

### § 652.3

### 7 CFR Ch. VI (1-1-05 Edition)

#### § 652.3 Administration.

(a) As provided in this part, the Department will provide technical assistance to participants directly, or at the option of the participant, through a technical service provider in accordance with the requirements of this part.

(b) The Chief, NRCS, will direct and supervise the administration of the regulations in this part.

(c) NRCS will:

(1) Provide overall leadership and management for the development and administration of a technical service provider process;

(2) Consult with the Farm Service Agency and other appropriate agencies and entities concerning the availability and utilization of technical service providers and the implementation of technical service;

(3) Establish policies, procedures, guidance, and criteria for certification, recertification, decertification, certification renewal, and implementation of the use of technical service providers; and

(4) Establish a process for verifying information provided to NRCS under this part.

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

(e) The Department may enter into procurement contracts, contribution agreements, cooperative agreements, or other appropriate instruments to assist the Department in providing technical assistance when implementing conservation programs covered by this part. The Department will ensure that such instruments contain the qualification and performance criteria necessary to ensure quality implementation of the goals and objectives of these conservation programs; therefore, when the Department obtains assistance from a technical service provider in this manner, the technical service provider is authorized to provide technical services and receive payment even if such technical service provider is not certified in accordance with sub-

part B nor identified on the approved list.

(f) When a participant acquires technical services from a technical service provider, the Department is not a party to the agreement between the participant and the technical service provider. To ensure that quality implementation of the goals and objectives of the conservation programs are met, the technical service provider must be certified by NRCS in accordance with subpart B of this part and identified on the approved list. Upon request of NRCS, technical service providers are required to submit copies of all transcripts, licensing, and certification documentation.

#### § 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 will only pay a participant for technical services provided in accordance with established NRCS standards, specifications, and requirements. The Department must approve all new technologies and innovative practices, including interim standards and specifications, prior to a technical service provider initiating technical services for those technologies and practices.

(c) A technical service provider must assume responsibility in writing for the particular technical services provided. Technical services provided by the technical service provider must:

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

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

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

(4) Incorporate alternatives that are both cost effective and appropriate to

address the resource issues. Conservation alternatives will meet the objectives for the program and participant to whom assistance is provided.

(d) Technical service providers are responsible for the technical services provided, including 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 written 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 participant is responsible for complying with the terms and conditions of the program contract or written agreement, which includes meeting USDA technical standards and specifications for any technical services provided by a technical service provider.

(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 participant.

(h) To the extent allowed under State or Tribal law, technical service providers may utilize the services of subcontractors to provide specific technical services or expertise needed by the technical service provider, provided that the subcontractors are certified by NRCS in accordance with this part for the particular technical services to be provided and the technical services are provided in terms of their Certification Agreement. Payments will not be made for any technical services provided by uncertified subcontractors, except when such technical services are provided under the provisions of a procurement contract, cooperative agreement, or contribution agreement with the NRCS.

#### § 652.5 Participant acquisition of technical services.

(a) Participants may obtain technical assistance directly from the Department or, when available, from a technical service provider.

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

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

(1) Enter into and comply with a program contract or a written agreement prior to acquiring technical services; and

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

(d) The Department may approve written agreements for technical assistance prior to program participation based on available funding and natural resource priorities as identified by the State Conservationist.

(e) The technical assistance indicated in paragraph (d) may include the development of conservation plans suitable for subsequent incorporation into a program contract.

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

(g) To obtain payment for technical services, participants must submit to the Department valid invoices, supporting documentation, and requests for payment. The Department will issue payment within 30 days of receiving these items. The Department may pay a participant for some or all of the costs associated with the technical services provided by a technical service provider hired by the participant or, upon receipt of an assignment of payment from the participant, make payment directly to the technical service provider.

(h) 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 be made only one time for the