you are interested in selling, including:

1. **Contacting institutions directly**, either in person, over the phone, or through email, as many institutional purchasers may have an interest in purchasing local food but not know any interested growers.
2. **Posting advertisements in the local newspaper** and other community publications to get the word out to your community that you are interested in selling to an institution. Since, as noted above, institutional purchasers may not know that growers are interested in selling to them, advertising that you will sell to institutions can be a great way to reach them.
3. **Participating in farmers markets** in order to meet members of the community you might not come into contact with otherwise. Even if you do not meet a potential institutional buyer directly, you can develop a good reputation and expand your network in the community, which may help you succeed in later efforts to sell to institutions.
4. **Joining a local or regional organization**, such as a farmers' cooperative, which can connect you with other growers interested in selling to institutions who may want coordinate so that together you can sell larger shipments to institutions than you can grow on your own.
5. **Talking to restaurants and other establishments** that are purchasing locally grown products. Chefs and managers that have already established commercial relationships with small farms may have advice on how to make such relationships successful.
6. **Using online resources** that list growers around the state. Adding your information to such resources can be helpful as institutions may search them first for farmers. Some of these online resources in Mississippi include:
  1. **Mississippi MarketMaker** (<http://ms.marketmaker.uiuc.edu>): This site allows you to register your business at no cost and list your products, product forms (canned, fresh, frozen, etc.), methods of sale, and contact information.
  2. **Local Harvest** (<http://www.localharvest.org>): This website allows you to create a free listing if you are a family farm and do not use GMOs (organisms or seeds that have been genetically engineered). You can provide contact information as well as a description of your growing practices and products.
  3. **Mississippi Fruit and Vegetable Growers Association** ([http://www.msfruitandveg.com/Member\\_Farms\\_Businesses.html](http://www.msfruitandveg.com/Member_Farms_Businesses.html)): This site allows members of the Mississippi Fruit and Vegetable Growers Association to list their contact information and products.

## B. Food Safety Standards

Institutions will want to be sure the products they purchase have been grown safely, as they are used to buying from large companies that can reassure them by providing product certification documentation. However, you can point out that locally grown food can often be a safer option than food from large industrial farming operations. During the major spinach recall in 2006, a senior U.S. Food and Drug Administration (FDA) official advised that “the risk is significantly reduced if you know the farmer and

know his farm,” as the bacteria making people sick was suspected to be from a large commercial farm on the West Coast.<sup>14</sup>

While there are currently no laws requiring farmers to document that they use certain growing practices to ensure their food is safe to sell to institutions, new federal regulations (discussed below) could eventually lead to more on-farm food safety requirements. In addition, institutions can choose to impose their own food safety requirements. Institutions that do not have formal food safety requirements will likely still want to be assured about their suppliers’ food safety practices. As a result, it is important for you to understand what type of food safety practices institutions look for and how to communicate your practices to potential purchasers. This section will first review the new federal regulations, and will then review how to assure an institutional purchaser that you practice safe-growing practices.

## 1. Federal Regulations

In 2011, Congress passed the Food Safety Modernization Act (FSMA), which made a few important changes that will apply to large farming operations but could also affect small and medium-sized farms. **Although these rules will not be in effect for a few years, it is important to understand how they may apply to you.**

First, for the first time ever, farms growing produce may have to meet certain on-farm **produce safety rules**.<sup>15</sup> However, certain farms will be exempt from those requirements. If a farm has average annual sales of food of less than \$500,000, and if more than half of those annual sales are to “qualified end-users” (consumers or restaurants in the same state or within 275 miles of the farm), then that farm does not have to meet the requirements.<sup>16</sup> It is important to note that all food sales—not just produce sales—count toward the \$500,000 average annual sales threshold. Also, even if you are exempt from this rule, you must still provide the name and business address of your farm either on the food label or at the point of sale.<sup>17</sup>

Second, facilities that manufacture or process food may have to meet certain **preventive control rules**.<sup>18</sup> Manufacturing or processing food could include making value-added products, and it also includes holding, packing, or packaging raw products from another farm (like raw fruits and vegetables).<sup>19</sup> If you collaborate with other farmers, or purchase produce from another farm to add to the produce you supply to the institution, you will likely be considered a “facility” and subject to increased food safety requirements.<sup>20</sup> Farms or facilities that meet the criteria described above (less than \$500,000 in average annual sales of food and more than half of those sales to qualified end-users) will only have to meet less burdensome “modified requirements.”<sup>21</sup>

Some operations may be subject to the food safety requirements for both farms and facilities described above. The FDA has not put these rules into effect yet, and they will likely change between now and when

---

<sup>14</sup> Marian Burros, *A Stopgap for the Spinach Lover*, N.Y. TIMES (Sept. 20, 2006), <http://www.nytimes.com/2006/09/20/dining/20greens.html>.

<sup>15</sup> 21 U.S.C. § 350h(f)(1) (2012).

<sup>16</sup> 21 U.S.C. § 350h(f)(2) (2012).

<sup>17</sup> *Id.*

<sup>18</sup> 21 U.S.C. § 350g (2012).

<sup>19</sup> *Id.*

<sup>20</sup> These requirements will include both: (1) complying with updated Current Good Manufacturing Practices (CGMPs) and (2) creating extensive food safety plans (called a hazard analysis and risk-based preventive control plan (HARP-C)). 21 U.S.C. § 350g (2012).

<sup>21</sup> This type of “qualified facility” will be subject to “modified requirements,” which means that the operation must have documentation proving its status as a “qualified facility” and must either show that it is in compliance with non-federal food safety rules (e.g., state, local, or tribal) or create a mini-food safety plan. 21 U.S.C. § 350g(l) (2012).

they are enforced. These are complicated rules, and you should seek out resources through the Mississippi Department of Agriculture and Commerce or other organizations once the rules go into effect to make sure you are complying with the new law. You can also learn more about which parts of the law will apply to you on the helpful National Sustainable Agriculture Coalition website.<sup>22</sup>

## 2. Options for Guaranteeing Safe Growing Practices

Whether or not you are subject to federal food safety standards, the following options can be used to demonstrate to an institution that you use safe growing practices and thus reassure a purchaser that locally grown food is a safe option.

### a) Iowa Extension Checklist:<sup>23</sup>

The Iowa State University Extension and Outreach Checklist (see Appendix 2: Iowa Food Safety Checklist for the full checklist) provides a comprehensive list of factors that indicate whether food has been grown safely on small farms. Meeting the elements of this checklist can be an inexpensive way for you to demonstrate the safety of your growing practices. You can offer to review the checklist with potential purchasers over the phone or in person, either in an office or through a visit to the farm, and then sign the document promising that all of the statements are true. Institutions will then be able to use the document to show that they have practiced reasonable care in determining that you are using safe growing practices.

### GAP/GHP Cost-Share

In 2013, The Mississippi Department of Agriculture and Commerce and Alcorn State University began to offer farmers the option to participate in a statewide GAP/GHP cost share program. The program covers 75% of costs of certification, with a maximum cost share of \$500.

Source: *GAP/GHP Certification Cost-Share Program*, MISS. DEP'T OF AGRIC. AND COMMERCE,  
[http://www.mdac.ms.gov/departments/marketing/gap\\_ghp.htm](http://www.mdac.ms.gov/departments/marketing/gap_ghp.htm)

### b) Good Agricultural Practices/Good Handling Practices (GAP/GHP):

The U.S. Department of Agriculture created the Good Agricultural Practices/Good Handling Practices (GAP/GHP) food safety certification as one option for growers who want to show that they are growing their food safely.<sup>24</sup> GAP/GHP audits focus on best agricultural practices to verify that fruits and vegetables are produced, packed, handled, and stored in a way that minimizes the risk of microbial food safety hazards, and certifies that you are following generally recognized industry best practices. The audit will evaluate food safety practices on your farm, including harvesting, packaging and transporting. Unlike the Iowa Checklist, however, a GAP/GHP audit requires that someone from the U.S. Department of Agriculture (USDA) visit your farm to assess your practices. You should print the audit materials and conduct a practice audit in advance, but you will also need to make an appointment and pay someone from USDA to come to your farm to conduct an audit.

The primary challenge with using GAP/GHP certification is that, depending the size of your farm and potential sales earnings, the certification process may be quite expensive. USDA may require growers to make costly upgrades to their farms, such as constructing fences around the perimeter of the farm for

<sup>22</sup> *Who is Affected?*, NAT'L SUSTAINABLE AGRIC. COALITION, <http://sustainableagriculture.net/fsma/who-is-affected> (last visited Nov. 21, 2013).

<sup>23</sup> See Appendix 2: Iowa Food Safety Checklist for full text of the Iowa Extension Services Checklist.

<sup>24</sup> *Fresh Fruit and Vegetable Audit Programs*, U.S. DEP'T OF AGRIC. AGRIC. MARKETING SERV., [http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=GAPGHPAuditVerificationProgram#P25\\_1498](http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=GAPGHPAuditVerificationProgram#P25_1498) (last visited Feb. 5, 2013).

keeping out livestock and wildlife, or building restrooms for employees.<sup>25</sup> In addition to these changes, the certification must be renewed annually (or multiple times per year if different crops are grown in different seasons), and paying for the USDA certifier to come to your farm is costly.<sup>26</sup> The Mississippi Department of Education (MDE) chooses to purchase food for its statewide purchasing cooperative only from distributors and growers with GAP/GHP certification or certification from another third-party auditing system.<sup>27</sup> However, GAP/GHP certification is not required for local sales; if you want to sell directly to a local school or to another institution, you can do so without going through the GAP/GHP audit process.

**c) Alternative Safety Certification to be developed by Mississippi state agencies:**

Some states have recognized that GAP/GHP certification is unrealistic for many low-resource, small growers and have developed alternative certification systems tailored to small and medium-sized farms. For example, the Massachusetts Department of Agricultural Resources created the Commonwealth Quality Program, which provides a lower cost food safety certification option for products that will be sold within the state.<sup>28</sup>

Such a program does not currently exist in Mississippi. The Mississippi Department of Agriculture and Commerce (MDAC), Mississippi State University, and Alcorn State University could possibly develop an alternative state-based certification system to create opportunities for growers who want to sell their products to institutions, with guidance and feedback from relevant state agencies and growers themselves. As a grower, you can both advocate for such a program and get involved by working with the state on its creation.

### 3. Farm visits:

Consider inviting institutional purchasers to your farm to observe your growing practices. You can suggest that they use the Iowa Checklist while at your farm or some other checklist to ensure they get adequate information regarding the safety of your growing practices. You can also suggest that they bring someone from the local Cooperative Extension Service to assist them in their evaluation of your practices. This method has the significant benefit of allowing institutional purchasers to learn your growing practices firsthand. Communicating this way leads to more understanding, collaboration, and trust between you and the purchaser. Additionally, this option can be combined with any of the above certifications.

When inviting institutional purchasers to your farm, it is important not only to prepare the farm before the visit, but also to consider what to show and talk about with the purchaser. For the day of the visit, be sure to put away equipment and machinery not needed for that day's work and ensure that paths and any other areas where people will be walking are clear. Take the purchaser to see the areas on your farm where the products you plan to sell to that institution are grown; this can be a good time to explain your growing and harvesting practices. Additionally, if you do any processing on-site, consider showing the purchaser the processing area and/or equipment and explaining your operations.

---

<sup>25</sup> According to Ebay.com, a porta john costs approximately \$875 with shipping before the fee for set-up (Ebay search on Nov. 21, 2013) (on file with authors). University of Florida researchers found that the average cost of materials for constructing 14 miles of field fence was approximately \$1250 (including materials). Derek L. Barber, *Estimated Livestock Fencing Costs for the Small-Farm Owner*, UNIV. OF FLA. INST. OF FOOD AND AGRIC. EXTENSION, (2012), available at <http://edis.ifas.ufl.edu/an258>.

<sup>26</sup> Telephone interview with Nicole Bell, Research Assistant for Food Safety & Quality Assurance Alcorn State Univ. (May 8, 2012) (notes on file with authors).

<sup>27</sup> Rosenberg and Broad Leib, *supra* note 8, at 2-3.

<sup>28</sup> *Commonwealth Quality*, MASS. DEP'T OF AGRIC. RES., <http://www.mass.gov/agr/cqp/index.htm> (last visited Nov. 21, 2013).

## C. Liability Insurance

There are no federal or state requirements for liability insurance for growers selling to institutions. In Mississippi, as in most states, it is the choice of the purchasing institution whether to require liability insurance from growers.<sup>29</sup>

Liability insurance can mean two different types of insurance, one of which is product liability insurance.<sup>30</sup> Product liability insurance generally covers medical and legal expenses resulting from food-borne illnesses linked to food grown on your farm.<sup>31</sup> Although it is not necessary for you to purchase product liability insurance, some institutions may require it. Additionally, you may want to purchase it as your sales increase, as it can help protect you in the case of a lawsuit. For institutions that do require product liability insurance, the typical amount of coverage required generally ranges from \$1 million to \$5 million per year, which may require the payment of premiums that are too expensive for small or medium-sized growers.<sup>32</sup> You should bring this cost up in discussions with institutions as they might not be aware of how expensive it is.

The other type of liability insurance is premises liability insurance, which covers risks associated with having visitors to your farm. If you are planning to allow field trips to your farm as part of your relationship with an institution, like a school, college, or university, obtaining this type of insurance can help protect you in the case of a lawsuit.

In Mississippi, growers may encounter a lack of affordable liability insurance options.<sup>33</sup> One cost-effective option is to join a farmers' cooperative and obtain liability insurance as part of the group. Growers who are able to participate in a cooperative can attain more affordable liability insurance because the cooperative can get a discounted rate for the group. However, there are no cooperatives in many parts of Mississippi, so growers in these areas can only purchase liability insurance as an individual at a high cost.

You can also inform institutional purchasers that if their insurance package already covers the costs associated with an individual getting sick from a meal, requiring additional coverage from you is not necessary, especially if their initial purchases are infrequent, small shipments. Inform them that as their purchases become more frequent, they can consider whether to require that you purchase insurance, as you will then have a more stable source of revenue and the insurance may be more affordable for you. You should remind purchasers that liability insurance is not legally required for any purchases, so it is up to you and the purchaser to decide what makes the most sense for your commercial relationship.

## D. Creating a Marketing Packet

There are certain materials you should prepare to give to the institutional purchaser either at or before your first meeting. See Appendix 3: Sample Product and Pricing Form for an example of how you may want to present some information to the institutional purchaser. The form has space to include information on the types and variety for all the products you are able to sell, as well as **price, packaging, availability**, and minimum delivery costs. On the form, you can also indicate if you are open to negotiation or to offering

---

<sup>29</sup> KRISTIN MARKLEY, CMTY. FOOD SEC. COAL., FOOD SAFETY AND LIABILITY INSURANCE: EMERGING ISSUES FOR FARMERS AND INSTITUTIONS 11 (Dec. 2012), available at [http://www.farmtoschool.org/files/publications\\_475.pdf](http://www.farmtoschool.org/files/publications_475.pdf).

<sup>30</sup> PUB. HEALTH LAW CTR. AT THE WILLIAM MITCHELL COLL. OF LAW, LEGAL ISSUES IMPACTING FARM TO SCHOOL AND SCHOOL GARDEN PROGRAMS IN MINN. (June 2011), available at <http://publichealthlawcenter.org/sites/default/files/resources/ship-f2s-school%20garden%20legal%20issues-2011.pdf>.

<sup>31</sup> *Id.*

<sup>32</sup> Markley, *supra* note 29.

<sup>33</sup> Telephone Interview with Darnella Burkett Winston, Mississippi Association of Cooperatives (Mar. 22, 2012).



lower prices for bulk purchases or first time purchases. You should fill out this form, or create a similar form, and include it in your marketing packet.

In addition to including information about your products and pricing, consider including a **profile of your farm business** with information on how you grow and harvest your products. The profile of your farm business should also include background information about your farm. You can write a short history of the farm and/or about what the farm looks like today. Providing this history is a great opportunity for you to make a case to the institution as to why the purchaser should buy local foods, value local farms, and care about your farm in particular. For purchasers who need a little encouragement to buy more local products, this personal touch can make a difference.

Other materials you may want to include in the packet are **business cards and an offer for a tour of your farm**. You may also want to offer a free taste test at your farm, at which the institutional purchaser and perhaps a few others from the institution can try some of your products, or an offer for a free harvest basket, in which you put together a sampling of products from your farm and send it to the institutional purchaser to try. You should focus on offering samples of those products the purchaser is looking to buy, but you can also consider offering a sample of something different that you grow, as providing these free samples may expand the institution's interest in purchasing other products. The materials and offers for samples should fit easily in a folder and can be handed out personally or mailed to institutional purchasers.

## E. First Meeting Discussion Guide

Once you have completed the self-assessment in Step 1: Assessing Your Farm and Preparing to Sell to Institutions, and you have found an institution with which you would like to work, you should set up a meeting in person or over the phone to discuss your needs and expectations for your new commercial relationship. Although many institutions may be interested in purchasing from a small or medium-sized grower, they, like you, are likely new to this process. Institutions may be unsure about how to work directly with a grower, which makes it important for you to be clear about your expectations and capabilities. Below is a guide for your first discussion with the institutional purchaser. Refer to this guide to make sure you have discussed the major issues that will arise as you start to sell your products to the institution.

### 1. Are you familiar with the “food service” vocabulary?

Prior to meeting with an institutional purchaser, you may want to meet with your local Cooperative Extension Service and become familiar with terms used in the food service community. Developing an understanding of how to convert farm measurements into food service measurements can help you make sure you are speaking the same language when you meet with the purchaser and discuss quantities and costs, as well as the language of “request for proposals” and bids. If you are unable to learn this vocabulary before the meeting, ask the purchaser to explain their measurements and terms you are not familiar with as they come up in your first meeting.

### 2. Do you understand the procurement process?

During your first meeting with a purchaser, you should ask how the institution's food purchasing process works generally. The institution may have to solicit bids from multiple vendors to maintain open competition, and only after that process will you be able to enter into a contract with them. Asking the purchaser to explain their institution's specific process will ensure that you know what to expect and what the end results might be.



This is also a good time to encourage the institution to include a geographic price preference. The USDA published a rule in 2011 allowing public K-12 schools to implement such a preference, and other institutions also have the ability to use a geographic preference in their purchasing. See the following table for more information about geographic preference:

## Geographic preference in school purchases

*For purchases of any size, a school can incorporate a geographic preference in its bid solicitation to increase local growers' likelihood of success.*

In 2011, the USDA published a rule allowing schools to implement a geographic preference during the formal procurement process that gives a preference to “local” unprocessed agricultural products. The federal rule leaves the power to the school district to define “local” as long as the school does not say, “We are exclusively purchasing Mississippi products.” The school cannot make such an “exclusive” definition because this kind of wording indicates a requirement rather than a preference. Mississippi schools generally use an Invitation for Bid (IFB) method, (as opposed to a Request for Proposals (RFP) method). Under the IFB method, schools can write specifications for the order or give a percent price preference that benefits local growers. For example:

- Specifications for an IFB could include statements such as: (1) “We will preference produce picked within one day of delivery,” (2) “We will preference products harvested within 12 hours of delivery,” or (3) “We will preference produce that has traveled less than 100 miles or less than 5 hours.”
- *Price preference:* If a product meets the geographic specification, the school district could give a 10-cent preference by decreasing the proposed price of bids that meet the specification by 10 cents per unit.
- *Percent preference:* Using the same criteria, the school could instead choose to award geographic preference by deducting a percentage of the bidder’s proposed price, such as 7%, from foods that meet the specifications. Thus, foods produced locally (as defined by the school) would appear 7% cheaper than their bid price. This lower apparent price will have a better chance of succeeding against bids from larger companies, which often take advantage of economies of scale to keep their costs down and to offer lower prices.

When using geographic preference, it is important to remember that the preference given to local growers in the evaluation process does not change the actual bid price of the vendor. The school will still pay the proposed price, but the preference allows schools to choose to purchase from a local grower with slightly higher prices but also potentially fresher and higher quality food. As the grower, you will be more likely to win the bid, but you will still be paid at the price that you listed in your bid.

*Sources: Geographic Preference Option for the Procurement of Unprocessed Agricultural Products in Child Nutrition Programs, 76 Fed. Reg. 22603 (Apr. 22, 2011); 42 U.S.C.A. § 1758(j) (2012); Cynthia Long, Procurement Geographic Preference Q&As, U.S. DEPT OF AGRIC. FOOD AND NUTRITION SERVICE (Feb. 1, 2011), [http://www.fns.usda.gov/cnd/Governance/Policy-Memos/2011/SP18-2011\\_os.pdf](http://www.fns.usda.gov/cnd/Governance/Policy-Memos/2011/SP18-2011_os.pdf).*

### 3. Does the institution purchase through a distributor or use some other system?

A distributor is generally a large company that serves as a middle man, purchasing food from growers and food companies and then selling it to schools. In Mississippi, distributors are a main source of produce for institutions; almost 40 percent of public K-12 schools buy at least some of their produce from distributors.<sup>34</sup> While distributors in other states have started purchasing locally grown products, often in

<sup>34</sup> Rosenberg and Broad Leib, *supra* note 8, at 17.

conjunction with farm to school programs and in response to encouragement from their customers, focusing on local purchases is not yet a common practice for Mississippi distributors. Additionally, most of the large distributors in Mississippi require that farmers have GAP/GHP certification (discussed in Step 2(B): Food Safety Standards) and expensive product liability insurance coverage, which makes it difficult for small farms to sell through these outlets. If the institution does purchase produce from a distributor, you should encourage them to substitute at least some of these purchases with purchases from small growers like yourself.

For public K-12 schools, another source of produce is the Mississippi Department of Education (MDE) statewide purchasing cooperative, which makes more than 600 products available for online ordering and can often offer reduced costs due to the large quantities purchased by the state.<sup>35</sup> However, MDE requires GAP/GHP certification, the ability for farmers to fill large orders, and the delivery of the produce to a centralized location in Jackson (rather than directly to local schools). Thus, many small or mid-sized growers are unable to sell their products through this state program.

Institutional purchasers used to working with large distributors may need more help in the transition to purchasing locally grown food. Consider offering to start with a small sale to test out the system and reassure the purchaser that buying from your farm is easy and beneficial to them. Be prepared to clearly explain to them why requiring GAP/GHP or liability insurance is likely not necessary and imposes a significant burden on you or other small growers.

#### **4. What products do you have available?**

Refer back to your assessment from Step 1: Assessing Your Farm and Preparing to Sell to Institutions to determine what items you would be able to sell and what processing you would be able to do, if any, before delivery. Based on this self-assessment, you should develop specifications for the variety and quantity of each food item available for purchase. If you have completed the product and pricing form as part of your marketing packet and already distributed it to the purchaser, they may already have a sense of what you offer, but you may want to go over it again.

When you meet with the institutional purchaser, you should ask what types of products they are looking for, in what quantities, and when they would like to have it delivered. If you are talking with an institutional purchaser while you are still planning your growing season, you may want to discuss the possibility of growing other items or increasing the amount of products you are already growing. You may also want to encourage the institution to use produce grown in non-summer seasons, such as sweet potatoes, greens, and onions, which would allow you to provide the institution with different products through more of the year. It might make sense to start with selling a small volume of your product and have a plan for increasing over time, as challenges in the early stages of the commercial relationship may be more easily handled if only a small volume is involved.

#### **5. When will the products be available to purchase?**

Although the product and pricing form in your marketing packet may include information about seasonal availability, you should discuss with the institutional purchaser the exact date at which products will be available. A contract with the institution will need to specify exact dates. Keep in mind that you will be held

---

<sup>35</sup> State Purchasing Program Information, MISS. OFF. OF HEALTHY SCH., MISS. DEP'T OF EDUC., [http://www.healthyschoolsms.org/nutrition\\_services/purchasing\\_program\\_overview.htm](http://www.healthyschoolsms.org/nutrition_services/purchasing_program_overview.htm) (last visited Nov. 21, 2013).

to the date; not adhering to the contract may damage your relationship with the institution. If it is hard to estimate the exact harvest date, use a slightly later date on which you know with more confidence the products will be ready to harvest.

## **6. Does the purchaser require specific food safety standards and/or liability insurance?**

As noted above, institutional purchasers may require that you meet some food safety certification. If the institution uses or is open to using the Iowa Checklist, offer to go through it with the purchaser and give your signature that you are being truthful about your growing practices. If they require you to obtain GAP/GHP certification, you will need to make a decision as to whether you can afford to do so, after considering whether it is worth the cost based on the size of your farm and your sales potential. If you do decide to pursue GAP/GHP certification, be sure to allow enough time to get certified before you make the first sale.

As discussed in detail in Step 2(C): Liability Insurance, you can also mention that liability insurance is costly for you as a grower and may not greatly benefit the institution.

## **7. How will they expect the products to be prepared when they are delivered?**

You should discuss with the purchaser whether they expect the produce to be prepared a certain way when it is delivered and whether you will be able to do so. For example, does the purchaser want the product washed and sliced or can the food service staff handle the whole raw product? How do they expect the product to be packaged? If you are unable to do some of the processing, discuss whether there is a local company that could process the food before it reaches the institution. You can also encourage the purchaser to consider whether the institution would be able alter its practices to process the food itself, such as by paying staff for one day's work to process (blanch, freeze, etc.) large amounts of the product that could then be ready to be quickly prepared for future meals.

## **8. How will you deliver the products and how will you be paid?**

Discuss with the purchaser where, when, and how the products should be delivered to the institution, considering your relative capabilities for storing food. How frequently will the deliveries occur? At what point will the purchaser pay you for the order? Inform them that small growers often work on narrow profit margins, so prompt payment is ideal. Also discuss the consequences of delivering products in poor quality and whether you will be expected to reimburse the institution. In addition, make sure that you have the same understanding of what poor quality means for each product you are interested in selling. While you know that spots or bruises on produce do not mean they are spoiled, the purchaser might not know or might want the produce to look a certain way so it is appealing to those eating the food.

## **9. Are you willing to meet with individuals at the institution or host a field trip to your farm?**

Consider asking the purchaser whether the institution is interested in learning more about local agriculture and, if so, offer to speak about your farm. Especially if you are working with a K-12 school, college, or university, consider whether you would be willing to host students for a visit to the farm or make a presentation at the school. You may also want to offer your help if the institution is developing a class or school garden, or if it offers other classroom activities related to growing food.

## STEP 3: CREATING AGREEMENTS

*Once you have met with an institutional purchaser and decided that you want to enter into a commercial relationship, it is time to prepare your first sale. This section will help you chart out your next steps according to the specific institution's purchasing process, which you should discuss with the purchaser at your first meeting.*

### A. Current Methods and Sources of Procurement

Each institution you approach will have a process that it uses to purchase food products. K-12 schools, public colleges and universities, public hospitals, and public prisons will all typically use a competitive bidding process; since they use taxpayer money, they are generally expected to purchase the greatest amount of product possible for each dollar. Privately run institutions may use a similar competitive bidding process, or they may have processes unique to the institution.

In addition, the institution will likely have sources from which it typically purchases food products, and you should consider asking the institutional purchaser to go over these sources with you to get a sense of how the institution currently receives their food products. In any situation, you can encourage the institutional purchaser to change its policies to enable you to compete with larger food vendors. Below is an example of how purchasing works in Mississippi public schools; the explanation should illustrate opportunities and challenges you may encounter in working within an institution's current purchasing process.

#### An example—how K-12 public schools currently purchase food:

Under the current system for school food procurement in Mississippi, Mississippi public schools purchase almost all of their food from three main sources: (1) the Mississippi Department of Education (MDE) statewide purchasing cooperative, (2) the USDA Foods in-kind food distribution program, including the Department of Defense (DoD) Fresh Program, and (3) independent distributors. While each of these sources has some benefits, each source also has restrictions that make it difficult for small growers to participate. Nevertheless, it is possible for K-12 schools in Mississippi to make purchases from small growers, and a growing number of schools are doing so.

1. The **MDE statewide purchasing cooperative** makes more than 600 products available for online ordering, often at reduced costs because the program procures products in a large quantity to make them available to all schools.<sup>36</sup> However, MDE only purchases products from distributors and farmers who have met nationally recognized certification standards such as GAP/GHP certification (discussed in Step 2(B): Food Safety Standards), and thus many growers who cannot afford the certification cannot sell their products to the state.
2. Similarly, the **USDA Foods in-kind food distributions program**, which includes the DoD Fresh Program, requires growers in Mississippi to have GAP/GHP certification.<sup>37</sup> Through this program, MDE pays \$2.5 million per year to purchase fresh fruits and vegetables for Mississippi's schools.<sup>38</sup> In a typical year, MDE is able to purchase about \$300,000 of this in Mississippi grown products, mostly from large farms.<sup>39</sup> This program requires growers to transport their products to Jackson to be unloaded and inspected before the distributor transports the products to school

---

<sup>36</sup> *Id.*

<sup>37</sup> Rosenberg and Broad Leib, *supra* note 8, at 2.

<sup>38</sup> E-mail from Priscilla Ammerman, Director of Purchasing and Food Distribution, Miss. Dep't of Educ. (Sept. 27, 2012) (on file with authors).

<sup>39</sup> *Id.*

districts.<sup>40</sup> The DoD Fresh Program's centralized drop-off location saves money for growers selling food to multiple school districts; for small growers, however, it may be more cost efficient to sell food to a local school district.

3. Almost 40% of Mississippi public schools buy at least some of their produce from **independent private distributors**.<sup>41</sup> While some distributors have started purchasing locally grown products, often in response to requests from their institutional customers, this is not yet a common practice in Mississippi. However, several positive examples exist. In Vicksburg County School District, food service director Gail Kavanaugh created a contract with her distributor that stated that the distributor would provide her with locally grown produce whenever possible.<sup>42</sup> Now Vicksburg schools have regularly scheduled shipments of Mississippi-grown produce offered at their school meals.
4. Institutions (including public K-12 schools) can also buy **directly from small local farms**. Emerson Family Preschool in Starkville, Jackson Public Schools, Coahoma County School District and Mound Bayou School Districts, for example, have all purchased locally grown produce from Mississippi growers to serve in school meals.<sup>43</sup> Please see the next section for more details on how schools can purchase from small, local growers.

## B. The Alternatives

Even if an institution, like a Mississippi K-12 public school, uses a purchasing process that tends to exclude small growers, it can divert some portion of its food budget to purchase local foods, either by buying directly from a local grower or by asking its distributor to make locally grown products available. Encourage institutional purchasers to use one of the options below, but remember that the institution will continue to follow the same procurement process. This means that if the institution uses a competitive bidding process, you will still have to submit a bid for the contract. Step 3(C): How the Bid Process Works further explains the bidding process for public institutions.

- **Buying Directly from a Local Grower:** Remind the purchaser of the many benefits of buying from local growers. These benefits include the opportunity to develop a relationship with a grower in the local community and channel more money directly to the grower (since the purchases are made without a middleman), thus strengthening local economic development. In addition, institutions that are directly connected with growers can engage in opportunities for education. For schools, colleges, and universities, this can entail the grower giving presentations to students or organizing field trips to farms.
- **Buying Local Food Through a Distributor:** Institutions can also purchase locally grown produce from a food distributor. If the institution currently purchases from a distributor, you can encourage the purchaser to work with the distributor to purchase your products. While Mississippi distributors are not yet regularly purchasing locally grown products, some pressure from their customers (the institutional purchasers) could persuade the distributors to make such purchases. Buying local food can benefit the distributor and purchaser through cost savings from reduced transportation costs and increased quality of the products, which can be fresher because they are more recently harvested.

---

<sup>40</sup> Rosenberg and Broad Leib, *supra* note 8, at 4.

<sup>41</sup> *Id.* at 17.

<sup>42</sup> Gail Kavanaugh, Vicksburg Warren School District Nutrition Director, Address at the Mississippi Food Policy Council October 2013 Meeting (Oct. 15, 2013), *minutes available at* <http://mississippifoodpolicycouncil.wordpress.com/minutes-and-reports/october-2013>.

<sup>43</sup> McCarthy, *supra* note 10; Cherry, *supra* note 10; Rosenberg, *supra* note 10.

## C. How the Bid Process Works

Many institutions use competitive bidding, but public institutions in particular are bound to specific federal and state procurement requirements. Below is an outline of the steps a public institution takes to go through the competitive bidding process; keep in mind that other institutions may engage in a similar process but are not required to follow these exact federal and state requirements.

1. The purchaser must first decide **what amount and type** of product it will be purchasing. For small purchases that are less than what is known as the “small purchase threshold,” institutions can use an informal bidding process. The federal small purchase threshold is currently \$150,000.<sup>44</sup> Purchases under the small purchase threshold do not have to follow formal bidding procedures, though they still need to solicit bids from several sources. However, if an institution will be purchasing the same product over the course of the year from you, and these purchases add up to more than \$150,000, it will have to follow formal bidding procedures.<sup>45</sup>

- a. **Informal Bidding Process:** For a public institution, if the contract will be **below the small purchase threshold of \$150,000**, the informal bidding process simply entails that the institution (1) have a written order form that includes the number and type of product desired and (2) contact “an adequate number of qualified sources,” which can be satisfied by contacting a minimum of two growers or distributors (three if possible) to get price quotes.<sup>46</sup> The solicitation will include: a list of the items needed; any special requirements; the quantity of items needed; information about the basis for contract award; the date range for delivery; and the delivery location(s).<sup>47</sup> If the institution is a school, a geographic preference (described in Step 2(E): First Meeting Discussion Guide) may be included in the description of the basis for the contract award, though the contract must then include a definition of “local” as well as information about the size of the preference.<sup>48</sup>

An institution that uses informal bidding can contact growers over the phone to obtain price quotes. The only other restriction is that there can be no conflict of interest for employees, officers, or agents of the institution. For example, awarding a contract to the school principal or a teacher would not be allowed because of the conflict of interest.

- b. **Formal Bidding Process:** Public institutions must use a formal bidding process if the contract will be **above the small purchase threshold of \$150,000**. As discussed above in Step 2(E): First Meeting Discussion Guide, the USDA clearly states that public K-12 schools may apply a geographic preference that is more beneficial to local growers. Private institutions, furthermore, can choose to apply a geographic preference as they see fit. No matter the institution, you should encourage the purchaser to apply a geographic preference in the bid process to increase the chance that a local grower such as yourself will win the contract. Remember, however, that a geographic preference does not guarantee a

---

<sup>44</sup> E-mail from Kirk Farquharson, Senior Program Specialist at U.S. Dep’t of Agric. Food and Nutrition Serv. (Sept. 18, 2012) (on file with authors).

<sup>45</sup> Mississippi has a small purchase threshold of \$50,000, but food and perishable supplies coming in to the school cafeteria are exempt from state purchasing guidelines. Ammerman, *supra* note 38.

<sup>46</sup> CYNTHIA LONG, U.S. DEP’T OF AGRIC., FOOD AND NUTRITION SERVICE, PROCUREMENT GEOGRAPHIC PREFERENCE Q&As (Feb. 1, 2011), available at [http://www.fns.usda.gov/cnd/Governance/Policy-Memos/2011/SP18-2011\\_os.pdf](http://www.fns.usda.gov/cnd/Governance/Policy-Memos/2011/SP18-2011_os.pdf); Memorandum from Gary C. May, Director at Miss. Dep’t of Educ. Off. of Child Nutrition to School Food Authorities (July 22, 2009), available at <http://www.cn.mde.k12.ms.us/resources/forms/NSLP/ProcurementPlan.pdf>; Farquharson, *supra* note 44.

<sup>47</sup> Farquharson, *supra* note 44.

<sup>48</sup> Geographic Preference Option for the Procurement of Unprocessed Agricultural Products in Child Nutrition Programs, 76 Fed. Reg. 22,603 (Apr. 22, 2011).

local grower will get the contract, but rather it allows local growers to have an advantage in the bid evaluation process.

## D. Completing a Bid Document

An institution using the formal bidding process might give you a form for submitting your bid. Otherwise, consider using the Sample Product and Pricing Form in Appendix 3 to complete your bid. Keep in mind that you will be held to the information you include and that, if accepted, you will be responsible for providing the listed amount of your product and accepting the price you have offered. Even if you are fairly certain of the amount of your products you can provide, you may want to put a lower number on your bid to protect yourself in case some unexpected event occurs, like a drought or flood.

When completing the bid document, you should include information about price, product count, packaging, and minimum delivery for each product requested by the institution.<sup>49</sup> You should also include responses to any specific information requested by the institution, as you cannot win the bid if you do not completely answer the questions and specifications it requires. Some bid documents may also require that you include a quality grade (such as US No. 1) for your products. Quality grade standards, which are set by the USDA's Agricultural Marketing Service (AMS), are intended in part to help growers "communicate quality and wholesomeness to consumers," but their use is entirely voluntary.<sup>50</sup> AMS charges to inspect products, which may make obtaining a quality grade cost-prohibitive for small growers.<sup>51</sup> If the institution requires a specific quality grade, you can suggest alternative means by which you can assure the purchaser of quality and wholesomeness, such as a visit to the farm and/or a taste test.

## E. Sending an Invoice

After you win the bid, you will have to send an invoice in order to be paid. You can send this either with the delivery or afterwards. Although you have already agreed on the terms of the agreement, the invoice will indicate that payment is due. The invoice should include the date of delivery, contact information for both your farm and the institution, a brief description of the delivery, a description of the item(s), price, delivery charge (if any), as well as when payment is due and how payment should be made.<sup>52</sup> You should also consider including a personal message thanking the institution for their business. The Sample Invoice in Appendix 4 provides an example of how you can develop your invoice.

## STEP 4: ENSURING SUCCESS

*To start and maintain a commercial relationship with an institution, it can be helpful to engage the larger community by highlighting your institutional sales, asking for support, and getting everyone excited about fresh, local produce from Mississippi farms. If you are interested in expanding your sales to larger orders and other institutions, it is also important*

---

<sup>49</sup> MICH. FARM TO SCHOOL, MARKETING MICHIGAN PRODUCTS: A STEP-BY-STEP GUIDE, STEP III: PREPARE MARKETING PACKET AND BID DOCUMENTS, available at [http://www.mifarmtoschool.msu.edu/assets/farmToSchool/docs/Marketing\\_STEP3\\_Sample\\_product\\_availability\\_and\\_pricing\\_sheet.pdf](http://www.mifarmtoschool.msu.edu/assets/farmToSchool/docs/Marketing_STEP3_Sample_product_availability_and_pricing_sheet.pdf) (last visited Apr. 24, 2013).

<sup>50</sup> *Grading, Certification and Verification*, AGRIC. MKTG. SERV. (last updated Jan. 14, 2013), <http://www.ams.usda.gov/AMSV1.0/GradingCertificationandVerification>.

<sup>51</sup> Patrick Byers, Regional Horticulture Specialist, Univ. of Missouri Extension, Presentation: Packaging and Handling of Fresh Produce, available at <http://mofarmtoschool.missouri.edu/files/packing.pdf> (last visited Nov. 22, 2013); see *Fresh Product Inspection Service*, AGRIC. MKTG. SERV. (last updated Aug. 29, 2012), <http://www.ams.usda.gov/AMSV1.0/freshinspection>.

<sup>52</sup> See MICH. FARM TO SCHOOL, *supra* note 49, at app. III.



*that you get feedback from the institution to measure your success. This section includes ideas for further promoting yourself in the community and tracking your success.*

## **A. Continue Promoting Your Farm to the Community**

Once you have started making sales to an institution, spreading the word in your community can have many important benefits. Getting more community members interested in local agriculture can not only increase the economic market for local growers by increasing the number of potential buyers, but can also increase awareness about the health benefits of fresh foods. Here are some ways to get the word out about your farm to institution program:

### **1. Reach out to local media outlets:**

Contact newspapers and radio stations and invite them to write a story on local food purchases by local institutions. Newspapers around the country are covering farm to school and farm to institution programs. Newspapers, magazines, church newsletters, and radio advertisements can also reach additional potential institutional purchasers who have not heard about the benefits and possibility of purchasing from local growers, and may be interested in doing so.

### **2. Make your farm available for visits:**

Opening your farm to visits by school or college groups, as well as the general public, can help more people learn and get excited about local agriculture and decide to buy locally. Consider developing a program or plan for visiting groups, and discussing with groups if they have specific interest areas or any concerns with safety. Possible activities you can offer on your farm include farming demonstrations, farm and garden chores, campfires, and nature walks; for children, consider offering wagon rides, storytelling, seasonal activities like pumpkin carving or egg dyeing, and viewing farm animals.<sup>53</sup>

In 2012, the Mississippi legislature passed a law limiting the liability of growers for injury or death of visitors coming to farms for enjoyment, education, or participation in activities including farming, ranching, or historic, cultural, or natural attractions.<sup>54</sup> In order to limit liability, you must register with the Mississippi Department of Agriculture and Commerce (MDAC) yearly and pay an annual fee of \$50.<sup>55</sup> Furthermore, you must post clearly visible warning signs at the entrance to your farm as well as at the sites of any activities.<sup>56</sup> It is also important to know that although liability is limited, you can still be held responsible for injuries to guests caused by dangerous conditions that you reasonably should have known about, and in other limited situations.<sup>57</sup>

This liability protection makes farm visits, or “agritourism,” a great way for you to get the community excited about local food and agriculture.

- Visit MDAC’s website to learn more about the requirements and if you are eligible to register as an agritourism farm. The application is also available here: <http://www.mdac.state.ms.us/programs/agritourism/agritourism-guidelines.htm>. You can also call the MDAC Agritourism Office at (601) 359-1118.

---

<sup>53</sup> APPALACHIAN SUSTAINABLE AGRIC. PROJECT, GUIDE TO FARM FIELD TRIPS FOR FARMERS AND TEACHERS (Feb. 2006), available at [http://njsustainingfarms.rutgers.edu/Agritourismwp/\\_pdf/Children\\_Farm\\_Field-Trips\\_Farmer-Teacher\\_Guide\\_NC.pdf](http://njsustainingfarms.rutgers.edu/Agritourismwp/_pdf/Children_Farm_Field-Trips_Farmer-Teacher_Guide_NC.pdf).

<sup>54</sup> MISS. CODE R. § 02-001-213 (LexisNexis 2012).

<sup>55</sup> MISS. CODE. ANN. § 69-53-7 (West 2012).

<sup>56</sup> MISS. CODE. ANN. § 69-53-5 (West 2012).

<sup>57</sup> MISS. CODE. ANN. § 69-53-3 (West 2012).



If you are going to start significant agritourism activities, you can also consider obtaining premises liability insurance, discussed above in Step 2(C): Liability Insurance, to further protect your farm.

### **3. Offer taste tests of your products, give presentations at community events and institutions, and help at your local school or community garden:**

Taste tests are a great way to highlight your products and promote your farm to the public, and can be held at farmers markets, cultural festivals, sporting events, or other community events. You can choose to offer samples of the main product you grow or, if you grow more than one crop, you can offer a variety of samples for the public to try. Select products that have an attractive appearance and are ripe and fresh-tasting (remember that you are trying to get people to buy your products in the future!), and be sure that your samples are small enough that they can be eaten in one or two bites. If your product typically requires refrigeration, bring ice to keep the product cool prior to tasting. Consider designing a display of your food to accompany the samples and, if available, using a special platter or tray to hold the samples.

Another way to get people excited about your products is to hold presentations to educate the public about various aspects of local agriculture, including how their food is actually grown, the health benefits of eating fresh produce, and the day-to-day life of a grower on a small or mid-sized farm. If you currently sell to a school, university, or college, consider offering such presentations there as a bonus to your existing commercial relationship. You can also consider giving presentations at farmers markets, cultural festivals, and community events, or reaching out to schools, universities, or colleges with which you do not have an existing commercial relationship to see if you can give presentations there.

Lastly, assisting a local school or community garden with planning, planting, or harvesting is a great way to promote your farm to the public and build your farm's reputation in the community. Consider informally talking with others working at the garden about the importance of community support in creating a strong local agricultural system. Like the other outreach activities noted above, spending time helping a community garden can help get people of all ages interested in local farming and local foods.

## **B. Track Your Progress and Success**

Getting feedback from institutions is essential to measuring the success of your commercial relationship, maintaining the institution as a customer, and attracting new customers. Is the institution satisfied with your products? Do they have concerns with quality or pricing? Is the delivery system for your produce convenient and does the produce arrive in a usable form for the food service workers?

Depending on how much feedback you would like, you may want to consider asking the institution to answer questions through a written survey. Otherwise, connect with the institution either by phone or in person. If the feedback is positive, you may want to ask the purchaser whether there are other products they would like to see, so that you can expand your relationship in the future.

## **STEP 5: FREQUENTLY ASKED QUESTIONS**

### **1. How Does the Farm Bill Affect Farm to Institution in Mississippi?**

The United States Farm Bill is amended every five to seven years and is meant to address issues related to agriculture, environmental conservation, rural communities, and public health nutrition. The 2008 Farm

Bill directed the USDA to develop rules that encourage schools (since they make use of federal funds) to “purchase unprocessed locally grown and locally raised agricultural products.”<sup>58</sup> In 2011, the USDA responded with a regulation clarifying that schools are allowed to apply a geographic preference when ordering “local” unprocessed agricultural goods.<sup>59</sup> Under this rule, schools can include statements in their formal bids such as: “We will preference produce that has traveled less than 100 miles or 5 hours;” “We will preference produce picked within one day of delivery;” or “We will preference produce harvested within 12 hours of delivery.”<sup>60</sup> Growers, therefore, can encourage schools to include such statements in their procurement process.<sup>61</sup> For more information on encouraging a school to implement a geographic preference, see Step 3(C): How the Bid Process Works.

Additionally, the 2008 Farm Bill established the USDA Fresh Fruit and Vegetable Program, which provides free fresh fruits and vegetables to certain elementary schools (determined in Mississippi by the Department of Education) where at least 50 percent of students are eligible for free or reduced price meals.<sup>62</sup> This financial assistance comes in the form of grant funding, giving schools between \$50 and \$75 per student.<sup>63</sup> The Farm Bill also created a number of grant opportunities that schools, organizations, and farmers can use to promote and facilitate farm to school programs.<sup>64</sup> These include the Community Foods Projects grant program, which aims to strengthen local economies and address low-income communities’ challenges to accessing healthy foods; the Specialty Crop Block Grant Program, which is routed through state departments of agriculture and aims to increase sales for farmers growing and selling fruits and vegetables; and the Farm to School Grant Program, which awards grant funding to growers and local schools working to start, maintain and enhance farm to school programs.<sup>65</sup>

While parts of the 2008 Farm Bill were set to expire on September 30, 2012, the American Taxpayer Relief Act of 2012 extended those provisions for an additional year, through September 30, 2013.<sup>66</sup> However, as of this publication, a new Farm Bill still had not been passed.

## 2. What Are the Mississippi Laws and Regulations that Apply to Farm to Institution?

Most of the laws and regulations related to farm to institution in Mississippi are specifically related to farm to school programs. In May 2012, the Mississippi State Legislature passed a resolution designating the first full week in October as the official statewide Mississippi Farm to School Week.<sup>67</sup> The establishment of Mississippi Farm to School Week shows that the Mississippi State Legislature recognizes the importance of farm to school for communities around the state. In March 2013, the Mississippi State Legislature passed a

---

<sup>58</sup> 7 C.F.R. §210, 215, 220, 225, 226 (2011).

<sup>59</sup> Geographic Preference Option for the Procurement of Unprocessed Agricultural Products in Child Nutrition Programs, 76 Fed. Reg. 22,603 (Apr. 22, 2011); 42 U.S.C.A § 1758(j) (2012).

<sup>60</sup> *Id.*

<sup>61</sup> Ona Balkus & Emily Broad Leib, *Farm to School in Mississippi: A Step-by-Step Guide To Purchasing Mississippi Products*, HARV. LAW SCH. HEALTH LAW AND POL’Y CLINIC & HARV. LAW SCH. MISS. DELTA PROJECT 26-27 (Fall 2012), available at <http://blogs.law.harvard.edu/foodpolicyinitiative/files/2011/09/MSPurchasingGuide-9-28-final.pdf>.

<sup>62</sup> *USDA Fruit and Vegetable Program*, U.S. DEP’T OF AGRIC. ECON. RESEARCH SERV., <http://www.ers.usda.gov/topics/food-nutrition-assistance/child-nutrition-programs/usda-fruit-and-vegetable-program.aspx> (last visited Feb. 27, 2013).

<sup>63</sup> 42 U.S.C.A. § 1769a (West).

<sup>64</sup> *Farm Bill Programs and Grants*, NA T’L SUSTAINABLE AGRIC. COALITION, <http://sustainableagriculture.net/publications/grassrootsguide/farm-bill-programs-and-grants/> (last visited Feb. 27, 2013).

<sup>65</sup> *Id.*

<sup>66</sup> Jim Monke, et al., *R42442, Expiration and Extension of the 2008 Farm Bill*, CONG. RESEARCH SERV. 1 (2013), available at <http://nationalaglawcenter.org/assets/crs/R42442.pdf>.

<sup>67</sup> H.R. Con. Res. 112, 2012 Leg., Reg. Sess. (Miss. 2012).

bill to further encourage and support farm to school in Mississippi, by establishing the Interagency Farm to School Council.<sup>68</sup> The council's goals include promoting both the economic development of farmers and the use of healthy, fresh foods in schools.<sup>69</sup> You should consider meeting the council members to discuss any specific concerns and/or ways the council could make it easier for you to participate in farm to school programs.<sup>70</sup>

Mississippi has set no limits on farm to school programs. Schools can choose to serve locally grown produce as a side dish, snack, or incorporated into other dishes made with any products from the statewide purchasing cooperative, distributor, or other local farmers. Examples of menu items incorporating locally grown produce include pasta sauces, chili, salad bars, and soups. Beyond complying with federal and state nutrition standards, schools are not constrained by any Mississippi law from creating a farm to school program. In fact, the 2012 legislative resolution encourages them to start these programs, and the new Interagency Farm to School Council aims to help them succeed. Other institutions are also generally not constrained by any federal or state law from purchasing local products.

In terms of food safety, there are no state requirements for growers selling directly to schools or other institutions. There are certain programs for which the state of Mississippi requires GAP/GHP certification or certification from another third-party auditing system to participate in the MDE statewide purchasing cooperative or the Department of Defense (DoD) Fresh Program.

It is important to keep in mind that growers may soon be subject to the federal produce safety rules issued under the Food Safety and Modernization Act, and facilities (those that manufacture, process, pack, or hold food) will be subject to the federal preventive control standards. Step 2(B): Food Safety Standards provides more information about these federal food safety rules; if one or both will apply to you, then it is important to pay attention as these rules become finalized.

### **3. Is Good Agricultural Practices/Good Handling Practices (GAP/GHP) Certification Required to Sell to an Institution?**

There is no requirement that institutions purchase food from growers that have attained the voluntary GAP/GHP certification. If the institution would like to ensure that you are practicing safe growing practices, there are several effective methods you can suggest they use. For example, the Iowa State Extension Service has developed a Food Safety Checklist (provided in Appendix 2: Iowa Food Safety Checklist) that you can complete and review with the institutional purchaser. Using this checklist enables them to show that they were diligent in ensuring that your food is produced safely.

You can also invite the institutional purchaser to your farm, either alone or with the help of a representative from the local Cooperative Extension Service. A farm visit will allow the purchaser to see your growing practices firsthand and feel confident about how the food is grown, and can help you develop a positive relationship with the purchaser.

---

<sup>68</sup> H.B. 718, 128th Leg., Reg. Sess. (Miss. 2013).

<sup>69</sup> *Id.*

<sup>70</sup> To learn who serves on the Interagency Farm to School Council, please contact Paige Manning, Director of Marketing and Public Relations at MDAC, at [Paige@mdac.ms.gov](mailto:Paige@mdac.ms.gov).

#### 4. Is Liability Insurance Required to Sell to an Institution?

There are no state or federal requirements that growers selling to institutions must obtain liability insurance. In most states, including Mississippi, it is the choice of the institution whether to require liability insurance when purchasing from growers.<sup>71</sup> Nevertheless, as you start to sell in larger quantities and/or allow visitors to your farm, you may want to consider obtaining liability insurance to protect you in the case of a lawsuit. To learn more about liability insurance options and how to discuss insurance with an institution, read Step 2(C): Liability Insurance.

#### 5. How Can A Small or Mid-Sized Farm Enter the Market and Compete for Institutional Customers?

You have likely heard before—and read in this report—that there are challenges for small farmers entering the commercial market. For example, some purchasers such as MDE require that farmers complete the costly GAP/GHP food safety certification process. In addition, many institutional purchasers that usually interact with large commercial food distributors might have expectations about delivery and food preparation that are hard for small farmers to meet.

However, the purpose of this guide is to help small farmers through the process of starting to sell to institutions, a realistic and achievable goal. Step 1: Assessing Your Farm and Preparing to Sell to Institutions will help you answer important questions about your farm that institutions might ask and that will help you decide what type of institution would make a good partner for your farm. Step 2(E): First Meeting Discussion Guide will help you have a productive first meeting with a purchaser where you both walk away from the meeting with clear expectations about how your produce will be harvested, packaged and delivered. Even if you are charging slightly more than your competitors because your costs are higher, the box on page 14 will help you explain the option of “geographic preference” to institutions, which will make you more competitive in the bid process. Steps 3(C): How the Bid Process Works and 3(D): Completing a Bid Document will walk you through the process that many public and private institutions will use when choosing food sellers.

Throughout this process, you should see yourself as a spokesperson for locally grown food. Institutions purchasing your food should be proud that they are making an investment in their local economy, in the environment, and in the health of those they are serving. Your food will likely be of higher quality, fresher, and less processed than the produce they currently use, which is frequently shipped from far away, canned with unhealthy additives, and harvested weeks or months ago. The benefits to both the institution and you are ample reasons to overcome the challenges and develop a strong, successful farm to institution relationship.

---

<sup>71</sup> Markley, *supra* note 29.

# APPENDICES

## APPENDIX 1: SAMPLE BUDGET

The form below, adapted from the Alabama Cooperative Extension System's Alabama Enterprise Budget Summaries, is a sample budget form to help you determine what price to ask for your products.<sup>72</sup>

### Sample Budget

ITEM	UNIT	PRICE	QUANTITY	AMOUNT
		dollars		dollars
<b>DIRECT EXPENSES</b>				
FERTILIZER	acre	5.00	1	5.00
HERBICIDE	acre	60.00	1	60.00
SEED/PLANTS	acre	20.00	1	20.00
HAND LABOR	hour	9.00	4	36.00
IRRIGATION LABOR	hour	9.00	11	99.00
OPERATOR LABOR	hour	10.50	5	52.50
UNALLOCATED LABOR	hour	10.50	1	10.50
DIESEL FUEL	gal	2.50	10	25.00
GASOLINE	gal	3.00	1	3.00
REPAIR AND MAINTENANCE	acre	14.00	1	14.00
INTEREST ON OPERATING CAPITAL <sup>73</sup>	acre	13.00	1	13.00
				-----
TOTAL DIRECT EXPENSES				338.00
TOTAL FIXED EXPENSES (rent, property tax, machinery expenses)				1450.00
				-----
TOTAL SPECIFIED EXPENSES				1788.00

Once you have added up your costs, divide the total by the amount of yield you will be able to sell to get cost per unit. If growing more than one product, calculate production costs separately for each product.<sup>74</sup> After you have determined cost of production per unit, you will have to set a price above this amount to earn a profit; to get a sense of what price may be appropriate to charge an institution, you may want to talk to growers who sell the same product wholesale. You may want to offer purchasers a discount if they buy a certain number of units, but it is important not let the price per unit drop below the cost of production per unit. You could also offer a discount at production cost for the first sale, as long as you are clear with the institution that you are giving them a one-time bargain, so they will not be surprised when prices on later sales are higher.

<sup>72</sup> See ALA. COOP. EXTENSION SYS., ALABAMA ENTERPRISE BUDGET SUMMARIES, tbl.17.A (2008), available at <http://www.aces.edu/agriculture/business-management/budgets/2008/Fruit/blueberryms.pdf>.

<sup>73</sup> "Interest on operating capital" is the cost of using your money to produce your crops, rather than leaving it in the bank or investing it elsewhere, where that money could be gaining interest. Interest on operating capital is calculated using the current interest rate (if unsure, you can assume an annual interest charge of 15 percent or 1.25 percent per month). To calculate interest charge on operating costs, multiply: (Total cash operating expense for the month) x (The number of months the capital is used (between investment and harvest/sale) x (Current interest rate). UNIV. OF CALI. COOPERATIVE EXTENSION, UC SMALL FARM PROGRAM, [http://sfp.ucdavis.edu/pubs/Family\\_Farm\\_Series/Farmmanage/prodcost](http://sfp.ucdavis.edu/pubs/Family_Farm_Series/Farmmanage/prodcost) (last visited Nov. 21, 2013).

<sup>74</sup> ALA. COOP. EXTENSION SYS., *supra* note 72. See Appendix 1 for a sample budget estimating costs per acre.

## **APPENDIX 2: IOWA FOOD SAFETY CHECKLIST**

*Iowa State University Extension and Outreach developed a checklist for growers to review with institutions to demonstrate they are practicing safe growing practices. This checklist is available at <http://www.extension.iastate.edu/Publications/PM2046A.pdf> and below.*

**(Please see the following page for the Iowa food safety checklist)**

# ~ NORTHERN IOWA *food & farm* PARTNERSHIP ~

## Checklist for Farms Selling Produce to Local K-12 Schools

Name: \_\_\_\_\_ Farm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Preferred method of communication? \_\_\_\_\_

Expected vegetables/fruit/herbs for sale: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

Is the facility licensed and inspected to sell products?      YES                  NO                  N/A

Would you be interested in hosting a field trip on your farm?    YES                  NO

Based on the "Checklist for Retail Purchasing of Local Produce" by Iowa State University Extension, the following checklist is meant to facilitate communication between farmers and school food service directors (FSDs), and give FSDs background knowledge on the farms they may be purchasing from. Checking "no" on a given question does not penalize you, and will not necessarily prohibit you from selling to schools. This is the start of the conversation, giving FSDs a jumping off place from which to ask questions and learn more about your farm. **If you prefer to fill this form out on the computer, please email Andrea Rissing at [andrea.rissing@uni.edu](mailto:andrea.rissing@uni.edu) to obtain a .doc form.**

<b>Production Practices</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Are regular water tests conducted?			
Is raw manure incorporated at least 2 weeks prior to planting and/or 120 days prior to harvest?			
Is the manure application schedule documented with a copy submitted to the retail operation?			
Is the field exposed to runoff from animal confinement or grazing areas?			
Is land that is frequently flooded used to grow field crops?			
Is there a plan in place to keep wild animals and livestock out of the growing area(s)?			
If irrigation is used, what is its source? <input type="checkbox"/> Well <input type="checkbox"/> Stream <input type="checkbox"/> Pond <input type="checkbox"/> Municipal    Other: _____			
What types of manure are used? <input type="checkbox"/> Raw manure <input type="checkbox"/> Composted <input type="checkbox"/> Aged			

<b>Product Handling</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Are storage and packaging facilities separated from growing areas?			
Is there a risk of contamination with manure?			
Are harvesting baskets, totes, or other containers kept covered and cleaned/sanitized before use, and stored in areas protected from pets, livestock, wild animals, and other contaminants?			
Is harvesting equipment/machinery that comes in contact with products kept as clean as possible?			
Are both food and non-food containers available and clearly marked?			
Is dirt, mud, and other debris removed from product before packaging?			

<b>Transportation</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Is product loaded and stored to minimize physical damage and risk of contamination?			
Is transport vehicle well maintained and clean?			
Are there designated areas in the transport vehicle for both food and non-food products?			

Are products kept at appropriate temperature during transport?			
<b>Facilities</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Is potable water/well tested at least once per year and results kept on file?			
Is product protected as it travels from field to packing facility?			
Are packing areas kept enclosed?			
Are surfaces that come in contact with food regularly washed, rinsed with potable water, and sanitized?			
Are appropriate packaging materials used?			
Do workers have access to toilets and hand washing stations with proper supplies?			
Are toilets and hand washing stations regularly serviced?			

<b>Worker health and hygiene</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Are workers trained about hygiene practices and sanitation?			
Are workers and visitors following good hygiene and sanitation practices?			
Are smoking and eating confined to designated areas separate from product handling?			
Are workers instructed not to work if they exhibit signs of infection (ie, fever, diarrhea, etc.)?			
Do workers practice good hygiene by:			
wearing clean clothing and shoes as appropriate for conditions?			
changing aprons and gloves as needed?			
washing hands as required?			
covering open wounds with clean bandages?			

<b>Other</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
Are pesticides used? If yes, please elaborate:			
Are herbicides used? If yes, please elaborate:			
Other notes/comments/explanations:			

I confirm that the information provided above is accurate to the best of my knowledge.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please contact Andrea Rissing at [andrea.rissing@uni.edu](mailto:andrea.rissing@uni.edu) or 319-273-7883 with any questions. Mail completed forms to:

Northern Iowa Food & Farm Partnership

UNI-CEEE

Cedar Falls, IA 50614



## APPENDIX 3: SAMPLE PRODUCT AND PRICING FORM

The form below, adapted from the Michigan Farm to School Guide, is a sample product and pricing form to show what crops you currently grow and/or would be able to grow to sell to an institution.<sup>75</sup>

This form has space to include information on the variety of food items you grow, as well as price, packaging, availability, and minimum amount for delivery. You can fill out this form, or some version of it, and include it in your marketing packet; the form is similar to one institutions may use in the bidding process and can be a helpful way to provide information upfront about what kind of products you offer and at what price. Also consider indicating on the form if you are open to negotiation or to offering lower prices for bulk purchases or first time purchases.

### Sample Product and Pricing Form

Product	Count	Variety	Quality	Packaged	Condition/Description	Price	Projected Quantity	Minimum Delivery	Months Available
[Example: Potatoes]		[Russet or Round White]	[US No. 1]		[Firm and smooth, free of soft or dark spots, might contain minor cut surfaces. Loose dirt might remain and should be washed off.]			At least 30 lbs. must be ordered and delivered at one time to make up for driving costs.	[November through January]
[Example: Collard greens]					Bright green, wide flat leaves, crunchy stems. Might contain small holes on some leaves. Will be washed thoroughly.				[March through May]

<sup>75</sup> MICH. FARM TO SCHOOL, *supra* note 49; *see also* Rosenberg and Broad Leib, *supra* note 8, at 2-3.

## APPENDIX 4: SAMPLE INVOICE

*The form below is a sample invoice to show what crops you have delivered to an institution, when payment is due, and in what form you expect to receive payment.*

### INVOICE

Invoice #00-0001  
Date: 07/01/2013

**Smith's Farm**  
Clarksdale, MS 38614  
(662) 555-5555  
smith@smithsfarm.com

TO:  
Clarksdale Hospital  
101 Main St.  
Clarksdale, MS 38614  
(662) 444-4444

FOR:  
June 2013 Produce Delivery

Item Description	Price
Russet Potatoes, 10lb.	\$ 10.00
Delivery Charge, if applicable	\$ 5.00
<b>TOTAL</b>	\$ 15.00

**Payment Due: 06/ 15/ 2013**

**Forms of Payment Accepted: cash or money order mailed to Smith's Farm at the address above**

## APPENDIX 5: OTHER USEFUL FARM TO INSTITUTION GUIDES

- a) **Harvard Law School:** *Farm to School in Mississippi: A Step-by-Step Guide to Purchasing Mississippi Products* provides a step-by-step guide for schools looking to start farm to school programs, and can be a helpful resource for any schools you may work with that are looking for information from their perspective.  
<http://blogs.law.harvard.edu/foodpolicyinitiative/files/2011/09/MSPurchasingGuide-9-28-final.pdf>
- b) **Live Well Colorado:** *Colorado Farm to School Primer: Healthy Community Food Systems* gives a snapshot of the school food environment in Colorado and describes farm to school efforts.  
<http://movement.livewellcolorado.org/uploads/files/CO-FtoS-Primer.pdf>
- c) **The Florida Department of Agriculture and Consumer Services:** *Florida Farm to School: Shortening the Distance Implementation Handbook* provides guidance for school food service directors and farmers interested in participating in farm to school programs. [http://www.Florida-Agriculture.com/business/fooddist/farmschool/pdf/farmtoschool\\_implementation.pdf](http://www.Florida-Agriculture.com/business/fooddist/farmschool/pdf/farmtoschool_implementation.pdf)
- d) **Michigan State University:** *Marketing Michigan Products: A Step-by-Step Guide* provides a step-by-step guide for farmers looking to participate in farm to school programs in Michigan schools and includes a self-assessment and school food service questionnaire.  
[http://www.mifarmtoschool.msu.edu/assets/farmToSchool/docs/MIFTS\\_Marketing\\_Guide.pdf](http://www.mifarmtoschool.msu.edu/assets/farmToSchool/docs/MIFTS_Marketing_Guide.pdf)
- e) **The Oklahoma Department of Agriculture, Food and Forestry:** *Farm to School: Tips, Tools, and Guidelines for Food Distribution and Food Safety* provides resources for schools and farmers in Oklahoma as they develop commercial relationships with each other, as well as about how schools can purchase locally grown foods in Oklahoma and ensure that food has been grown safely.  
<http://www.okfarmtoschool.com/resources/fts-distro-foodsafetymanual/index.htm>
- f) **The Washington State Department of Agriculture:** *Farm-to-Cafeteria Connections: Marketing Opportunities for Small Farmers in Washington State* describes national and state laws related to farm to school, tells about successful farm to school programs, and offers guidance for farmers, food service directors, and others interested in starting farm to school programs.  
<http://www.agr.wa.gov/marketing/farmtoschool/docs/102-FarmToCafeteriaConnections-Web.pdf>