

MANAGEMENT POLICY ON MONETIZATION

July 29, 2008

Principles

1. Cash resulting from monetization is used in ways that are consistent with World Vision's Mission Statement, Core Values and the Ministry Policies on Emergency Relief and Transformational Development.
2. Monetization is undertaken only in those countries and economic circumstances, and utilizing only such agricultural commodities, and methodologies, that a) minimize the risks of disincentive and disruption to domestic production and markets and b) minimize risk of disruption to regional and international trade in the same or similar commodities.
3. World Vision considers the option of monetization a) to obtain cash for use in development programming, b) to promote low-cost, competitive markets by encouraging investment in transportation, infrastructure and human capital formation, and c) to encourage development of competitive food marketing systems with built-in incentives to provide the poor with food.
4. This monetization policy assumes compliance with the requirements of World Vision Food Aid Policy, World Vision US Food Resources Standards, and applicable donor grant requirements.
5. WV's "Guidance on Sales Procedures and Methodologies" provides in-depth technical guidance to monetization sales processes and is an attachment and reference to this Procedures and Management Policy document.

Program design

1. Programs involving monetization comply fully with the Management Policy on Food Aid.
2. World Vision monetizes food commodities when the generation of cash funding through the sale (monetization) of those commodities supports best practice program design and is permitted by the donors.
3. Generally, although not exclusively, program funds generated through agricultural/food commodity monetization address food security needs.
4. World Vision sometimes applies monetization sales proceeds to the implementation of income generation, community development, health, nutrition, cooperative development, agricultural and other development activities, or invest those proceeds and apply the interest earned to finance such development programs as may be agreed upon with donor agencies.
5. Monetization program proposals include a market and economic analysis that defines the extent of potential domestic disincentive and the extent of potential trade disruption as provided by United States Government. Note: USAID/FFP provides Bellmons and other updates to NGO's to ensure independence, completeness and accuracy.

6. Christian business principles are employed in all agricultural/food commodity monetization.

Management, legal, finance and risk mitigation

7. The procedures for technical review, contract review and approvals for monetization programs are the same as those outlined in the section "Roles and Responsibilities" in the Management Policy on Food Aid.
8. Recognizing that donor policies, commodity markets, currency values, political climates, and other factors are in constant change, World Vision ensures that no single country program or project becomes overly dependent upon agricultural/food commodity monetization sales proceeds.
9. Because of the significant risks of liability, in planning and executing all monetization programs, World Vision mitigates against this risk as fully as possible through Sales Contract terms, appropriate legal and other review, insurance cover where appropriate, etc. Refer to "Guidance on Sales Procedures and Methodologies" for further information
10. Because of the management intensive nature of and risks associated with monetization, the Regional Vice President, the CFO of the implementing national office and the Vice President of Finance, approve monetization programs.
11. Grants of agricultural/food commodities for monetization are always regarded as equivalent to cash grants and are accounted for and reported upon with the same degree of rigor. This principle applies to the agricultural/food commodities themselves up to the point of sale and payment, and to the sales proceeds and interest earned from the monetization sale until their final use. Internal World Vision financial and auditing requirements and donor requirements for reporting are followed.
12. All monetization contracts and agreements are subject to prior legal review by appropriately qualified commercial legal counsel, possibly in multiple countries. Legal review is coordinated and confirmed by the WVUS/Partnership Office Legal Departments.
13. Implementing national offices submit income and disbursement reports as and when proceeds are received for WV Grant Signatory review and verification against financial plans. Other financial reports are submitted on a monthly basis. Cash flow reports are submitted once a year.
14. World Vision develops its own in-house capacity on monetization or utilizes experienced professional consultants to ensure that monetization programs are implemented and managed to the highest standards

Cooperating with other NGOs

15. World Vision desires to work in cooperation with its NGO/PVO colleagues by ways and means deemed to serve common interests.
16. Because participating in NGO consortia increases risk and complexity, wherever possible, World Vision prefers to implement and manage monetization programs on its own account. In the event

World Vision has the opportunity to be the lead agency, such a role is only considered after a) careful assessment of World Vision's internal capacity to manage the monetization program, b) the potential for external threats that could disrupt sales is assessed, and c) there has been careful legal review of the consortium MOU, sales contracts and other key documents.

17. Whether World Vision serves as a lead agency or not, World Vision always plays an active and constructive role in all consortia, including attending consortia meetings, reviewing contracts/agreements and exercising close oversight of all consortia activities to ensure that World Vision interests are effectively served and full compliance with donor requirements is assured.

Cooperating with external stakeholders

18. Recognizing the role played by private sector stake-holders, such as growers, processors, transporters, traders, exporters, of the donor countries and recognizing the legitimate interests of these commercial stake-holders as regards NGO implementation of agricultural/food commodity monetization, World Vision cooperates with such stake-holders to the mutual benefit of all concerned.
19. Recognizing that the host governments have legitimate trade policies, commercial and other economic interests, World Vision cooperates fully with host governments and secures their endorsement and support of agricultural/food commodity monetization initiatives.
20. Recognizing the essential role played by the private sector in recipient countries, and specifically the buyers of monetized agricultural/food commodities, World Vision complies with contractual terms and shall conduct monetization in a manner best contributing to economic development.

Monetization sales (In addition: Refer to "Guidance on Sales Procedures and Methodologies" for further information)

21. World Vision generally maximize the sales prices for the agricultural/food commodities, but also considers the extent to which this principle may be modified by development objectives designed to make affordable food available to targeted project beneficiaries, and other similar factors.
22. World Vision conducts monetization (sales) of agricultural/food commodities in a way that assures the greatest degree of a) open, free and competitive price formation, b) inclusiveness and participation, and c) transparency. Public access to price information is limited only to the extent that the open and free flow of information would compromise the attainment of the highest sales prices possible or otherwise negatively affect the free, fair and competitive nature of the monetization sale.
23. After the program is approved, and before agricultural/food commodities arrive in country, World Vision provides full information to host governments, business interests and the public-at-large in order to mitigate against rumor, misinterpretation, misrepresentation, intentional disinformation and negative press reporting.
24. Execution of monetization sales takes place through the most appropriate mechanism possible, including large-lot tender sales and negotiated contract sales. World Vision prefers conducting sales through mechanisms that target the small/medium scale food trade sector and conducts sales,

where possible, in local currency through small-lot tender auction. Where this is not possible or practical, large-lot tender sales and negotiated contract sales are permissible. Refer to Annex 1 – Guidance on Sales Procedures and Methodologies.

25. Wherever possible, monetization sales, small or large lot, local or hard currency transactions, are done by means of public tender auction. Only where public tender auction is not viable (e.g. in state controlled, monopolistic markets or where there are a limited number of potential buyers) does World Vision execute monetization sales by other means such as by negotiated sale, barter, exchange, etc.
26. World Vision employs the most secure payment mechanisms possible. Ideally the contract provides that all or a substantial portion of the payment is received prior to giving the buyer possession or control of the commodities and the buyer's payment is secured with an irrevocable Letter of Credit or bank guarantee, drawn upon or confirmed by a bank approved by the Chief Finance Officers, or their designates of the funding office, and WVI.
27. Where the buyer is given possession or control prior to full payment, and a Letter of Credit or Bank Guarantee are not possible, World Vision mitigates its risk through Collateral Management contracts, or other methods of establishing a lien on the buyer stocks, but only in circumstances where alternate credit-worthy buyers are not available in the country/market concerned, and where World Vision has adequate assurance from legal counsel that the lien can be enforced (including maintaining priority over other liens), if necessary.
28. World Vision makes every effort to obtain adequate, reasonably priced insurance to protect against loss of destruction of commodities, whether World Vision or buyers under World Vision's lien hold them.

Restricted commodities

1. World Vision requires that any end-use arising from the monetization of non-fresh dairy products comply with the requirements of the WVI Procurement & Use of Milk Products Policy (5140/Oct-97).
2. World Vision sells non-fresh dairy products only to buyers who provide adequate assurance that non-fresh dairy products are used only as an ingredient in the manufacture, under strict sanitary conditions, of products such as yogurt, ice cream, bakery products, adult cereals, flavored drinks, etc.
3. World Vision requires a written guarantee from buyers that non-fresh dairy products purchased from World Vision are not be used in the production of any breast milk substitute, including infant formulas, etc.
4. Recognizing that the presence of genetically modified agricultural/food commodities can be of concern to governments, traders, processors and consumers, World Vision fully discloses the presence of genetically modified agricultural materials in host government program agreements, calls for tender, sales agreements, and through other means as necessary.

ANNEX TO MANAGEMENT POLICY ON MONETIZATION

GUIDANCE ON SALES PROCEDURES AND METHODOLOGIES¹

1.0 OPEN AND COMPETITIVE COMMODITY SALES – TENDER SALES

1.1 Tender Sales - Process

Open and competitive sales may be conducted in the form of tender sales. To carry out a sale by tender, WV first publicly offers the commodity in fixed quantities or “lots.” Potential buyers submit written bids stating the number of lots they wish to buy and the price per lot they are prepared to pay. Bids are submitted in sealed envelopes by a pre-determined fixed date and time. Ideally, the bids are opened publicly at the appointed time and place, read aloud, and recorded. After bids not conforming to published procedures are eliminated, the remaining bids are sorted by value from the highest to the lowest. Ideally, the highest bidders are then selected. However, other items to consider in making the awards are: shipment consolidations, credit worthiness of clients, and storage capacity in order to minimize risk and improve program efficiency. These factors must be taken into consideration prior to tender award determination.

1-2 Advantages of Sale by Tender

Sale by tender is a very effective and transparent way to conduct commodity monetization for the following reasons:

- The fair market sales price is established through free market competition.
- A well-conducted tender mitigates against questions of impropriety and builds confidence among buyers because of its transparency.
- Tender sales, vis-à-vis sales by negotiation or open outcry auction, often result in higher sales prices and increased amounts of sales proceeds.
- Commodity prices tend to be volatile, and the tender sales process allows bidders to respond to changes in commodity prices.

¹ The primary source for this information is the Cooperating Sponsor Monetization Manual (1999) which was produced by Food Aid Management (FAM) and the Monetization Working Group with funding from USAID's Office of Food for Peace.

- Tender sales offer WV an opportunity to educate buyers about competitive market practices.
- WV staff can conduct sales by public tender themselves, thus avoiding the payment of fees to auctioneers or sales agents.
- Sale by public tender works well in countries where different languages are spoken.
- Deposit and bond procedures can be conducted in a more orderly way with sales by public tender than with open outcry auctions.

1-3 Disadvantages of Sale by Tender

Some of the drawbacks associated with tender sales are:

- Management and administrative costs can be somewhat higher than with other sales procedures.
- Local businesspeople often lack experience in purchasing by public tender.
- Public tenders do not work well in a market dominated by one or a few buyers.
- Tenders do not work well in a market where commodity prices are heavily regulated.

1-4 Timing of the Tender Sale

The timing of tender sales is critical. WV should bear in mind the following precautions to ensure successful sales:

- WV should avoid carrying out tender sales when the market is already well provisioned with the commodity to be monetized, either from local harvests or scheduled imports from other sources.
- Wherever possible, sales should be scheduled as part of an ongoing series of tender calls for limited amounts of commodity.
- Large sales should be announced as far in advance as possible, ideally several months or more ahead of time, so that traders and importers can adjust their commodity importation and acquisition plans. Although the announcement should be made well in advance of the actual sale, bids should be accepted over a much shorter time frame, e.g., a week or less. For smaller sales, the announcement can be made up to a week in advance of the sale.

1-5 Transparency

Some local businesspeople may be unfamiliar with tender sales and suspicious of them. This may be true, in particular, for the owners of small and medium-sized businesses. Larger businesses may be more familiar with tender sales because they are sometimes used by host governments. Even they, however, may regard the practice as corrupt and unfair if they have previously had a bad experience with this type of sale.

Accordingly, WV must plan carefully all aspects of the tender process: the call for bids, receipt of bids, opening of bids, and selection of buyers. WV should publicize the terms of the sale in advance and adhere to them rigidly. Once a call for bids has been issued and the sales process launched, WV should not make changes in that process unless specifically provided for in the tender announcement. Doing so could result in competing bidders responding under different rules, thus destroying the fairness of the exercise. It is very difficult, if not impossible, to evaluate bids fairly given differing criteria. WV also risks losing credibility and/or being challenged by potential buyers who may suspect that changes will disadvantage them.

Changes in the terms, conditions, or procedures of a tender process should be made only between tender calls. No change should ever be made between the announcement of the tender call and the announcement of the winning bidders. If an error or oversight in the process is discovered, or if some unforeseen circumstances arise, the sale should be canceled.

<p style="text-align: center;">Transparency: The Strong Point of Tender Sales</p> <p>When conducting a sale by tender, WV should carry out every step of the process in public. Although this may be frustrating and less than efficient, transparency will bring substantial benefits:</p> <ul style="list-style-type: none">• fewer disgruntled bidders who charge that corrupt sales practices are taking place• greater confidence and trust in the WV on the part of the local business community• encouragement of new participants in the tender process, thus increasing competition and generating more sales

1-6 Lot Size

Commodities should be offered for sale in lots (quantities) of a fixed size. A lot may be as large as an entire consignment or as small as the basic unit of commodity packaging. A uniform lot size makes managing a sale much easier because it provides a standard against which to evaluate bids. As a general rule, sales should be made in whole lots only.

Lot size should be set based on the objectives of WV. If WV is attempting to increase competition and open markets to small buyers, then small lot sales would be appropriate. In general, the smaller the lot size offered, the greater the number of bids that will be submitted, and the larger the number of successful bidders and individual sales that will be transacted. Smaller lot sizes usually result in an incremental increase in administrative costs. This increase in costs is generally recovered, however, because small lot sales tend to generate a greater amount of revenue than larger lot sales.

If WV is primarily concerned with generating the cash needed to fund its food security programs, then the lot size could be set substantially higher.

1-7 Maximum and Minimum Purchases

Usually the minimum purchase determines or equals the lot size. In some circumstances, however, WV may have to establish a lot size smaller than the minimum purchase. This can ease delivery by spreading deliveries over a longer period of time, and is useful when the sale involves large quantities of the commodity going to a single buyer.

WV may wish to limit the total amount of commodity to be sold, thereby:

- imposing some order on market prices by releasing fixed amounts of commodity into the market at regular intervals.
- maintaining a certain cash-flow position and avoiding holding large sums of currency, which can result in losses due to inflation and currency devaluation.

WV may also elect to limit the total amount of commodity that can be sold to one buyer in the first round of bids. After all buyers with acceptable bids have had an opportunity to purchase, WV can sell additional commodities to buyers wishing to purchase more. By limiting purchases in this way, WV:

- prevents a single buyer from gaining control of the market.
- promotes the development of small private traders and the small-scale private sector.

At whatever level the maximum sale is fixed, the terms of the sale should stipulate the total amount of the commodity being offered for sale, expressed in number of lots, while reserving the WV's right to sell less than that total amount.

Sales should never exceed the amount publicized as being offered. Buyers calculate their tenders, at least in part, based on the total amount of the commodity they anticipate will enter the market. By selling more than the published maximum, WV undermines the buyers' faith and places them at financial risk. This could discourage their participation in future sales.

Limiting the amount of a commodity that can be purchased by a single buyer sometimes proves ineffective because large buyers respond by simply submitting tenders under other names. WV's familiarity with the local business community may help to mitigate against this.

1-8 Managing the Tender Sale

WV must formally establish and announce the time frame within which bids will be received. Bids can generally be received beginning any time from the initial publication of the bid solicitation up to but no later than a clearly announced cut-off date and time, including the hour. WV should announce in the tender solicitation the date, time, and location of the bid-opening session. The established date and time of the bid-opening session should be timed to fall within normal business hours. The location should be accessible and large enough to accommodate all bidders and interested members of the public who wish to attend. WV should generally allow up to a week (5 working days) for buyers to submit bids. During the bid-opening session, WV should ensure that:

- Bids are submitted in a standardized format.
- Bids are submitted in sealed envelopes.
- Each envelope contains only one bid.
- Each bid is recorded as soon as it is received
- Each bidder is issued a receipt
- In the presence of the bidder, the sealed envelope(s) is/are locked in a strongbox. Where a strongbox is not used, sealed envelopes are signed on the seal to prevent tampering. The bidder should understand that the box, or signed, sealed envelopes will remain closed until the day of the bid-opening session, when box/envelopes will be opened publicly..

WV should reject out of hand any bids that are submitted late. To ensure transparency, WV should post publicly, immediately after the bid closing, the number of bids received. This will assure on-time bidders that late bids were not accepted. Bidders will later be able to confirm this number by noting the number of bids opened at the official bid-opening session.

1-9 Selection of Buyers

To achieve both transparency and a high level of competition, WV should use the following procedures to select buyers:

- Invite representatives of the host country government, counterpart agencies, USAID, USDA and/or the U.S. Embassy to attend the bid-opening event. One or more of these representatives can be asked to act as an "official observer" and attest to the integrity of the tender process.

- Open the envelope seals and/or locks on the tender box in full view of the assembly.
- Open the tenders and read them aloud.
- Carefully examine each tender and verify it for completeness, arithmetical correctness, and compliance with all criteria set out in the bid solicitation. Immediately and publicly reject any tender found not to meet one or more of the established criteria.
- Where feasible, enter data from all accepted tenders in a database for storage and ease of handling. Verify all data entries.
- Keep a record of the basic data contained in each bid, including whether the bid was accepted or rejected.
- Sort the bids according to value following verification of all data entries.
- Identify winning bidders by moving downward from the highest offered price until an established cut-off price is reached or until all available commodities are sold.

One of two procedures can be used to fix the sales price. The method for fixing the sales price, along with an explanation of the method, must be included in the tender sale information packet.

- Pay-as-Bid: Each bidder who is selected pays the price s/he bid. This procedure tends to increase total income. However, WV must take care when selecting the cut-off price (which is done in private after all the bids have been opened and called out) to limit the price spread between the highest and lowest bids accepted. When marketing the commodity, higher bidders could suffer serious losses if underpriced by lower bidders. In other cases, the highest bidders may choose to default because they would be unable to compete with buyers purchasing at lower bids.
- Stop-Out Price (Uniform Pricing Method): WV calculates a single price by moving down the list of eligible bids, which have been ranked by price, either to the floor price or until an offer is reached where the total of the offers at and above that price equals or just exceeds the total quantity of the commodity for sale. All bidders are then asked to pay that stop-out or uniform price. This system has the advantage of allowing buyers to compete, in resale, on a level playing field, limiting the possibility of financial loss to them and alleviating the problem of bid defaults. Uniform pricing tends, however, to lower the amount of sales proceeds.

The Pay-as-Bid system, which requires careful management, is the preferred method of buyer selection in most circumstances. WV should publicly announce winners soon after the bid-opening exercise. The sooner this is done, the less gossip there will be about bid manipulation. WV should post at its field office a list of winning bidders, along with copies of the database entries from which the selections were made. In addition, it can make announcements through the local print media. An advertisement in the newspaper provides documentary evidence of a formal announcement. Speed is important in terms of payment deadlines. WV should include in the tender sale information packet information about how the winners will be announced.

1-10 Payment Procedures

Immediately upon selection and announcement of winning tenders, WV should place the deposits of successful buyers in the monetization proceeds bank account. Except for the buyers' deposits, WV should avoid directly handling instruments of payment. It should be an established and publicized part of the sales procedures that buyers will deposit the balance of their payment directly into the monetization proceeds bank account. Commodities should only be released upon proof of deposit.

1-11 Delivery Procedures

Delivery of the commodity should not be made until WV has received full payment unless a Letter of Credit or Bank Guarantee is in place to secure payment. The buyer should take delivery as soon as possible after signing the sales agreement and making payment. WV should require that each buyer sign a delivery receipt, covering all aspects of quantity and quality of the commodity, at the time of delivery.

1-12 Procedure Review

WV should review all procedures that will be followed in carrying out the tender sale with the following:

- An attorney, to ensure conformity with local law
- WVI/WVUS in-house legal counsel
- Relevant government agencies and ministries, to ensure conformity with existing guidelines or policies and to ensure host government support
- The USAID Mission
- Potential Buyers: WV should consider either publishing a draft of the proposed procedures and inviting interested businesspeople to comment or arrange a seminar for local businesspeople to discuss the monetization program, in particular the tender sale procedures.

1-13 Notes on Sale by Tender

Although some local circumstances may preclude sales by tender, the tender bid system is a preferred monetization sales method. Tendering is most effective in a market comprised of a large number of identifiable potential buyers. Because it attracts a substantial number of bidders, it also works well in markets where the potential for effective competition initially appears to be limited.

In many countries, small and medium-sized businesses may never before have had the opportunity to trade in imported commodities due to the difficulty of obtaining foreign exchange. Monetization makes an imported commodity available in the purchaser's currency and therefore allows WV to access what

may be a substantial pool of capital, albeit capital held in small amounts by a large number of individuals. By offering commodities in small lots through a tender sale system, WV may discover an untapped commodity market.

Sale by tender is not the best option in all situations. If WV already knows of buyers who are prepared to take delivery at end of ship's tackle, then sale by tender may be less effective, causing unnecessary time delays and administrative burdens. On the other hand, it may be that the heavy financial requirements placed upon a buyer taking title to a large shipment of commodity in the port (i.e., payment for purchase of the commodity plus transport, port, and storage charges) will greatly reduce the number of qualified buyers.

If, however, there is a reasonable expectation of competition, tender sales offer the best means of maximizing proceeds.

Some additional points regarding tender sales:

- Free commodity markets tend to have only a small number of importers. These importers sell wholesale to smaller businesspeople that function as both petty wholesalers and retailers and who, in turn, sell onward to the smallest retailers.
- The tender process is designed to attract the maximum number of buyers to the market, increasing competition and, as a result, increasing prices and sales proceeds.
- Generally, the smaller the lot size, the higher the price WV can expect to obtain.
- Tender sales will work best where WV has sufficient storage space available, establishes a sales office, and undertakes to market the commodity aggressively in small lots through a regular and ongoing schedule of frequent tender calls.
- WV may wish to issue a call for bids well in advance of a sale so that if response is limited or otherwise unacceptable, it will have ample time to cancel the call and negotiate the sale.

2.0 NEGOTIATED SALES

2-1 Definition of Negotiated Sales

Commodities are sold by negotiation when the seller meets with a qualified and interested buyer or buyers and reaches an agreement through offer and counter-offer.

2-2 Advantages of Negotiated Sales

Negotiated sales offer WV several advantages, particularly when sales involve large quantities of commodities that are sold infrequently or commodities that, by their nature, will attract a limited number of buyers:

- Negotiated sales can result in lower operating costs through reductions in the costs of storage, transport, and staff.

- Because of the lead time involved in shipping, negotiated sales can provide WV with advance knowledge of earnings from the sale, which simplifies program and budget planning.
- Generally speaking, negotiated sales are the most common, and therefore the most familiar, sales procedure for local buyers.
- Negotiated sales are the only effective means of sale in markets dominated by a single buyer or a small number of buyers.
- They are the only effective means of sale in markets that are heavily regulated in terms of price and other controls.

2-3 Disadvantages of Negotiated Sales

Conducting commodity sales by negotiation also presents the following disadvantages for WV:

- To negotiate effectively with local buyers, WV must have an in-depth knowledge of commodities in general as well as of local commodity market conditions.
- Negotiated sales offer limited competition and may result in lower sales prices.
- Negotiated sales tend to reduce transparency and raise concerns and questions regarding the propriety of sales.
- Because of the extended time involved between negotiation and actual receipt of the commodity by the buyer, an additional risk factor involving the actual future import parity price is assumed by the buyer. The buyer recognizes this and often hedges that risk by reducing the price s/he is willing to pay.

2-4 Timing of the Negotiated Sale

If the number of potential buyers is limited to one or only a few, then the timing of the sale becomes a crucial factor. Any potential buyer who knows that a commodity is forthcoming and that s/he is the only customer will be able to hold out for a very low price.

In order to negotiate from a position of strength, WV should avoid calling forward unsold commodities. Negotiations should be concluded, sales agreements signed, and financial guarantees in place before the commodity is called forward. At the latest, the sale should be completed before the commodity is lifted at the U.S. port.

WV should keep in mind that negotiations may be drawn out, involving a series of sessions over an extended period of time. This is especially likely in societies where negotiation is regarded as a combination of art form, business, social function, and entertainment. In short, WV should plan ample time for negotiations; time constraints will only place WV at a distinct disadvantage in the negotiating process.

2-5 Transparency

Of the sales options open to WV, the negotiated sale has the disadvantage of offering the least transparency. This can be mitigated by undertaking widespread advance publicity designed to encourage all potential buyers to take part in the monetization program. Such publicity is important even when only one or two qualified buyers are likely to respond. In countries where an umbrella monetization agreement is in place, the lead agent may wish to involve the other NGOs in the negotiating sessions. This may demonstrate to the buyer the seriousness of the process and protect the lead agent from appearing isolated. WV should be sure to take careful notes at each negotiating session and hold the notes in a secure file.

2-6 Lot Size

The lot size will usually be established during the negotiation itself. If only one potential buyer is involved, the lot size will in effect be set by the buyer's offer and his/her financial ability to pay for, store, transport, and market the commodity. This will apply even when WV undertakes negotiations simultaneously with more than one buyer. Each buyer will establish the total amount of the commodity s/he plans to purchase.

2-7 Maximum and Minimum Purchases

In negotiated sales involving only one or a very few buyers, the maximum purchase will be determined by the amount of Title II commodity WV is offering and the amount the buyer wishes to purchase or is capable of purchasing.

The minimum purchase will be the smallest amount WV considers worthwhile to sell when it compares management costs to proceeds to be earned. Shipping considerations, such as minimum cargo sizes on bulk commodities, may also factor into WV's decision on minimum purchases.

2-8 Managing Negotiations

Face-to-face negotiations with an individual buyer can be one of the most difficult challenges in the monetization process. There are no hard and fast rules for this exercise, and even such guidelines as can be offered are subject to local customs and conditions. In general, however, WV should keep the following in mind:

- **Ensuring Transparency:** There should be at least two WV representatives in negotiations with the prospective buyer. One representative can be the negotiator, but there should be at least another representative present through negotiations in order to further ensure transparency in the process.
- **Know your negotiating position.** Before facing a prospective buyer, WV must know its sales price requirements and its degree of flexibility in terms of price, timing of arrivals, lot size, and minimum and maximum purchases. WV must always be prepared to back away from a sale if it cannot negotiate an appropriate deal.

- Know your commodity. Wheat is not simply wheat, and vegetable oil not simply vegetable oil. Each commodity has a wide variety of technical characteristics and sources of supply. WV's negotiator who does not understand these factors will be at a distinct disadvantage. In addition, USDA/P.L. 480 commodity specifications may not be identical to grades and standards used in other commercial transactions. Discrepancies can result in serious misunderstandings if buyer expectations are not met. This, in turn, will undermine future negotiations because WV will appear to be an unreliable supplier.
- Know your buyer. In advance of negotiations, WV should learn everything it can about the local commodity market and, specifically, about the business activities of the prospective buyer(s). This is not an easy task. However, every piece of information WV has, including knowledge of local customs and culture, represents an advantage..
- Timing is everything. The best time to negotiate is determined by the commodity's availability in the local market, the anticipated arrival time of imports, and local production. Scheduling negotiations when the commodity is not available or is in short supply will place WV at an advantage. WV should avoid entering into negotiations when it is pressed for time.
- Use a familiar negotiating format. Negotiations should be conducted in the format that is most frequently utilized in the host country. Offers should be confirmed in writing.
- Negotiate with authorized parties. Transactions should be negotiated directly with the buyer or with a representative of the buyer who has the authority to make a deal.
- Personalize the process. The person negotiating for WV should establish a face-to-face, personal relationship with the buyer. There is no substitute for personal contact, which stimulates trust between the two parties.
- Be cautious. WV should ensure that everything concerning the sale is recorded in writing.
- Share the win. At the outset, and throughout the negotiation process, the WV negotiator should openly express his/her desire to reach an agreement that will benefit both parties. The goal is to sell at a fair price, one that will both meet WV's objectives and allow for a fair profit margin for the buyer.
- Be polite but firm. A WV representative who is considerate and polite, even while negotiating with vigor, will get more out of the buyer.
- Act knowledgeably. Buyers respect experts. The WV negotiator should be well-versed in all aspects of the sale. At the same time, s/he should respect the buyer's expertise. The buyer almost certainly has superior knowledge about local commodity trading.
- Ask questions. To better understand the buyer, the WV negotiator should ask a lot of questions. This is one way to learn a great deal and to foster a positive negotiating climate.
- Listen politely. The buyer's positions or offers should never be rejected out of hand. The WV negotiator should note anything in the buyer's statements with which s/he agrees and then restate his/her position.

- Establish the agenda. A draft sales agreement can be used as a negotiating tool. A buyer often agrees more readily to something already in writing. Demands should be moderate, and WV should negotiate incrementally.
- Be bold in pricing. WV should strive to negotiate the highest sales price possible; keeping in mind at all times the importance of import parity pricing. The buyer will most likely offer less than s/he believes the commodity is worth. Knowledge of the local market price structure will enable the WV negotiator to counter an unacceptable bid.
- Use objective criteria. Negotiations should be structured around facts, figures, and known
- Be aware of time pressure. Patience and persistence are important. However, if negotiations are proceeding too slowly, a deadline should be set, even an artificial one. On the other hand, ultimatums should be avoided.
- Give and take. Issues should be combined if the buyer is likely to agree to at least one of them. WV should never give something up unless the buyer gives something in return. Concessions should be small but presented to the buyer as big.
- A signed seal is a closed deal. The sales agreement should be signed immediately upon the close of negotiations.
- Boost the buyer's morale. The buyer should be made to feel good at the close of the negotiations so that s/he will be amenable to doing business again.

2-9 Selection of Buyers

When WV has been forced to negotiate with only one or two qualified buyers, it should use the same criteria for screening potential buyers. If the commercial environment is so unfavorably compromised that WV cannot negotiate a satisfactory deal with a responsible buyer, then WV should question whether it is an appropriate market in which to monetize.

2-10 Payment Procedures

Upon completion of negotiations, the buyer must agree to post a letter of credit, bank guarantee, or deposit, either fixed or a percentage of the total sales value. This should be done at the time the sales agreement is signed or as shortly thereafter as practicable.

2-11 Delivery Procedures

Particularly in negotiated sales, the buyer should take delivery as early in the commodity arrival process as possible. Ideally, this will mean at the port at the end of ship's tackle. By passing title to the buyer at the earliest possible time, WV passes on potential handling, transport, and storage losses. A delivery receipt, covering all aspects of quantity and quality, should be signed by the buyer at the time of delivery.

2-12 Procedure Review

WV should study all aspects of the local market, including traditions, customs, and regulations, that might have an impact on negotiations. Guidance from the following sources may prove useful: local attorneys, relevant host government agencies, the chamber of commerce, local business people (other than those who are potential buyers), the USAID Mission, the U.S. Embassy Commercial Attaché, USDA Agricultural Attaché or representative, and any local representation of a U.S. commodity association. After each negotiated sale has been finalized, WV should review its performance and assess whether to modify tactics, strategies, or procedure.

2-13 Notes on Negotiated Sales

Negotiating an acceptable sales price may prove difficult or even impossible if WV has only one or very few qualified buyers and if commodity prices are held below world market prices through price controls, subsidies, or over-valued exchange rates. Although market and price surveys carried out while WV was developing the monetization project proposal should have provided a reasonably accurate idea of what price offers to expect, local market forces and world commodity prices fluctuate. Despite the considerable resources and time invested, WV should be prepared to cancel a sale if it cannot obtain an acceptable price, and should advise potential buyers that it is prepared to do just that.

3.0 SALES AGREEMENTS AND PURCHASER PAYMENT

3-1 Sales Agreements

A sales agreement is the document that spells out the terms and provisions of a Title II/USDA commodity sale. A sales agreement is executed by both the buyer and the seller and must be in place for each and every sales transaction.

3-1.1 Standard Provisions

WV should include the following essential provisions in all sales agreements:

1) Full commodity specifications and tonnage

(This information would include the type of commodity that will be delivered, including the quality specifications of the commodity, and the amount sold, expressed in number of metric tons and number of lots, as appropriate.)

- 2) Agreed total sales price. A discount range should be specified in the agreement in order to prevent failure of performance on the part of the buyer in the event that the commodities do not meet the agreed upon specifications.
- 3) How and when payment(s) will be made, amount(s) of payment(s), terms of payment(s) (including a description of the terms), if applicable, exchange rate used (including whether it is a market-based rate) and when used (e.g., at the time of payment, at the time of signing the agreement), and a guarantee that payment will take place.

(This information would include the currency in which the sale is denominated; the payment schedule and size of payment tranches, e.g., 50 percent upon signing and 50 percent when the commodities are delivered; the terms of the payment, e.g., irrevocable letter of credit; the exchange rate used and how and when the exchange rate was determined; and a guarantee that the buyer will pay for the commodities.)

- 4) Delivery terms: Commodities will be sold on a Cost and Freight (CFR) basis or Cost Insurance Freight (CIF) basis and sales agreement must indicate delivery terms.²
- 5) Stipulation that the purchaser will not export the commodities or products thereof
- 6) Agreement by purchaser, having accepted the commodities when discharged at the port of entry, not to raise claims thereafter about the "wholesomeness" or "fitness" of the commodities
- 6) Date of sale

In addition to the above provisions, the sales agreement should also include the following elements:

- 7) The complete names and addresses of the parties to the agreement.
- 8) How the sale will proceed, i.e., which documents need to be transferred based on the performance of which actions.
- 9) Responsibilities for each of the many tasks that need to be performed, e.g., inspection, transport, handling, customs, taxes, and safeguarding.
- 10) How the contract will be enforced, i.e., define the terms of arbitration, name the independent third party, and establish the conditions that trigger such recourse.

² Cost and Freight (CFR). A pricing term indicating that the cost of the goods and freight charges are included in the quoted price. The supplier must pay the costs and freight necessary to bring the goods to the named destination, but the risk of loss or damage to the goods, as well as of any cost increases, is transferred from the seller to the buyer when the goods pass the ship's rail in the port of shipment. Buyers are responsible for

Cost, insurance, freight (CIF): A pricing term indicating that the cost of the goods, freight and marine insurance charges are included in the quoted price. The supplier must pay the costs, insurance and freight necessary to bring the goods to the named destination, but the risk of loss or damage to the goods, as well as of any cost increases, is transferred from the seller to the buyer when the goods pass the ship's rail in the port of arrival.

- 11) The penalties for the buyer's late payment. In theory, however, a buyer's payment should never be late. If payment is to be made in cash or by cashier's check, the payment should be made up-front. If payment is not made in accordance with the terms of the sales agreement, the bank guarantee is activated. With a letter of credit, the seller is paid immediately upon presentation to the bank and acceptance by the bank of the documents stipulated in the sales agreement.
- 12) Stipulation that the buyer cannot sell the commodities to the military
- 13) A description of the commodity packaging
- 14) Provisions for amendment, given mutual agreement
- 15) Force Majeure clause, which nullifies the seller's obligation to deliver commodities in situations where "acts of God," e.g., hurricanes, ships lost at sea, occur as well as reference to performance of contract "subject to actions of the US Government."

4-1.2 Executing the Sales Agreement

11-1.2.1 Signers

The WV Country Director or the Director's designate should sign the sales agreement on behalf of WV. In the case of an umbrella monetization, the lead agent should sign the sales agreement after the umbrella monetization committee has approved the provisions. WV must ensure that the person signing on behalf of the buyer has the authority to do so.

11-1.2.2 Timing of Execution

The sales agreement should be signed immediately upon consummation of the sales transaction, or as soon thereafter as possible. For negotiated sales, WV's representative should have a sales agreement on hand and ready to be signed when s/he meets with buyers. The buyer may not agree with all the terms of the agreement, and some redrafting may be required. But, by immediately proffering a sales agreement, WV will send a signal that the deal is done and that s/he expects to finalize an agreement quickly.

For tender sales and auctions, the sales agreement should be made part of the information packet that is provided when the sale is publicized. This will allow potential buyers to review the agreement and seek clarification from WV before the date the tenders are due or the auction takes place. Sales agreements should be signed with purchasers as soon as their bids are accepted.

4-2 Purchasers' Payment

4-2.1 Procedures for Payment

A detailed explanation of payment procedures should appear both in the original announcement of the sale and in the sales agreement. The recommended forms of payment are:

- Irrevocable letter of credit
- Bank guarantee
- Certified check
- Cash

When a series of cash payments are scheduled, the commodity should be delivered in installments directly corresponding to the payment schedule. This ensures that only the amount of commodity that has been paid for is delivered, and that responsibility for the commodity that has been paid for passes to the buyer.

4-2.2 Payment Instruments

Buyers can pay for commodities through several secure instruments that assure collection of full payment by WV. Each payment instrument has its own inherent advantages and disadvantages. The most common forms of secure payment instruments are letters of credit, bank guarantees, and certified checks. These are discussed below.

4-2.2.1 Letters of Credit

A letter of credit (L/C) is a document issued by a bank through which the bank agrees to pay to the seller, on the buyer's behalf, a specified amount of money upon presentation of certain documents to the bank within a predetermined time frame. The L/C is opened by the buyer and seller is listed as the beneficiary. The seller named in the letter of credit accepts the bank's reputation and credit as security for the payment, and the bank assumes the risk associated with the buyer's credit.

L/Cs are either revocable or irrevocable. Revocable L/Cs can be canceled or amended at any time without prior notice to either party. WV cannot, therefore, rely upon revocable L/Cs as an assured form of payment. Irrevocable L/Cs, on the other hand, cannot be amended, canceled, or changed in any way without the consent of the buyer, the seller, and the bank. Therefore, WV should accept only irrevocable L/Cs.

WV may wish to reinforce an irrevocable L/C by having it confirmed. An irrevocable L/C is confirmed when WV's U.S. bank guarantees payment by adding its own obligation to that of the issuing bank. By offering confirmation, the U.S. bank places its credit and guarantee ahead of those of the issuing bank. WV is thereby protected against delays or any other risk which might be associated with a foreign bank. The problem with adding confirmation to an L/C are the costs involved, which are generally high. If the L/C is opened through a first-class bank, unless the country where the L/C is opened is deemed particularly economically or politically unstable (or both), adding confirmation to an L/C is generally not required.

Advantages of Using a Letter of Credit

The greatest advantage of L/Cs is their flexibility. Each L/C is designed to address needs unique to the parties involved and incorporates conditions and requirements for documentation agreed to by both the buyer and the seller.

1) Advantages for WV:

- L/Cs guarantee payment by the bank and thus eliminate the risk of non-payment.
- WV receives payment upon presentation to the bank of documents stipulated in the sales agreement.
- Confirmed L/Cs eliminate financial and political risks in countries with particularly unstable governments and economies.

2) Advantages for the buyer:

- L/Cs guarantee that the seller will ship the commodity as set out in the agreed terms of the L/C, since shipping documents must be presented before payment can be made.
- LC's provide a financing mechanism through which the buyer's bank can finance all or part of the purchase.

Disadvantages of Letters of Credit

In some cases, bank policy prohibits the issuance of L/Cs denominated in the local currency of the host country. Furthermore, since in developing countries L/Cs are used almost exclusively for the purchase of imports with hard currency, even a bank that is prepared to issue an L/C in the host country's currency might have little or no experience in doing so. Finally, the cost to the seller of securing an L/C can be prohibitively expensive. The usefulness of L/Cs will depend upon bank policy and commercial practices in a given country.

Documentation

Banks that issue L/Cs will pay only upon presentation of stipulated documents that are in good order. Banks will neither verify the quality of merchandise nor inspect a ship. They are responsible only for determining that the documentation appears to meet the terms set out in the L/C. WV must, therefore, ensure that all documents are correct and complete in every detail.

The quantity and quality of the commodity shipped ultimately depends on the integrity of the sellers (essentially WV and the U.S. Government). Buyers therefore must have considerable confidence in WV to go forward with a purchase.

A buyer can verify that the commodity shipped conforms with the specifications spelled out in the sales agreement by reviewing inspection certificates that have been issued by USDA. Inspection certificates are usually part of the required documentation as stipulated under the L/C and thus they must be presented before banks will remit payment on L/Cs- therefore WV must be aware of which certificates are required. The buyer can also arrange for an independent inspection firm to examine the commodity prior to shipment.

Amendments to Letters of Credit

Banks are obligated by the terms and conditions of the L/C and do not concern themselves with other contract stipulations that are either different from or in addition to the documents required to meet the terms of the L/C. Any discrepancy between the terms of the L/C and the sales agreement could nullify payment. Therefore, WV must ensure that each and every detail is correct, including such questions as spelling, the use of "Co." in place of "Inc." or "Ltd.," and the manner of typing the date (month/day/year vs. day/month/year). Even a typographical error or misplaced punctuation mark found after issuance will mean the L/C must be amended. Should either WV or the buyer realize that a term or condition of the L/C cannot be met, the L/C must be amended immediately. Amendments cannot be left until shipping documents have been prepared and forwarded to the bank, as banks act upon terms in effect upon receipt of documentation. Amendments can be used to alter any term in the L/C, such as the value of the credit, the expiration date, shipping terms, or documentary requirements. Amendments must be agreed to by all parties to the L/C: the buyer, WV, and the bank. Only with such mutual agreement can the changes be validated. For confirmed L/Cs, the confirming bank must also concur with the amendment language.

In order to process an L/C amendment, WV must request amendments through the buyers – and the buyers in turn must contact the bank through which the credit is opened in order to process the amendment. Therefore, it is crucial that WV communicate directly with and receive cooperation from buyers in order to process any required amendments.

Checklist for Letters of Credit

As soon as the WV receives an L/C, the staff person responsible must review its terms and conditions to confirm WV's capability to meet its requirements. The L/C is only as good as WV's ability to comply with all its conditions within the time allowed.

Checklist for Reviewing a Letter of Credit (L/C)

- Is the L/C irrevocable?
- Is WV's name and address accurate?
- Are the buyer's name and address accurate?
- Does the L/C include the amount or value, including the exchange rate used?
- Does it include the terms of the sale?
- Is there a possibility of additional charges? (Does it say "approximately" or "about" and, if so, to what extent may the amount vary?)
- Does it include the location of the paying bank, i.e., where the credit is available?
- Is the credit negotiable, i.e., can it be transferred to another party?
- Does it stipulate which documents must be presented by WV?
- Is the commodity described exactly and accurately?
- Does it state the unit price?
- Does it include the shipping terms?
- Does it include the points of loading and destination?
- Are there any stipulations for partial shipments and transshipments?
- Are there any special instructions?

4-2.2.2 Bank Guarantees

A bank guarantee is a document issued by a bank in which the bank agrees, on behalf of the buyer (sometimes referred to as the "principal"), to ensure that all obligations set forth under a contract, including payment in full, will be met by the buyer, provided the seller (sometimes referred to as the "beneficiary") demonstrates full discharge of his/her obligations through presentation of specified documents within a predetermined time frame. Bank guarantees can be as comprehensive as necessary, and can include any term or condition that is agreeable to all parties: the buyer, WV, and the guaranteeing bank. They can apply to deposits only, or they can cover the total value of the sale. Bank guarantees can be amended at any time, provided the amendments are agreed to by the buyer, WV, and the bank. Bank guarantees cannot be amended without the agreement of all parties.

Advantages of Bank Guarantees

Like a letter of credit, a bank guarantee offers considerable flexibility. Each guarantee can be tailored to fit the demands of a USDA or Title II monetization program and its particular requirements.

1) Advantages for WV:

- A bank guarantee assures that payment will be made. WV should activate the bank guarantee if a buyer fails to make payment according to the agreed-upon schedule.
- A bank guarantee provides credit facilities to a buyer without exposing WV to risks of non-payment.

2) Advantages for the buyer:

- A bank guarantee ensures that payment is not made until the commodity is delivered.
- A bank guarantee provides a financing mechanism through which the buyer can obtain credit.
- A bank guarantee permits the buyer to purchase the commodity in the currency of the host country.

Disadvantages of Bank Guarantees

- Banks issuing guarantees deal in documents only. The issuing bank will pay only upon presentation of the documentation set out in the original guarantee. The bank will not verify the quality of the merchandise or inspect a shipment. WVV must, therefore, ensure that all documents presented are correct and complete in every detail.
- The buyer must pay a fee in order to obtain a bank guarantee.

Documents most often required by bank guarantees

- Ocean Bill of Lading
- Certificate of Origin
- Commercial Invoice
- Independent Surveyor's Report\
- Inspection Certificate
- Delivery Receipt

Amendments to Bank Guarantees

Banks are obligated only by the terms and conditions of the guarantee and do not concern themselves with contract stipulations different from or in addition to the documents required to meet the terms of the guarantee. If, after the bank guarantee is issued, discrepancies are found between the terms of the guarantee and those of the sales agreement, either the buyer or WVV must amend the bank guarantee. Amendments are made, however, at the discretion of the bank.

4-2.2.3 Certified Checks

A certified check is a check that has been drawn by the buyer against his or her own account and guaranteed by the bank's assurance that sufficient funds are on deposit to cover the check's payment.

Advantage of Certified Checks

WV is guaranteed payment of the value of the certified check, qualified only by the dependability of the bank issuing the certification.

Disadvantage of Certified Checks

Because a buyer must have sufficient funds on deposit to obtain the certification, certified checks provide no credit terms to the buyer. WV should confirm the clearance of a certified check from the buyer's account to WV's account.