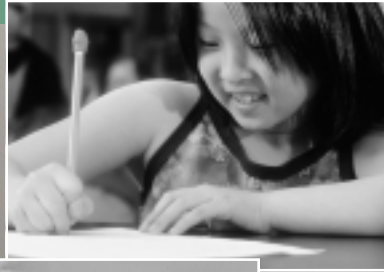
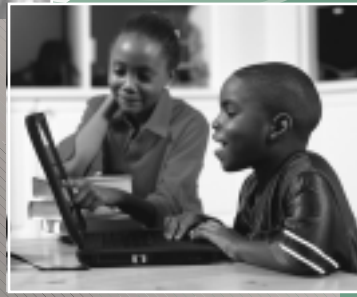


*A Report to the
77th Texas Legislature*



$2 + 1 =$
 $2 + 2 =$
 $2 + 7 =$



*from the
Texas Education Agency*

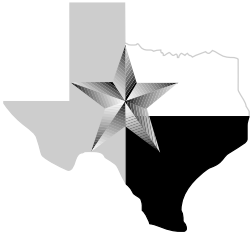
Report on the Analysis of Agricultural Products Purchased,
1999-2000

Report on the
Analysis of
Agricultural
Products
Purchased,
1999-2000

*A Proposal to the
77th Texas Legislature
from the
Texas Education Agency
December 31, 2000*

*Submitted to the Governor,
Lieutenant Governor,
Speaker of the
House of Representatives,
and the members of the
Seventy-Seventh
Texas Legislature*

This Texas Education Agency publication is not copyrighted. Any or all sections may be duplicated.



TEXAS EDUCATION AGENCY

1701 North Congress Ave. ★ Austin, Texas 78701-1494 ★ 512/463-9734 ★ FAX: 512/463-9838 ★ <http://www.tea.state.tx.us>

Jim Nelson

Commissioner of Education

December 1, 2000

The Honorable George W. Bush, Governor of Texas
The Honorable Rick Perry, Lieutenant Governor of Texas
The Honorable Pete Laney, Speaker of the House
Members of the Texas Legislature

The Report on the Analysis of Agricultural Products Purchased, 1999-2000 contains the analysis required by Texas Education Code, Section 44.042 (d). Texas Education Code, Section 44.042, Preference to Texas and United States Products, requires that school districts give preference to agricultural products produced, processed, or grown in Texas and the United States if quality and price are equal. As required by HB 1016, this report will be posted at the agency's web site under <http://www.tea.state.tx.us/reports/>. A copy of the report can be printed directly from the web or a paper copy can be obtained from the Texas Education Agency Governmental Relations Office.

This report analyzes survey data to determine purchasing preferences from two types of entities that purchase agricultural products: school districts and Education Service Center (ESC) purchasing cooperatives. The data that were generated in this analysis represented 645 of the 1042 Texas school districts as reported in the *Snapshot 99* publication.

If you require additional information, please contact Dr. Ron Bradford, Director of Field Services, at (512) 463-9354.

Respectfully submitted,

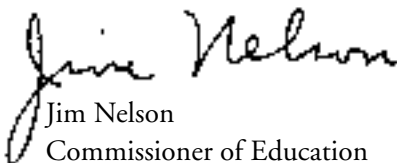

Jim Nelson
Commissioner of Education

Table of Contents

REPORT ON THE ANALYSIS OF AGRICULTURAL PRODUCTS PURCHASED, 1999-2000

Introduction	1
Section I: Purchasing Specifications	3
Section II: Purchasing	5

APPENDIX

Excerpt from TASB School Board Policy CH (LEGAL)	11
Texas Education Code §44.042	13

CHARTS AND GRAPHS

Numbers of Agricultural Product Purchasing Entities	1
District/Cooperatives with Purchasing Specifications that Give Texas Agricultural/Landscaping Products Preference	3
Estimated Percent of Purchases of Texas Agricultural Food Products by Districts/Cooperatives	5
Estimated Percent of Purchases of Non-Texas (USA) Agricultural Food Products by Districts/Cooperatives	6
Estimated Percent of Purchases of Texas Landscaping Products by Districts/Cooperatives	7

Introduction

The following report is prepared by the Texas Education Agency in response to Section 44.042 of the Texas Education Code (TEC), *Preference to Texas and United States Products*. Section 44.042 (d) requires the agency to determine the effectiveness of this section and to report the effectiveness of this section to appropriate state officers.

This report analyzes survey data to determine purchasing preferences from two types of entities that purchase agricultural products: school districts, and Education Service Center (ESC) purchasing cooperatives that represent multiple school districts. The two purchasing entities were divided into groups of districts. These groups were defined by the “community types” found in the summary tables of the Texas Education Agency’s *Snapshot 99* publication. The first group included districts from the “major urban/major suburban” categories. The second group represented districts from the “other central city” category. The third group represented districts from the “rural” category. The fourth group represented the eleven ESC purchasing cooperatives that function in the state. Several of these cooperatives operate on a multi-region basis. None of the districts represented in the survey in groups 1 through 3 responded that the district was a participant in a regional purchasing cooperative.

The following table is a summary of the types and the number of entities that purchase agricultural products related to TEC §44.042 and responded to the survey.

Numbers of Agricultural Product Purchasing Entities	
Major Urban/Major Suburban	10
Other Central City	5
Rural	12
ESC Purchasing Cooperative	618

The total number of school districts in the state, as reported in the *Snapshot 99* publication, is 1042. Thus, 645, or more than half of the districts, responded to the survey.

This report contains the two sections identified below.

Section I: Purchasing Specifications

A comparison of the responses of school districts grouped by community types and ESC purchasing cooperatives related to the development of agricultural product purchasing specifications that give Texas products preference to the extent required by Section 44.042 (d) of the Education Code; and

Section II: Purchasing

A summary of responses to questions related to purchases of Texas produced agricultural food products, to purchases of agricultural products produced in states outside of Texas, and to Texas-grown landscaping products by the reporting entities.

This report provides summary information with analysis, as specified in statute. The detailed information upon which the summary reports were prepared is available from the Texas Education Agency upon request.

Agency Contact Person

For information related to the summary and analysis presented in this report, please contact Dr. Ron Bradford, Director, Field Services, (512) 463-9354.

Section I: Purchasing Specifications

Section 44.042 of the Texas Education Code requires school districts that purchase agricultural products to give preference to those products produced, processed, or grown in Texas if the cost to the school districts is equal and the quality is equal. The statute requires that similar preference be given in the purchase of agricultural products produced, processed, or grown in the other states over those from foreign countries. Finally, the statute requires that school districts that purchase agricultural landscaping products to give preference to those products produced, processed, or grown in Texas if the cost to the school districts is equal and the quality is equal.

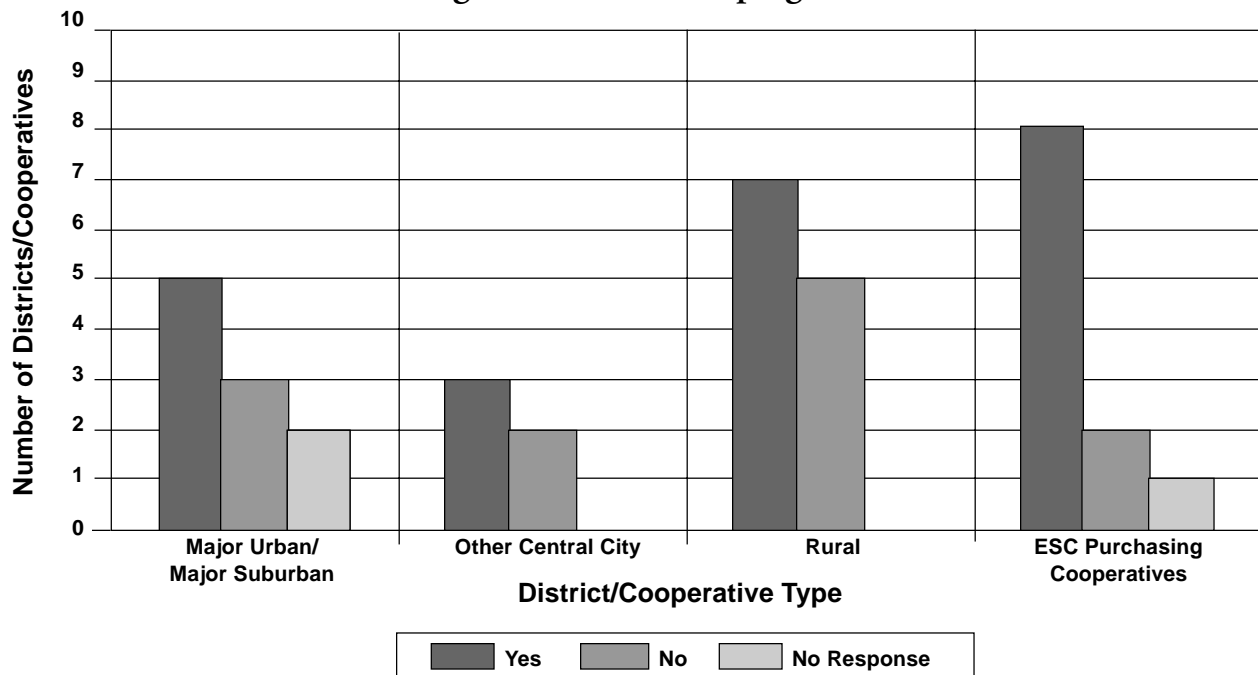
Texas Association of School Boards (TASB) school board policy CH (Legal) (see appendix) includes language that contains the elements of Section 44.042 requirements. This policy is in place in approximately 98% of Texas school districts.

Section 44.042 (d) requires the Texas Education Agency to conduct an analysis of the effectiveness of the statute. Two specific entities that purchase agricultural products, school districts and ESC purchasing cooperatives, were asked to respond to the following question:

“Does your district/coop develop purchasing specifications that give Texas agricultural/landscaping products preference over those produced in other states or countries to the extent required by state law [Education Code 44.042]?”

The chart below reflects the responses to this question of the district/cooperatives that purchase agricultural products.

District/Cooperatives with Purchasing Specifications that Give Texas Agricultural/Landscaping Products Preference



Five of the major urban/major suburban districts responded affirmatively to developing agricultural product purchasing specifications to give Texas products preference if quality and price were equal. These are districts that range in enrollment from 7,000 students to just under 160,000 students, as reported in *Snapshot 99*, and three of the five had enrollments greater than 55,000. The total enrollment of these districts was 607,675 or approximately 15.4% of the state population as reported in *Snapshot 99*.

Eight of the eleven Education Service Center purchasing cooperatives responded affirmatively to developing agricultural product purchasing specifications to give Texas products preference if quality and price were equal. These eight cooperatives represent 510 public school districts, which is nearly one-half of the state's school districts. The cooperatives responding negatively to the question represented forty-four school districts, and the cooperative that did not respond to the question represented only 7 school districts.

The responses of the other central city and rural districts indicate that the majority of these districts responded positively to developing agricultural product purchasing specifications to give Texas products preference if quality and price were equal.

The responses received from the various groups participating in the analysis indicate that the vast majority of school districts represented by the various agricultural product purchasing entities developed bid specifications that gave Texas agricultural/landscaping products preference if quality and price were equal. This would reflect a general attempt on the part of these entities to meet the requirements of Section 44.042 of the Education Code. One could extrapolate from these responses that the majority of school districts in the state have developed similar appropriate bid specifications.

Section II: Purchasing

Section 44.042 (d) of the Texas Education Code requires the Texas Education Agency to conduct an analysis of the effectiveness of the statute. Two specific entities purchasing agricultural products, school districts and ESC purchasing cooperatives, were asked to respond to the following questions:

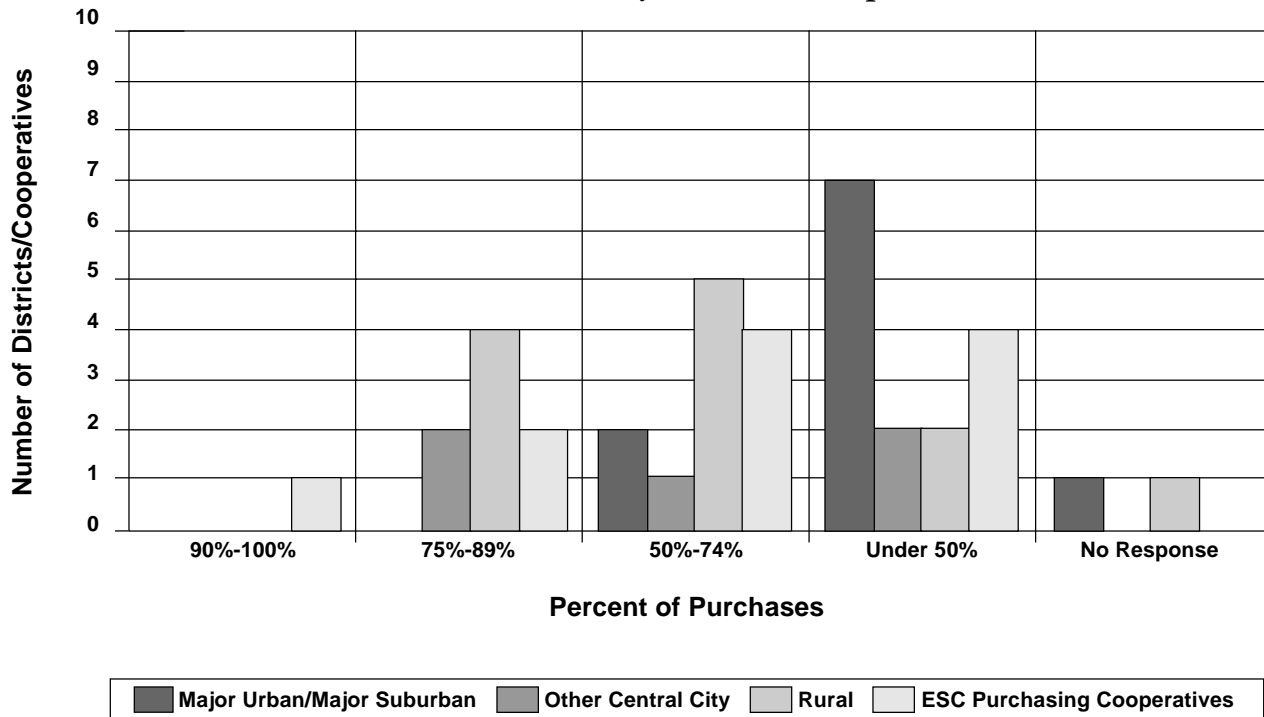
1. “For the 1999-2000 school year, what is your best estimate of your district’s/cooperative’s purchases of agricultural products [food] produced, processed, or grown in Texas?”
2. “For the 1999-2000 school year, what is your best estimate of your district’s/cooperative’s purchases of agricultural products [food] produced, processed, or grown in states outside of Texas?”

3. “For the 1999-2000 school year, what is your best estimate of your district’s/cooperative’s purchases of vegetation for landscaping purposes grown or produced in Texas?”

The charts below reflect the responses of the districts/cooperatives that purchase agricultural products to each purchasing estimates question.

“For the 1999-2000 school year, what is your best estimate of your district’s/cooperative’s purchases of agricultural products [food] produced, processed, or grown in Texas?”

Estimated Percent of Purchases of Texas Agricultural Food Products by Districts/Cooperatives



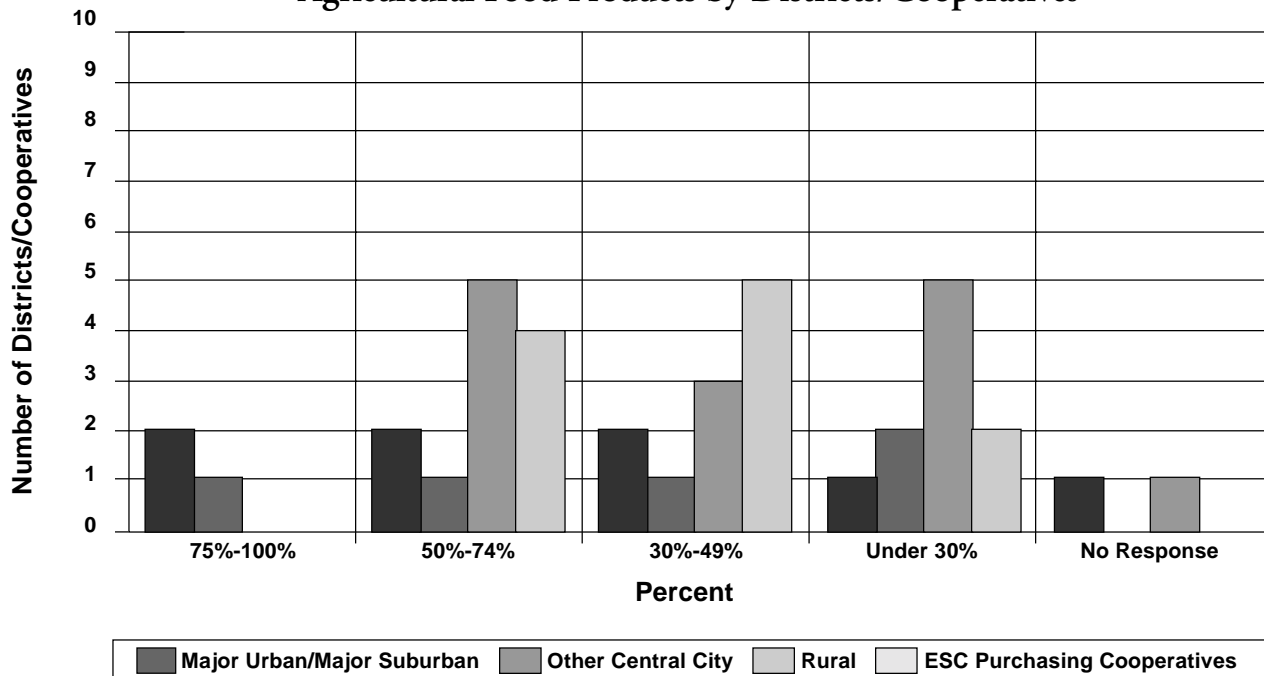
The responses of eight of the eleven Education Service Center purchasing cooperatives indicated that an estimated 50% or greater of the food products purchased by them during the 1999-2000 school year were produced, processed, or grown in Texas. The eight Education Service Center purchasing cooperatives represent 399 school districts, which is greater than one-fourth of the number of all Texas school districts. Eight of the twelve rural school districts reported that an estimated 50% or greater of the food products purchased by them during the 1999-2000 school year were produced, processed, or grown in Texas. Three of the five other central city districts reported that an estimated 50% or greater of the food products purchased by them during the 1999-2000 school year were produced, processed, or grown in Texas. The seven largest of the major urban/major suburban group estimated that less than 50% of the food products

purchased by them during the 1999-2000 school year were produced, processed, or grown in Texas.

It is difficult to analyze the effectiveness of the statute in relation to percentage of purchases because the law requires that the purchasing preference be given only when quality and price are determined to be equal. The best indicator of the effectiveness of the statute was the general trend of the purchasing entities to develop bid specifications that gave preference to Texas products when quality and price were equal.

“For the 1999-2000 school year, what is your best estimate of your district’s/ cooperative’s purchases of agricultural products [food] produced, processed, or grown in states outside of Texas?”

Estimated Percent of Purchases of Non-Texas (USA) Agricultural Food Products by Districts/Cooperatives



Section 44.042 (b) of the Education requires that if agricultural products produced, processed, or grown in this state are not equal in cost and quality to other products, the school district shall give preference to agricultural products produced, processed, or grown in other states of the United States over foreign products if the cost to the school district is equal and the quality is equal.

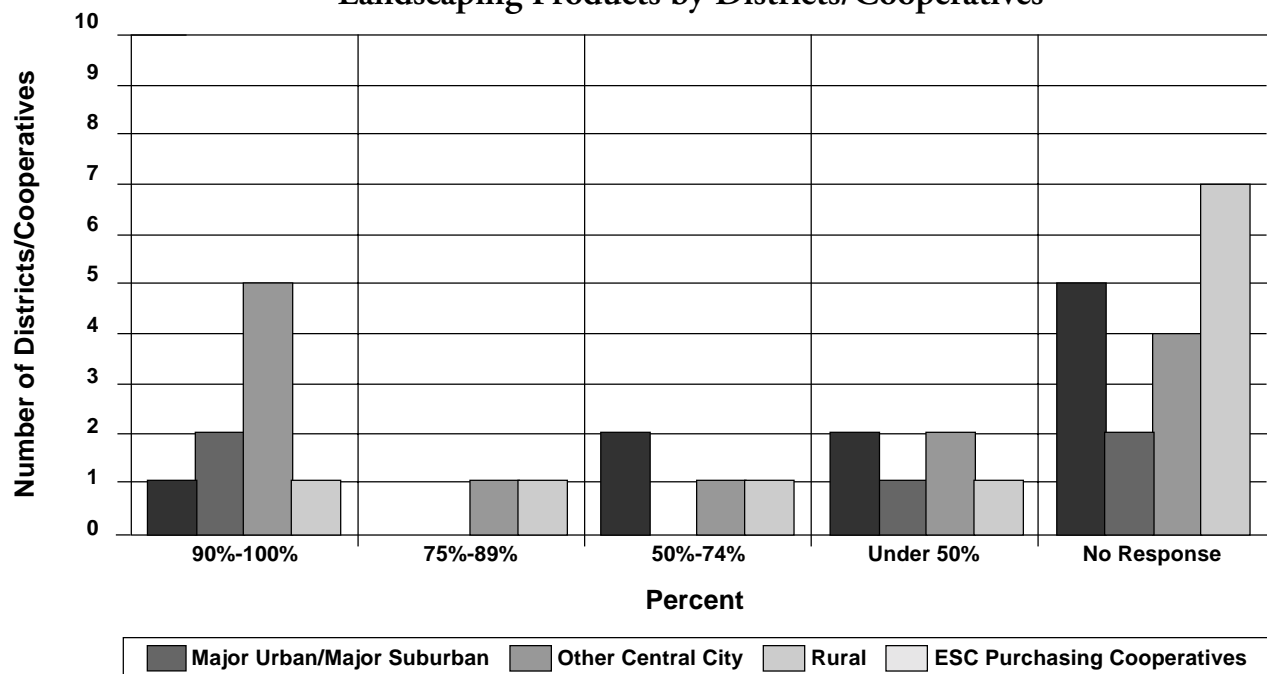
Six of the 10 major urban/major suburban school districts reported that greater than 50% of their estimated agricultural (food) product purchases were grown, processed, or produced in the United States in states other than Texas. The enrollment of these districts ranged from just over 10,000 students to over 200,000 students. Four of the regional purchasing cooperatives reported that at least 50% of their agricultural food purchases were purchased from states outside of Texas. These cooperatives represent 219 of the state's school districts. Only four of the twelve rural districts reported purchases of agricultural food products from states outside of Texas exceeded 50%; however, nine of the 12 rural districts reported that 50-89% of these purchases were for Texas products. Two of the five other central city districts reported

that 50% or more of their purchases were from states other than Texas.

As in the analysis of the responses to the previous purchasing question, it is difficult to analyze the effectiveness of the statute in relation to percentage of purchases because the law requires that the purchasing preference be given only when quality and price are determined to be equal. The best indicator of the effectiveness of the statute was the general inclination of the purchasing entities to develop bid specifications that gave preference to Texas products when quality and price were equal. It is also evident from the responses to the first two questions, that the bulk of agricultural food products purchased by the reporting entities was grown, processed, or produced in either Texas or the United States.

“For the 1999-2000 school year, what is your best estimate of your district’s/ cooperative’s purchases of vegetation for landscaping purposes grown or produced in Texas?”

Estimated Percent of Purchases of Texas Landscaping Products by Districts/Cooperatives



It is difficult to determine the effectiveness of the statute related to the purchasing of landscaping products due to a low response rate from the participants. Only four of the eleven purchasing cooperatives reported that they purchased landscaping products. Of the four that responded, three reported that the 50% or greater of the agricultural products purchased were of Texas origin. Half of the major urban/major suburban districts did not respond to the landscaping products question; however, three of the five districts that did respond reported that 50% or more of the landscaping product purchases were grown, produced, or processed in Texas. Six of the twelve rural districts reported that 50% or more of the landscaping product purchases were grown, produced, or processed in Texas. Two of the five other central city districts responded that 90-100% of their landscaping products purchased were of Texas origin, two did not respond, and one reported that under 50% of their landscape products purchased were of Texas origin.

As in the analyses of the responses to the previous purchasing questions, it is difficult to analyze the effectiveness of the statute in relation to percentage of purchases because the law requires that the purchasing preference be given only when quality and price are determined to be equal. The best indicator of the effectiveness of the statute was the general trend of the purchasing entities to develop bid specifications

that gave preference to Texas products when quality and price were equal.

Summary

According to the Texas Education School Audits Division, Texas school districts spent approximately \$439,000,000 for food during the 1998-99 school year and approximately \$750,000,000 of Federal Funds was distributed for food service operations during the same period. Section 44.042 of the Texas Education Code became effective on September 1, 1999, and required an evaluation of the effectiveness of the statute. This survey represented that evaluation, and the responses represented 645 of the state's 1042 school districts. The survey revealed that an estimated 50% or greater of agricultural food products purchased during the 1999-2000 school year in over 400 of the districts surveyed were grown, processed, or produced in Texas. From the reported percentages of purchases of Texas agricultural food products; the reported purchases of those grown, processed, or produced in other states; and the determination that food purchasing entities develop purchasing specifications that give preference to Texas and USA agricultural products; the statute appears to have effectively influenced agricultural food product purchasing practices in the state during the 1999-2000 school year. It is less certain that landscaping purchases attained the same level of effectiveness due to a smaller number of responses to the survey in this area.

Appendix

Excerpt from TASB CH (LEGAL) Policy

ANY ISD
XXXXXX

CH (LEGAL)

PURCHASING AND ACQUISITION

AGRICULTURAL PRODUCTS

If the cost and quality are equal, the District shall give preference in purchasing to agricultural products, including textiles and other similar products that are produced, processed, or grown in Texas. "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form. If Texas agricultural products are not equal in cost and quality to other agricultural products, the District shall give preference in purchasing to agricultural products produced, processed, or grown in the United States, if the cost and quality of the U.S. and foreign products are equal.

The District may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in Texas.

VEGETATION FOR LANDSCAPING

If cost is equal and the quality is not inferior, the District shall give preference to Texas vegetation when it purchases vegetation for landscaping purposes. Education Code 44.042

DATE ISSUED:
UPDATE 61
CH(H)-P

Texas Education Code

CHAPTER 44. FISCAL MANAGEMENT

SUBCHAPTER B. PURCHASES; CONTRACTS

§ 44.042. Preference to Texas and United States Products

- (a) A school district that purchases agricultural products shall give preference to those produced, processed, or grown in this state if the cost to the school district is equal and the quality is equal.
- (b) If agricultural products produced, processed, or grown in this state are not equal in cost and quality to other products, the school district shall give preference to agricultural products produced, processed, or grown in other states of the United States over foreign products if the cost to the school district is equal and the quality is equal.
- (c) A school district that purchases vegetation for landscaping purposes, including plants, shall give preference to Texas vegetation if the cost to the school district is equal and the quality is not inferior.
- (d) The agency shall conduct an analysis of purchases by school districts to determine the effectiveness of this section and shall report the results of its analysis to the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each even-numbered year.
- (e) In the implementation of this section, a school district may receive assistance from and use the resources of the Texas Department of Agriculture, including information on availability of agricultural products.
- (f) A school district may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in this state.
- (g) In this section:
 - (1) "Agricultural products" includes textiles and other similar products.
 - (2) "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form.

Added by Acts 1999, 76th Leg., ch. 1342, § 1, eff. Sept. 1, 1999.

Compliance Statement

TITLE VI, CIVIL RIGHTS ACT OF 1964; THE MODIFIED COURT ORDER, CIVIL ACTION 5281, FEDERAL DISTRICT COURT, EASTERN DISTRICT OF TEXAS, TYLER DIVISION

Reviews of local education agencies pertaining to compliance with Title VI Civil Rights Act of 1964 and with specific requirements of the Modified Court Order, Civil Action No. 5281, Federal District Court, Eastern District of Texas, Tyler Division are conducted periodically by staff representatives of the Texas Education Agency. These reviews cover at least the following policies and practices:

- (1) acceptance policies on student transfers from other school districts;
- (2) operation of school bus routes or runs on a nonsegregated basis;
- (3) nondiscrimination in extracurricular activities and the use of school facilities;
- (4) nondiscriminatory practices in the hiring, assigning, promoting, paying, demoting, reassigning, or dismissing of faculty and staff members who work with children;
- (5) enrollment and assignment of students without discrimination on the basis of race, color, or national origin;
- (6) nondiscriminatory practices relating to the use of a student's first language; and
- (7) evidence of published procedures for hearing complaints and grievances.

In addition to conducting reviews, the Texas Education Agency staff representatives check complaints of discrimination made by a citizen or citizens residing in a school district where it is alleged discriminatory practices have occurred or are occurring.

Where a violation of Title VI of the Civil Rights Act is found, the findings are reported to the Office for Civil Rights, U.S. Department of Education.

If there is a direct violation of the Court Order in Civil Action No. 5281 that cannot be cleared through negotiation, the sanctions required by the Court Order are applied.

TITLE VII, CIVIL RIGHTS ACT OF 1964 AS AMENDED BY THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972; EXECUTIVE ORDERS 11246 AND 11375; EQUAL PAY ACT OF 1964; TITLE IX, EDUCATION AMENDMENTS; REHABILITATION ACT OF 1973 AS AMENDED; 1974 AMENDMENTS TO THE WAGE-HOUR LAW EXPANDING THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967; VIETNAM ERA VETERANS READJUSTMENT ASSISTANCE ACT OF 1972 AS AMENDED; IMMIGRATION REFORM AND CONTROL ACT OF 1986; AMERICANS WITH DISABILITIES ACT OF 1990; AND THE CIVIL RIGHTS ACT OF 1991.

The Texas Education Agency shall comply fully with the nondiscrimination provisions of all federal and state laws, rules, and regulations by assuring that no person shall be excluded from consideration for recruitment, selection, appointment, training, promotion, retention, or any other personnel action, or be denied any benefits or participation in any educational programs or activities which it operates on the grounds of race, religion, color, national origin, sex, disability, age, or veteran status (except where age, sex, or disability constitutes a bona fide occupational qualification necessary to proper and efficient administration). The Texas Education Agency is an Equal Employment Opportunity/Affirmative Action employer.



Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

AD01 120 03
December 1, 2000