

## Natural Resources Conservation Service, USDA

## § 652.5

(6) Track payment and accomplishment data related to technical services delivery; and

(7) Provide quality assurance for technical services provided by technical service providers.

(d) The Department will not make payments under a program contract or agreement, a contract, contribution agreement, or cooperative agreement for technical services provided by a technical service provider unless the technical service provider is certified by NRCS and is identified on the approved list.

(e) The Department will evaluate the terms and conditions of existing agreements with technical service providers to ensure that they are consistent with this part.

### § 652.4 Technical service standards.

(a) All technical services provided by technical service providers must meet USDA standards and specifications as set forth in Departmental manuals, handbooks, guides, and other references for soils mapping and natural resources information, conservation planning, conservation practice application, and other areas of technical assistance.

(b) The Department must approve all new technologies and innovative practices, including applicable standards and specifications, prior to a technical service provider initiating technical services for those technologies and practices.

(c) Pursuant to any contract or agreement with NRCS or with the program participant, the technical service provider must warrant in writing that the particular technical service provided:

(1) Complies with all applicable Federal, State, Tribal, and local laws and requirements;

(2) Meets applicable Department standards, specifications, and program requirements;

(3) Is consistent with the particular conservation program goals and objectives for which the program agreement or contract was entered into by the Department and the program participant; and

(4) Incorporates, where appropriate, low-cost alternatives that would ad-

dress the resource issues and meet the objectives of both the program and program participants for which assistance is provided.

(d) Technical service providers, including entities and public agencies, must assume all legal responsibility for the technical services provided. Technical service providers, including entities and public agencies, must indemnify and hold the Department and the program participant harmless for any costs, damages, claims, liabilities, and judgments arising from past, present, and future negligent or wrongful acts or omissions of the technical service provider in connection with the technical service provided.

(e) The Department will not be in breach of any program contract or agreement if it fails to implement conservation plans or practices or make payment for conservation plans or practices resulting from technical services that do not meet USDA standards and specifications or are not consistent with program requirements.

(f) The program participant is responsible for complying with the terms and conditions of the program contract or agreement, which includes meeting USDA technical standards and specifications for any technical services procured by the participant or obtained in accordance with this part.

(g) The technical service provider shall report in the NRCS conservation accomplishment tracking system the appropriate data elements associated with the technical services provided to the Department or program participant.

### § 652.5 Program participant acquisition of technical services.

(a) Program participants may obtain technical assistance directly from the Department or from a certified technical service provider.

(b) To acquire technical assistance directly from the Department, program participants should contact their local USDA Service Center.

(c) To acquire technical services from a technical service provider, program participants must:

(1) Comply with the program agreement when acquiring technical services; and

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(2) Select a certified technical service provider from the approved list of technical service providers.

(d) To obtain payment for technical services, the program participant must submit to the Department an invoice, supporting documentation, and a request for payment. The Department may pay a program participant for technical services provided by a technical service provider hired by the program participant through:

(1) A reimbursement payment made directly to the program participant; or

(2) Upon receipt of an assignment of payment from the program participant, a payment made directly to the technical service provider.

(e) The Department will identify in the particular program contract or agreement the payment provisions for technical service providers hired directly by the program participant.

(f) Unless authorized under paragraph (g) of this section, the program participant must enter into a program contract or agreement with the Department prior to acquisition of technical services by a technical service provider.

(g) A program participant may be reimbursed for technical service provider costs incurred prior to entering into a program contract or agreement as long as the individual meets the eligibility requirements for participating in the program. These costs include program related activities that need to be accomplished prior to entering into a program contract or agreement as well as the development of a conservation plan that is subsequently incorporated into the program contract or agreement. To be reimbursed for these technical service provider costs, the program participant must:

(1) Utilize the services of a certified technical service provider from the NRCS approved list of technical service providers; and

(2) Provide to NRCS invoice and related documentation of the technical services provided.

(h) Program participants must authorize in writing to the Department the disclosure of their records on file with the Department that they wish to make available to specific technical service providers.

(i) Payments for technical services will only be made one time for the same technical service provided unless, as determined by the Department, the emergence of new technologies or major changes in the participant's farming or ranching operations necessitate the need for additional technical services.

**§ 652.6 Department delivery of technical services.**

(a) The Department may procure the services of certified technical service providers through a contract or a contribution agreement to assist the Department in providing technical services necessary to develop and implement the conservation programs subject to this part. The Department shall only enter into a contribution agreement with a certified technical service provider if the certified technical service provider contributes at least 50 percent of the technical services needed to accomplish the goals of the project under which the contribution agreement is entered. The Chief may establish minimum contribution rates or limit the utilization of contribution agreements.

(b) The Department may also enter into a cooperative agreement after competition as specified by part 3015 of this title if the principal purpose of the cooperative agreement is to transfer a thing of value to carry out a public purpose of support or stimulation authorized by law. The Chief or the Administrator, Farm Service Agency (FSA) may limit the utilization of cooperative agreements by NRCS or FSA, respectively. Only the Chief, NRCS or the Administrator, FSA may make a determination that competition is not deemed appropriate for a particular transaction and such determination shall only be based where a non-competitive award is in the best interest of the Government and necessary to the accomplishment of the goals of the program.

(c) A certified technical service provider, or an individual providing technical services under the auspices of a technical service provider's certification, shall not be eligible to receive payment under a program contract or