

I N T E R N A L C O N T R O L									
PROGRAMMING FOOD RESOURCES	ASSESSMENTS: COST AND LOGISTICS	CALL FORWARD AND PROCUREMENT	PORT	STORAGE AND HANDLING	FOOD RECEIPT AND DISPATCH	LOSSES AND CLAIMS	INVENTORY ACCOUNTING AND REPORTING	FOOD DISTRIBUTION TO SITES	MONITORING PROJECT SITES

AGREEMENTS AND CONTRACTS

Chapter 4

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CARE receives food resources from public and private donors valued at hundreds of millions of dollars each year. CARE is entrusted with the responsibility of accounting for it, safeguarding it, and using it for its intended purposes.

It is essential that accountability responsibilities and financial liability limits are clearly specified in written, legally binding agreements and contracts with donors, host government counterparts, local non-governmental organizations (NGOs), community-based organizations and others who provide goods and services, e.g., survey agents and transporters.

Internal Control

While agreements and contracts are no guarantee that all parties will carry out their responsibilities, they provide the basis for understanding each party's role and the extent to which they may be held liable for failure to carry out specified terms and conditions.

I. BI-LATERAL AND MULTI-LATERAL DONORS

Country offices receive food resources from bi-lateral and multi-lateral donors. CARE is subject to all applicable donor laws, rules and regulations unless otherwise waived.

While donor requirements may at times be burdensome and seemingly unnecessary, they are designed to assure that valuable resources are used appropriately and can be accounted for. At the same time, donors understand that food programs are often carried out under extremely difficult conditions and that inevitably some food will be lost.

The information and guidance presented in this manual are intended to set a CARE standard for managing food that should satisfy donor reporting requirements.

Internal Control

Donors and CARE USA do not want to be surprised. Senior managers of country offices, through discussion and in writing, must alert donors, CARE USA, and other CARE International member headquarters of potential or discovered problems and keep them informed about all efforts to resolve them. This is especially true in cases of losses. Lack of timely communication could expose CARE to significant liabilities. It is always better to say too much too soon and not too little too late.

The tables below summarize information on food aid available from bi-lateral and multi-lateral donors. This information is based on current laws and regulations of donors which are always subject to change.

When U.S. Government or WFP regulations change, CARE USA's Food Security Unit must notify country offices. Other CI members should notify country offices of changes in their donor government laws and regulations. Country offices should also request local representatives of donors to notify them of any changes, and, in turn, country offices should inform the Food Security Unit.

A. Bi-lateral Donors

1. The United States

Food Assistance and Support--USAID

Type	Description	Eligibility	Comment
PL-480, Title I, II, and III	Provides agricultural commodities to: <ul style="list-style-type: none"> • Combat the causes of world hunger and malnutrition • Promote broad-based, equitable, and sustainable development, including agricultural development • Expand international trade • Develop and expand export markets for United States agricultural commodities • Foster and encourage the development of private enterprise and democratic participation in developing countries. 	PVOs, governments, multi-lateral organizations	Direct distribution or monetization programs
Office of Foreign Disaster Assistance (OFDA)--AID	Non-food disaster relief, disaster rehabilitation and incipient disaster interventions including: health care, water and sanitation, and emergency shelter	PVOs	Funds cost of operations, although capital equipment expenditures are not generally funded

CARE receives a majority of its food resources through U.S. Public Law 480 Title II which is presently administered by the Office of Food for Peace. This table summarizes the types of Title II support.

USAID

Type	Description	Eligibility	Comment
Development Programs	Infant, mother, child, and school feeding programs A wide variety of food for work programs in which food is paid as wages for work performed. Monetization programs, where food is sold to generate cash and compensate workers, pay administrative costs of handling food, or fund development activities not necessarily associated with the food itself	PVOs, WFP	Stringent reporting requirements
Section 202(e) "Farm Bill" Proposals	Provides dollar funding for specific administrative, management, personnel, internal transportation and distribution costs for carrying out Title II programs	PVOs	Annual funding allocation
Emergency Relief	Disaster and emergency relief activities, usually less than nine months (food and funding)	PVOs, WFP	Same accountability and reporting requirements as regular Title II programs

Food assistance is also provided through the United States Department of Agriculture.

USDA Section 416 and Food for Progress

Type	Description	Eligibility	Comment
Section 416	<p>Authorized by the Agricultural Act of 1948, as amended, this program provides for the disposal of surplus agricultural commodities owned by the CCC through donations to help the needy of friendly countries. The Section 416 (b) program allows for:</p> <ul style="list-style-type: none"> • Direct distribution • In-country and cross-border monetization with the stipulation that proceeds must be used to assist the needy <p>USDA is authorized to pay the cost of ocean transportation to the recipient country and, in cases of extreme emergencies, inland transportation cost.</p>	PVOs, governments	<p>Can be used for tri-lateral monetization (monetization where sales take place in one country and the proceeds are used for projects in a different country).</p> <p>Section 416 (b) food availabilities are dependent upon USDA food inventories, domestic production and U.S. budget resources. Resources availabilities fluctuate and may only exist late in a fiscal year, if at all.</p> <p>Although grains, such as corn and sorghum, have available in previous years, this source is now limited to dairy products.</p>
Food for Progress	<p>Authorized by Section 1110 of the Food Security Act of 1985, as amended. The program provides agricultural commodities for multi-year programs in exchange for a country's progress toward a market-oriented economy, or the process of privatization and democratization. Food for Progress is provided through the following mechanisms:</p> <ul style="list-style-type: none"> • Direct donations from CCC inventories • Direct donations of CCC financed commodities • Credit sales from appropriated Title I funds • Direct donations from Title I funds • Credit sales from CCC-funded procurement of commodities not in CCC inventories or included in the Section 401 availability determination 	PVOs, governments	<p>CCC is authorized to pay transport costs for the program, but cannot spend more than \$30 million per fiscal year on non-food expenses.</p> <p>The legislation has a minimum annual program quantity of 75,000 MT and a maximum of 500,000 MT of donated food per fiscal year .</p>

2. Canada

Canadian Food and Other Assistance

Type	Description	Eligibility	Comment
Bi-lateral	Direct distribution of food aid	NGOs that are registered in Canada	There is no matching grant requirement. ITSH is always covered. Administrative costs are covered, when judged appropriate.
International Humanitarian Assistance Division (IHA)	Short-term funding for non-food emergency relief, including disaster preparedness activities: <ul style="list-style-type: none"> • Health • Nutrition • Water and sanitation • Household Shelter needs • Support for repatriation 	Canadian NGOs approved by the Canadian Treasury Board	No matching grant required. Contributions of other organizations and CARE Financial commitment is taken into consideration in funding determinations.
Canadian Food Grains Bank (CFGB)	Commodity purchase and deliveries	Any eligible Canadian NGO	Requires four to one match.
Responsive Program	Commodity purchase and deliveries	Any eligible Canadian NGO	Funding only covers food purchase; CARE is responsible for ocean transport and ITSH.

3. Australia

Aus. AID (formerly AIDAB)--Food Assistance

Type	Description	Eligibility	Comment
Bi-lateral developmental aid (BDFA)	Program food aid: the proceeds of market sales being either tied to development activities or for use as budget support or structural adjustment assistance Project food aid, in which food aid is distributed in kind to target groups for development purposes	Host country governments	Not directly available to NGOs
Multi-lateral developmental food aid donated through WFP	Multi-lateral programming	WFP	Not directly available to NGOs
Emergency/refugee food aid projects	Emergency programming, including triangular and local purchases, and monetization where appropriate	WFP, NGOs or by bi-lateral donation	All Australian food aid is given on a grant basis.

4. European Union

European Union Food and Other Assistance

Type	Description	Eligibility	Comment
Direct food aid	Bi-lateral funding	Host governments	Not directly available to NGOs
Food Aid Operations financed through the EC Food Aid Unit with commodity procured through Euronaid	<p>The food aid operations have the following objectives:</p> <ul style="list-style-type: none"> To promote food security of households or communities in developing countries To raise the standard of nutrition in the recipient population To help in famine situations To support efforts by recipient communities to improve their own food production To support development activities required in order to tackle the causes of the problems <p>Includes food for work, monetization and free food distribution.</p>	<p>Established autonomous, non-profit NGOs in a member state of the European Union, in accordance with the legislation in force in that state;</p> <p>Head offices in one of the member states of the European Union;</p> <p>Head offices must be effective decision-making center for all operations related to food aid and food security funded by the Commission.</p> <p>Most of their human and financial resources must be of European (Union) origin.</p>	<p>Euronaid will only reimburse, upon submission of original documentation for all transportation, administration and related costs up to CARE's main warehouse. Costs of delivery and distribution are typically 10% <u>more</u> than the amount allowable for reimbursement. Other funding sources must be located to cover costs not covered by Euronaid, such as storage, end-use distribution and monitoring.</p> <p>Payment is based on an advance/reimbursement system and CARE must have some other source of funding for initial expenses.</p>
Emergency Food Aid (through ECHO)	<p>Provides assistance as a response to a sudden natural or man-made disaster.</p> <p>Covers a period of 90 days.</p>	Same as above	<p>Approved funding will be at least 10% less than real costs to CARE. Pays up to 80% of contract up front, rest reimbursable, remaining 20% cannot be requested until final reporting completed.</p>
Co-financed Programs	<p>Purchase of:</p> <ul style="list-style-type: none"> Food products Seeds Tools Transportation 	Same as above	<p>Products must be purchased in Europe or in developing countries. EC contributions are fixed between 25% and 75% of approved expenditures up to a maximum of 400,000 ECU.</p>
Storage programs for food products and seeds	Activities to prevent the deterioration of food stocks	Same as above	Costs must be less than 400,000 ECU.

EURONAIID is a non-profit association set up in 1980. The organization was created by NGOs with the support of the EC Food Aid Division to coordinate NGO food aid and expedite approvals for food aid. Euronaid acts as an intermediary between the Commission of the European Community (CEC) in Brussels and NGOs for procurement, marine transport (and, if required, inland transport), insurance, and processing of NGO

financial claims. Euronaid also acts as a forum for NGOs to advocate changes in EC policy on food aid.

European Union Member States

Type	Description	Eligibility	Comment
United Kingdom: Overseas Development Administration (ODA)	Humanitarian assistance in emergency situations. ODA allows for both direct distribution and monetization of commodities.	British NGOs	ODA has historically shown a great deal of flexibility with emergency food aid donations. Funding provided is always adequate to cover expenses.
The Netherlands: Rural Sector Program	Direct distribution Agricultural production Rural infrastructure development	Dutch NGOs	
The Netherlands: Other projects	Nutrition projects	Dutch NGOs	
Denmark: Direct donations		NGOs	Has funded programs in Somalia and the former Yugoslavia.

B. World Food Program (WFP)

WFP, the food aid arm of the United Nations, began operations in 1963 and handles the majority of food aid distributed worldwide. Because of a dramatic increase in emergencies and refugee programs in recent years, the focus of the majority of WFP budget allocations has shifted from development projects to emergency food aid operations. CARE country offices provide specific services to WFP, such as storage, transport of food to feeding sites, distributions of food to beneficiaries, and monitoring.

CARE performs similar services for the United Nations High Commission for Refugees (UNHCR).

WFP Food Assistance

Type	Description	Eligible	Comment
International Emergency Food Reserve (IF)	<p>Comprises the equivalent of at least 500,000 MT of cereals annually</p> <p>Annual allocations set aside for US\$ 15 million</p> <p>Intended to respond to sudden disasters and abnormal droughts, and providing initial assistance (for the first 12 months) to refugees and displaced persons. For WFP purposes, emergencies fall into three categories:</p> <ul style="list-style-type: none"> • Sudden natural disaster • Food scarcities due to drought or crop failure • Population displacements due to war. 	WFP	<p>Not a physical stock: the commodities are neither owned nor physically held by WFP. It is only a portfolio of pledges which WFP is able to call on.</p> <p>Food is rarely pledged in advance of requirements, limiting considerably the "stand-by" nature of the reserve.</p> <p>There is often insufficient funding to cover the 50 percent ITSH subsidies.</p>
Protracted Refugee Operation (PRO)	<p>Donors pledges in a similar manner as the IF.</p> <p>An annual allocation fixed at US\$ 30 million</p> <p>For use after the first 12 months of an emergency</p> <p>Funding through this mechanism can be used to support the following types of interventions:</p> <ul style="list-style-type: none"> • Education or training projects • Public/development works projects (as food for work) • Projects which promote recovery and development, including agricultural rehabilitation and the creation of employment. • Targeting assistance on the poorest and most severely affected 	WFP	Same as IF
Support to Small Scale NGO Projects	<p>Small amounts of food granted to NGOs by the WFP Country Director for use in projects having objectives and target groups similar to WFP projects.</p>	NGOs	<p>The food will be borrowed from an on-going project or taken from a reserve attached to the project. No consultations with WFP HQ in Rome are required, the lead-time can be short.</p> <p>The Country Director can grant food up to a value of US\$ 200,000 per year or 10 percent of the value of the total food commitments to a project.</p> <p>WFP does not provide cash contributions. The availability of the commodities in stock determines the content and size of the contribution.</p>
Development projects	<p>Commitment of 2.8 billion to ongoing projects designed to assist developing countries improve their economies and social programs. Activities include:</p> <ul style="list-style-type: none"> • Environmental protection • Resettlement of communities • Health and nutrition • Education and human resources development • Forestry • Infrastructure and transportation • Fisheries • Food-for-work • School feeding. 	WFP	Often works with government counterpart agencies that lack sufficient capacity to design and implement projects

CARE customarily has the following responsibilities:

- Logistical management of storage
- Secondary transportation
- Distribution
- Monitoring
- Identify target groups at local level
- Supervise food distribution
- Insure that allocated quantity is provided free to beneficiaries
- Cover costs related to establishment, administration, management and overhead
- Recruit, hire, and supervise operation staff as needed
- Procure and hire vehicles, office and communication equipment
- Comply with UN safety instructions.

WFP's responsibilities are as follows:

- Make available specified amount of food, in specified packaging and specified tranches
- Deliver food to designated points
- Provide ITSH costs for actual amount of food delivered at agreed-upon rate, or costs actually incurred
- Provide 50% of ITSH funds in advance, additional 25% during distribution, and balance upon completion of distribution
- Inform authorities of activities
- Provide support in obtaining documentation and authorizations from government
- Keep CARE informed of safety measures
- Facilitate evaluation of CARE staff, if needed.

C. Donor Agreements

Agreements between CARE and donors come in a variety of different forms. PL 480 Title II programs are primarily based on CARE's multi-year Development Activity Proposals or emergency operation proposals, AERs, and budgets. Approval is by letter and/or a Transfer Authorization which incorporates the requirements of Public Law 480 Title II and AID's Regulation 11 which govern all Title II programs. CARE and USDA enter into specific agreements for section 416 or Food for Progress projects. WFP may enter into an agreement with a country office each time there is a shipment of food that comes into a country.

Agreements are reached between CARE USA and donors as follows:

1. CARE USA Lead Member

- Government donors through CARE USA Regional Management Units (RMUs) with support from the Food Security Unit (FSU). Country offices must comply with all requirements negotiated with the donor.
- Other bi-lateral donors with country offices working through other CI members. For example, CARE Britain will enter into agreements with ODA on behalf of a CARE USA lead member country. The country office programming the food must then comply with all ODA requirements. The CI members that obtained the resource and CARE USA should also sign an agreement that specifies CARE USA's responsibility and liability.
- WFP or other multi-lateral donors such as UNHCR. In some cases, a country office will contract directly with WFP for each shipment of food that arrives in country. In other cases, the CARE USA Emergency Group will negotiate an agreement for a country office. In either case, once the agreement is signed, the country office must comply with all requirements negotiated with the donor.

2. Other CARE International Lead Member

U.S. Government donors through CARE USA regional managers with support from the FSU. For example, CARE USA will enter into an agreement with the Office of Food for Peace on behalf of another CI lead member country. The country office programming the food must then comply with all Food for Peace requirements.

CARE USA and the CI member should also sign an agreement stipulating that in accepting the U.S. Government food resources all responsibilities and liabilities are assigned to the CI lead member and its country office.

In all cases, CARE USA RMUs and country office senior managers must be familiar with donor agreements and understand what CARE's obligations are under them **before** accepting food or other related program resources.

Every effort must be made by country offices, CARE USA and other CI member headquarters to communicate fully with each other while negotiations are going on with donors to avoid surprises after agreements have been signed.

At a minimum, the guidelines below should be followed **before** CARE USA regional managers and senior managers of country offices assume responsibility for donor resources:

General Guidelines for Entering Into Donor Agreements

- Be familiar with donor laws and regulations governing the food resource. For non-U.S. Government food aid, managers should request copies of donors' most recent laws and rules.
- Review copies of all donor letters of intent, agreements, and contracts.
- Complete the long-form checklist for food resources valued at USD\$ 500,000 or more, or the short-form checklist for resources valued at USD\$ 499,000 or less. Answers for the checklist may be found in the agreement itself or in the original project proposal.
- Pay particular attention to indemnity and liability provisions. CARE USA and the country offices should not be liable for unavoidable food losses (e.g., thefts or acts of civil disturbance). The agreements should limit the liability of CARE USA and country offices only to food losses resulting from their intentional wrongdoing. If the agreement (or the assignment relaying responsibility to CARE USA and/or the country office) cannot be revised to reflect that provision, the agreement must be approved by the Senior Vice President of Program, in consultation with executive staff, before food resources are accepted and before any agreement or assignment is signed by the country office or CARE USA.
- Be sure there is adequate funding to cover program management and monitoring costs. If the agreement cannot be revised to reflect this, it must be approved by the Senior Vice President of Program in consultation with executive staff before food resources are accepted and before any agreement or assignment is signed by the country office or CARE USA.

D. Donor Agreements During Emergencies

In emergency situations, CARE may not be able to comply with some or all donor requirements and regulations for a period of time. Therefore, CARE USA should include a *best efforts clause* in the agreement. CARE, its counterparts and the donor agree that CARE and its counterparts will make their best effort to comply with the donor's requirements during the emergency, but that CARE or its counterparts will be relieved from partial or

full liability if conditions make compliance extremely difficult or impossible. If the donor has specific requirements that would be difficult to meet in an emergency, refer to those requirements in the best efforts clause. Then the country office and regional managers must notify the donor of all constraints and request written waivers of any requirements which cannot be met.

An example of a best efforts clause could be:

CARE will make every effort to maintain acceptable standards for program management and monitoring in (country or region). (Name of donor) acknowledges that due to current instability, insecurity and absence of law and order, CARE will not be held accountable for any losses of food assets or supplies supporting the emergency program resulting from damages, diversions, misappropriations, sales or other that are caused by acts over which CARE has limited or no control.

CARE and (name of donor) will jointly determine when acceptable standards for program management and monitoring in (country or region) will be reinstated.

Add specific provisions as necessary.

A best efforts clause can never be a justification for poor programming. Poorly staffed operations and inadequate systems to manage food are not acceptable standards for CARE programming and they will certainly never impress donors.

There is no fixed rule about when to use a best efforts clause. Conditions and situations in countries vary, and each country office must make an honest assessment of its ability to comply with donor requirements when the proposal is submitted or if conditions change substantially, after the contract is awarded.

If a donor does not agree to the best efforts clause, CARE must carefully balance the importance of carrying out a program against the realistic risk of exposure to financial liability. In these cases, the Senior Vice President of Program in consultation with executive staff must approve the program before agreements are signed or decide whether the program continues in spite of unexpected emergency conditions which may have arisen. If it is still in the country office's interests to carry out or continue a program, country offices and counterparts must comply with all donor laws and rules.

E. U. S. Government Agreements**1. PL 480 Title II**

An emergency operational plan submitted by CARE may propose the waiver of any section of USAID Regulation 11 that is not required by statute. The waiver is in effect a best efforts clause. Discuss the waiver with the local USAID missions and ask them to support it. Agreements on waivers should be included in project agreements or any other written correspondence to CARE. Agreements should not be signed if USAID has not approved the waivers.

2. Section 416 and Food for Progress

The plan of operation submitted by CARE may propose the waiver of any section of the regulations relating to Section 416 or Food for Progress Programs. The Commodity Credit Corporation (CCC) incorporates the plan of operation into the program agreement. Section 416 and Food for Progress regulations stipulate that if there is a conflict between the plan of operation and the program agreement, the program agreement prevails. For this reason it is essential to inform the Agricultural Counselor or Attaché in the local US mission of any proposed waivers when the proposal is submitted. Notify CARE-USA Headquarters Regional Management Units, the Emergency Group, and the Food Security Unit not to sign the emergency agreement if the CCC has not approved the waivers. If the program agreement is signed and the waiver(s) are not approved, be prepared to follow all the requirements of the regulation.

F. Agreements with Other Donors

While other donors may or may not have specific regulations for granting waivers, that is, allowing the inclusion of a best efforts clause, country offices should discuss waivers with the donor's local representatives and insure that any waivers are written into project agreements. RMUs or the Emergency Group at CARE USA Headquarters and other CI members negotiating with the non-US donor should be advised, and they should give approvals for carrying out programs, as required.

II. COUNTERPART AGREEMENTS

A. General

When food aid is programmed by counterparts, all agreements must include provisions that require the counterpart to:

- Accept donor laws and regulations related to the food aid
- Accept and implement CARE's standards and procedures for managing food as set forth in this Manual, procedures set forth in CARE's *Overseas Financial Manual and Procurement Manual for Overseas Operations, Almis #4496, Commodity Management Manual* and other established policies and procedures
- Agree to reimburse CARE for any loss or damage to food caused by the negligence or intentional action of managers or staff of counterparts.

See also the CARE USA *Grants Management and Compliance Manual for USAID and Other Donors*, Section 5, "Managing Sub-agreements and Sub-recipients," and Appendix X for further information on areas that need to be included in agreements with counterparts.

B. National Governments

Before CARE program operations begin in a country, CARE must enter into an agreement with the government. The basic agreement provides the framework for program activities and defines the roles and responsibilities of CARE and the government. Often there is a general agreement with a ministry like Foreign Affairs, and then a specific agreement with one or more ministry counterparts--for instance, the Ministry of Health and/or Ministry of Agriculture. See *CI Procedures for Basic Agreements*. Basic agreements may include certain provisions relating to food aid or they may be part of other specific agreements.

The following areas should be covered in specific agreements:

- Types of program interventions
- Areas of operation
- Roles and responsibilities of national, regional, and district officials and staff including warehouse managers and storekeepers
- Names of persons authorized to approve losses and authorize warehouse managers and storekeepers to remove losses from warehouse inventory
- Procedures for accounting for and turning over to CARE proceeds from the sale of unfit food to CARE
- Responsibility to submit Commodity Status, distribution site or other reports to CARE

- Number of beneficiaries
- Total amount of food and size of ration
- Resource commitments to a project by CARE and Government--staff, financial, materials, equipment, and training
- Right of CARE to visit and monitor ports, warehouses and project sites where donated food is being stored or used
- Transport of food to government warehouses and use of storage space
- General provisions granting duty-free import of food.

CARE may also be required to obtain other duty-free clearances for each individual shipment to import food into the country, including:

- Requests for duty-free status at the time CARE receives the Notice of Arrival of a shipment from a CARE International member or a donor
- Clearances from the Ministry of Health for food inspections and certifications
- Import licenses for grains or other agricultural commodities from the Ministry of Agriculture.

C. Regional or Local Governments, Local NGOs and Community-Based Organizations

The general and specific areas covered for national agreements, as appropriate, should also be included in agreements under this section.

Since programs carried out at local levels are the direct link to program beneficiaries, agreements must also cover:

- Names and titles of persons responsible for programs
- Names of persons in possession of keys to local warehouses storing food
- Names of persons authorized to approve losses and make adjustments to warehouse inventories
- Procedures for selecting and registering beneficiaries
- Procedures for graduating or terminating beneficiaries from program
- Procedures for recording actual distributions to beneficiaries--number of beneficiaries and amounts
- Procedures for tracking the receipt, storage, and distribution of food
- Procedures for regularly reporting food balances in stores and total amount distributed to beneficiary by commodity

- Standard measures to scoop grains or processed foods, or to pour oil into containers used by beneficiaries
- Site monitoring by CARE field staff
- Provisions for assessing monetary penalties or filing criminal charges for damages or losses of food
- Mechanisms for suspension or termination of programs.

Agreements with regional and local governments, local NGOs, and other community-based groups should be written in English or another official language (French), kept up to date and renewed annually. Agreements must be kept on file in CARE or designated counterpart offices.

As local laws and customs govern agreements, country offices should use local attorneys to prepare documents or review and comment on any drafts prepared by CARE.

III. CONTRACTS

Written contracts protect against misunderstandings and are the best form of evidence if there is a legal problem.

Internal Control

While verbal contracts may be enforceable, CARE requires all contracts related to the receipt, warehousing, dispatch, and distribution of food to be in writing.

A well-written contract will have no effect if the person or organization does not have the ability to perform. Investigate the person or organization with whom you propose to contract. What is their reputation with other organizations? Have they successfully performed similar contracts in the past?

Country offices should use local attorneys to prepare contracts or to review and comment on any drafts prepared by CARE staff.

Contracts for goods or services must be awarded according to the policies and procedures stipulated in CARE USA's *Procurement Manual*. Three or more written quotations are required when the expected value of the contract exceeds US\$500 unless:

- Goods or services are not available from three companies or individuals.
- Emergencies or other conditions justify the lack of three written quotations.

Analyze written quotations and award the bid according to cost, ability to perform, quality, and payment terms.

A. Shipment Contracts

Shipment contracts to transport food from the country of export to the country of import are usually negotiated by the CARE International member or donor who procured the food. However, the country office should understand the terms of the contract. Moreover, the country office can provide advice about country specific situations requiring special attention in shipping contracts.

The CARE USA Procurement Office should send copies of all shipping contracts to country offices. For non-U.S. Government food, country offices should request copies of contracts from the shipping agents of the donors, or from CARE International members who assisted the country office in obtaining food.

Country Office Example

In the past, CARE Peru did not receive a copy of the shipping contract. This meant that staff had to rely on the ship's captain to inform them about the time and manner of unloading food, whether staff could come on to the ship and inspect the holds, who was responsible for paying food handling charges, and what documents were required from the shipping company. CARE Peru now obtains a copy of every shipment contract. Staff are therefore better prepared to deal with problems that arise with the shipping company.

Through Bills of Lading

To assure that food shipped to designated warehouses on a Through Bill of Lading is delivered on time, CARE should include clauses in contracts with shipping companies that stipulate:

- Penalties for late delivery of food
- Payment only after delivery is completed.

B. Independent Surveyors

Independent survey reports document the quantity and condition of the food discharged by the shipping company at port or other designated location against the Bill of Lading. They also document the nature and extent of any losses that are the responsibility of the shipping company. See **Port** for more information about carrying out independent surveys.

Checklist for Independent Survey Contracts Discharge (Ex-tackle) and Delivery Surveys

General

- Name of the survey company
- Duration of the contract, terms for renewal and termination
- Amendments, in writing, to the contract
- Cancellation of contract for material breaches
- Insurance to cover losses, and/or, as necessary, posting of performance bonds
- Name of person authorized to sign contract for surveyor
- Force Majeure clause
- Right to sub-contract with CARE approval
- Payment terms-- minimize advances to the extent possible. Generally, pay for a service when it is completed and service satisfactory to CARE
- Type of payment, US\$, other currency
- Delay or reduction of payment if reports are inaccurate or not timely
- Timely reports to be furnished
- Format and content of reports - ex-tackle (discharge) and delivery surveys
- Amount and description of food discharged or delivered
 - Food in original and packaging and good condition
 - Disposition of sweepings
 - Food damaged, type of damage, and probable cause
 - Food unfit for human consumption
 - Food reconstituted
 - Short- or excess-landed or delivery
 - Total losses
- Reports to be written in English
- Number of tally clerks to be assigned to discharge and delivery surveys and attachment of tally sheets to survey reports
- Daily discharge or delivery tally sheets are to be submitted with survey report
- Liability for indemnification or damages includes payment of penalties for failure to perform as per contract
- Provisions for settlement of disputes, enforcement of the contract, and payment of damages to CARE (includes settlement at CARE/USA or surveyor's international headquarters if appropriate.)

Ex-tackle survey

- Identification of shipment and time of unloading
- Reports based on direct observation of cargo
 - Observe the holds of ship prior to unloading
 - Observe cargo as it is off-loaded
 - Observe containers as they are unstuffed
 - Description of condition of food including sweepings while in ship holds.
 - Describe type and probable cause of damages.
 - Amount and description of food unloaded. See general areas above.

Delivery Survey

- Direct delivery by truck from the port
- Observe trucks before loading
- Observe and count bags and containers of food as they are loaded onto trucks
- Time and place of delivery of food
- Direct observation of delivery directly to trucks from ship or from port warehouse
- Observe trucks or port warehouses before dispatch
- Observe bags, tins, pails of food as they are loaded onto truck
- Description of condition of food while in port warehouse, including damage

C. Clearing and Forwarding Contracts

In most country offices CARE or its counterparts contract with a clearing and forwarding agent to clear food through customs and to forward food from the port to CARE or counterpart warehouses or, in some cases, directly to distribution sites.

The quality of clearing and forwarding services varies from country to country and among organizations offering these services within a single country. In some countries there may be considerable competition, while in others only one or two companies offer services.

Checklist for Clearing and Forwarding Contracts

- Name of clearing and forwarding company
- Duration of the contract, terms of renewal and termination
- Amendments, in writing, to the contract
- Cancellation of contract for material breaches including failure to pay
- Insurance to cover losses, and/or, as necessary, posting of performance bonds
- Name and title of person authorized to sign contract for clearing and forwarding agent
- Force Majeure clause
- Right to sub-contract with CARE approval
- Lines of authority--name(s) and title(s) of person at CARE or a counterpart to whom agent reports
- Type of currency--US \$, other currency
- Payment terms:
 - Minimize large advances to the extent possible
 - Require the company to finalize the account within a limited number of days after shipment is discharged
- Supporting documents submitted with invoices:
 - Copies of all port invoices for landing fees, port warehouse, storage, and labor charges
 - Copies of signed registers for payments to laborers for reconstitution of damaged food and moving food from warehouses to tracks or railcars for onward transport
- Services to be performed:
 - Clearing-- payment of port fees, import licenses, obtaining customs clearances, stamps, and phyto-sanitary certificates
 - Forwarding-- arrangements for food transport directly from vessel or from port transit sheds to CARE or counterpart warehouses or direct distribution sites
- Documents to be used and routing of documents:
 - CARE dispatch waybills
 - CARE Loss and Adjustment Reports
- Responsibilities for damaged food:
 - Reconstitution of damaged food
 - Analysis and disposition of food suspected to be unfit for human consumption
- Liability for indemnification or damages, including payment of penalties for failure to perform as per contract
- Provisions for settlement of disputes, enforcement of the contract, and payment of damages

D. Warehouse Service

CARE may contract either for warehousing services or only for the lease of a warehouse. As a general rule, CARE country offices or their counterparts should not store food in any warehouse not under CARE or the counterpart's direct control, nor should food be stored with other "non-CARE" food, material, equipment, or supplies.

Checklist for Warehouse Service Contract

- Name of company providing services
- Description of food and amount to be stored
- Duration of the contract, terms of renewal and termination
- Amendments, in writing, to contract
- Cancellation of contract for material breaches including failure to pay
- Insurance to cover losses, and/or, as necessary, posting of performance bonds
- Name and title of person authorized to sign contract for warehouse
- Force Majeure clause
- Right to sub-contract with CARE approval
- Services to be performed, including provision that contractor accepts CARE's policies and procedures relating to warehouse storage, receipt and dispatch of food
- Accounting for inventory
- Documents to be used
 - Receipt and dispatch waybills
 - Loss and Adjustment Reports
 - Warehouse inventory ledgers
- Reports to be filed and due dates
- Repairs and maintenance to warehouse (Refer to ***Storage and Handling*** for specific requirements)
- Warehouse security (Refer to ***Storage and Handling*** for specific requirements)
- Whether other items can be stored in same warehouse with food
- CARE's or counterpart's right to inspect warehouse where food is stored
- Payment terms--avoid large prepayments to the extent possible
- Type of payment-- US\$, other currency
- Liability for indemnification or damages, including payment of penalties for failure to perform as per contract
- Provisions for settlement of disputes, enforcement of the contract, and payment of damages.

E. Leasing a Warehouse**Checklist for Warehouse Leases**

- Name of landlord
- Description of food and amount to be stored
- Duration of the contract, terms of renewal and termination
- Amendments, in writing, to the contract
- Cancellation of contract for material breaches including failure to pay
- Insurance to cover losses, and/or, as necessary, posting of performance bonds
- Name and title of person authorized to sign contract
- Force Majeure clause
- Assignability of contract
- Right to sublease with CARE approval
- Identification of property to be leased, including fixtures and equipment that are part of the lease
- Security deposit, if applicable, and conditions for return
- Insurance on structure
- Insurance on contents
- Bonding of warehouse managers, storekeepers, and security guards
- Payment terms:
 - Minimize large prepayments to the extent possible
 - Due dates for rent payments
 - Penalties for late payments
 - Type of payment-- US\$, other currency
- Repairs to structure:
 - Right of lessee to repair and deduct cost from rent if landlord does not repair within required time
 - Repairs distinguished from ordinary maintenance and party responsible for ordinary maintenance
- Responsibility for security of warehouse
- Right of lessor to enter and inspect the warehouse only with advance written request and when accompanied by CARE staff
- Liability of lessor for indemnification for damages, including payment of penalties for failure to perform as per contract
- Provisions for settlement of disputes, enforcement of the contract, and payment of damages.

F. Security Service Contracts

CARE may enter into contracts for security services for warehouse operations. Specify the duties of the security service and their responsibilities for losses due to theft.

Checklist for Security Service Contracts

- Name of security service
- Description of food and amount to be protected
- Duration of the contract and terms of renewal and termination
- Amendments, in writing, to the contract
- Cancellation of contract for material breaches including failure to provide security guards on timely basis
- Insurance to cover losses, and/or, as necessary, posting of performance bonds for company and individual security guards
- Name and title of person authorized to sign contract
- Force Majeure clause
- Right to sub-contract with CARE approval
- Hours of service
- Number of guards per shift
- Background check on guards
- Bonding of security guards
- Documents and reports to be completed:
 - Signing for entrance and exit to the building
 - Reports on thefts or attempted break-ins
 - Log of activities performed by person on duty
- Specific duties:
 - Checking the premises every hour
 - Checking for locked doors and windows
 - Checking contents of bags or briefcases of people leaving the building
- Use of force and deadly force--when and if permitted
- Liability of security company and individual guards, as appropriate, for indemnification or damages includes payment of penalties for failure to perform as per contract
- Provisions for settlement of disputes, enforcement of the contract, and payment of damages.

G. Transportation Contracts

Before entering into a transportation contract, insure that the transporter is reputable. Speak with other organizations that have used the transporter to determine past performance. Look at the transporter's fleet as well as repair facilities and spare parts stores. If the transporter does not have the capability to perform, a well-written contract will do little to deliver food to locations that need it.

Checklist for Transportation Contracts

- Name of transporter
- Description of food and tonnages to be transported
- Duration of the contract and terms of renewal and termination
- Amendment of the contract
- Cancellation of contract for material breaches including failure to provide trucks on a timely basis or unacceptable losses of food during transport
- Name and title of person authorized to sign contract
- Force Majeure clause
- Right to sub-contract for independent transporters with CARE approval
- Routes and loading and unloading locations
- Name(s) and title(s) of CARE staff who direct the transport operation
- Precautions to be taken by the transporter in inclement weather
 - Use of tarpaulins
- Responsibility to keep trucks in good condition, repaired, maintained, insured, and properly licensed:
 - Insurance required by law of country of operation
 - Licensing, both for trucks and chauffeurs required by law of country of operation
 - Insurance or security deposit over contents transported
- If fuel is obtained by CARE, a description of how fuel will be allocated and controlled
- Responsibility for supplying spare parts, if applicable
- Transportation rates and examples:
 - Per metric ton per kilometer
 - Per kilometer or per route
 - Per time period, e.g., per week or month
- Handling cargo on return trips
- Responsibility for loading and unloading food, including costs of labor
- Documents to be used and routing of documents
 - Waybills signed by transporter at dispatch and upon receipt
- Procedures and responsibilities for losses:
 - Reconstitution of damaged food
 - Commodity suspected to be unfit for human consumption
 - Short deliveries
 - Waybill signed by transporter and warehouse manager or storekeeper at dispatching and receiving warehouse is primary source document for determining damages

- Procedures and responsibilities including use of waybills for returning food to dispatching warehouse.
- Payment procedures:
 - Payment based on invoice submitted with copy of waybill signed by transporter and receiver
 - No payment for missing or damaged food
 - Type of payment -- US\$, other currency
- Claims against transporter for missing or damaged food in in-transit or temporary storage in transporter's warehouses
 - Deductions from transporter's invoice:
 - Method of calculating value of claim:
 - local market value of food
 - local market value plus percentage as a penalty
 - other
- Penalties for delay and noncompliance with delivery schedules
- Waiver of liability for CARE for any death or damage to persons or property caused by the transporter's trucks while carrying food from CARE or counterpart warehouses
- Provisions for settlement of disputes and enforcement of the contract