

NRCS standards, specifications, and requirements. The Department must approve all new technologies and innovative practices, including interim standards and specifications, prior to a TSP initiating technical services for those technologies and practices.

(c) A TSP must assume responsibility in writing for the particular technical services provided. Technical services provided by the TSP 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) TSPs 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 TSP 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 TSP.

(g) The TSP will 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, TSPs may utilize the

services of subcontractors to provide specific technical services or expertise needed by the TSP, 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 TSP.

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

(c) To acquire technical services from a TSP, 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 TSP from the approved list of TSPs.

(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 TSP.

(g) The Department will identify in the particular program contract or written agreement the payment provisions for TSPs 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

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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 TSP hired by the participant, or upon receipt of an assignment of payment from the participant, make payment directly to the TSP.

(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 TSPs.

(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) The Department will not make payment for activities or services that are customarily provided at no cost by a TSP to a participant as determined by the State Conservationist.

(l) 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) National Headquarters 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) National Headquarters and State levels will review payment rates annually or more frequently, as needed, and adjust the rates based upon data from existing procurement contracts, Fed-

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eral 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.

§ 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 enter into a procurement contract, contribution agreement, cooperative agreement, or other appropriate instrument with TSPs 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 TSP through a procurement contract, contribution agreement, cooperative agreement, or other similar instrument, the TSP is authorized to provide technical services and receive payment even if such TSP is not certified in accordance with subpart B of this part nor identified on the approved list.