

**§ 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 or activity plans suitable for subsequent incorporation into a program contract.

(f) The Department may make payment to eligible participants who have a technical service contract and utilize it for technical assistance from a technical service provider.

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

(h) 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.

(i) 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.

(j) Payments for technical services will be made only 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.

(k) *Payment rates for technical services acquired by participants.* (1) NRCS will establish payment rates by calculating not-to-exceed rates for technical services. NRCS will calculate not-to-exceed rates using price data that it may acquire through various sources that it deems reliable.

(2) *Establishing not-to-exceed payment rates.* (i) NRCS will analyze the pricing information using a standardized methodology.

(ii) Not-to-exceed payment rates will be established nationally on a State by State basis for categories of technical services.

(iii) NRCS will coordinate payment rates between adjacent States to ensure consistency where similar resource conditions and agricultural operations exist. Payment rates may vary to some degree between States due to differences in State laws, the cost of doing business, competition, and other variables.

(iv) NRCS will review payment rates annually, or more frequently as needed, and adjust the rates based upon data from existing procurement contracts, Federal cost rates, and other appropriate sources.

(v) NRCS may adjust payment rates, as needed, on a case-by-case basis, in response to unusual conditions or unforeseen circumstances in delivering technical services such as highly complex technical situations, emergency conditions, serious threats to human health or the environment, or major resource limitations. In these cases, NRCS will set a case-specific not-to-exceed payment rate based on the Department's determination of the scope, magnitude, and timeliness of the technical services needed.

(1) The Department shall not make payment for activities or services that

## § 652.6

## 7 CFR Ch. VI (1–1–10 Edition)

are customarily provided at no cost by a technical service provider to a participant as determined by the State Conservationist.

(m) *Payment rates for technical services acquired by participants.* (1) NRCS will calculate TSP payment rates for technical services using national, regional, and locally determined price data.

(2) *Establishing TSP payment rates.* (i) NRCS will establish guidelines to analyze the local pricing information using a standardized method.

(ii) The State Conservationist will establish TSP payment rates in each State for the various categories of technical services. The State Conservationist will determine the rates according to local NRCS cost data, procurement data, and market data.

(iii) NRCS at the National Office will review and approve State payment rates to ensure consistency where similar resource conditions and agricultural operations exist. Payment rates may vary to some degree between or within States due to differences in State laws, the cost of doing business, competition, and other variables.

(iv) NRCS at the State and National levels will review payment rates annually, or more frequently as needed, and adjust the rates based upon data from existing procurement contracts, Federal cost rates, and other appropriate sources.

(v) NRCS may adjust payment rates, as needed, on a case-by-case basis, in response to unusual conditions or unforeseen circumstances in delivering technical services such as highly complex technical situations, emergency conditions, serious threats to human health or the environment, or major resource limitations. In these cases, NRCS will set a case-specific TSP payment rate based on the Department's determination of the scope, magnitude, and timeliness of the technical services needed.

[69 FR 69472, Nov. 29, 2004, as amended at 74 FR 2805, Jan. 16, 2009]

### § 652.6 Department delivery of technical services.

(a) The Department may enter into a procurement contract, contribution agreement, cooperative agreement, or other appropriate instrument to assist

the Department in providing technical assistance when implementing the conservation programs covered by this part.

(b) The Department may also enter into a procurement contract, contribution agreement, cooperative agreement, or other appropriate instrument with technical service providers to provide related technical assistance services that accelerate conservation program delivery. Related technical assistance services may include activities or services that facilitate the development, processing, or implementation of a program contract, such as recording conservation planning decisions and specifications.

(c) NRCS may enter into agreements with other agencies or with a non-Federal entity to provide technical services to eligible participants.

(d) The Department will ensure that such legal instruments contain qualification and performance criteria necessary to ensure quality implementation of these conservation programs. When the Department obtains assistance from a technical service provider through a procurement contract, contribution agreement, cooperative agreement, or other similar instrument, 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 subpart B of this part nor identified on the approved list.

(e) The Department will implement procurement contracts, contribution agreements, cooperative agreements, and other appropriate instruments in accordance with applicable Federal acquisition or USDA Federal assistance rules and requirements for competency, quality, and selection, as appropriate. Any contract, contribution agreement, cooperative agreement, or other appropriate instrument entered into under this section shall be for a minimum of one year, shall not exceed three years in duration, and may be renewed upon mutual agreement of the parties.

(f) A technical service provider may not receive payment twice for the same technical service, such as once from a