

United States Department of Agriculture



Technical Service Provider Handbook



The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

To file a complaint of discrimination write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

Part XXXX –

(Link to printable copy)

Subpart A - Introduction, Policy, Definitions, Roles and Responsibilities

XXX.0 Introduction

XXX.1 Policy

XXX.2 Definitions

Subpart B - General Requirements

XXX.20 General Requirements

XXX.21 Freedom of Information Act and Privacy Act

XXX.22 Ethics

Subpart C - Certification

XXX.30 General Requirements

XXX.31 Certification Qualification Exemptions, Requirements, and Criteria

XXX.32 Certification Process and Agreements with Recommending Organizations

XXX.33 Verification of TSP Certification Applications

XXX.34 Certification Renewal

XXX.35 Causes for Decertification

XXX.36 Decertification Process

XXX.37 Effect of Decertification

Subpart D - Technology, Technological Tools, and Training

XXX.40 Availability of Technology and Technology Tools

XXX.41 Technical Service Provider Training

Subpart E - Acquisition of and Payment for Technical Services

XXX.50 Participant Acquisition of Technical Services

XXX.51 Development of Not To Exceed Rates

XXX.52 Use of Subcontractors

XXX.53 Reimbursement for Technical Services To a Participant

XXX.54 Procurement Contracts, Contribution Agreements and Cooperative Agreements

XXX.55 Economy Act Agreements

XXX.56 Authorities

Subpart F - Measurement and Accountability

XXX.60 Measurement and Accountability System

XXX.61 Performance Results System

XXX.62 Quality Assurance

XXX.63 Compliance with Statutory and Regulatory Requirements

Subpart G - Reserved

Subpart H - Technical Assistance Waste, Fraud, and Abuse

XXX.80 Authority and Regulation

XXX.81 Zero Tolerance

XXX.82 Instructions for Contacting USDA Office of Inspector General

XXX.83 Erroneous Representation Affecting Program Determinations

Subpart I - Exhibits

XXX.90 TSP Certification Agreement

XXX.91 Memorandum of Understanding

XXX.92 Verification Check Sheets

XXX.93 Reserved

XXX.94 Reserved

XXX.95 Certification Process for Private Sector Entities (Flowchart)

XXX.96 Contribution Agreement (Flowchart)

XXX.97 Reserved

XXX.98 Reserved

XXX.99 Participant Acquisition of Technical Services (Flowchart)

XXX.100 Proposed Decertification Letter

XXX.101 Decertification Letter

Part XXX -

Subpart A – Introduction, Policy, Definitions, Roles and Responsibilities

XXX.0 Introduction

- A. The purpose of this handbook is to provide guidance on the process the Natural Resources Conservation Service (NRCS) uses to plan, design, install, and/or checkout conservation practices and systems for participants (individuals, groups and units of government) with technical assistance provided by a Technical Service Provider (TSP).
- B. These participants develop and implement plans to protect, conserve, and enhance natural resources (soil, water, air, plants, and animals) within their social and economic interests. The NRCS may reimburse a participant with whom NRCS has a program contract or other applicable agreement if they select an individual, entity, American Indian Tribe or public agency from the certified list of TSPs and the technical services provided meet all legal, technical, and programmatic requirements.
- C. NRCS may also obtain technical services directly through procurement contracts, contribution agreements, cooperative agreements or other appropriate instrument for obtaining technical assistance services by a TSP.
- D. The users of this handbook need to become familiar with other agency policy, handbooks and manuals related to delivery of technical services, including planning policy found in the General Manual 180, part 409, the National Planning Procedures Handbook, discipline manuals (agronomy, biology, economics, engineering, range, etc), program manuals, the electronic Field Office Technical Guide, and approved automated planning tools. Users also need to be familiar with NRCS policy for complying with the National Environmental Policy Act (NEPA), Endangered Species Act (ESA) and National Historic Preservation Act (NHPA).

XXX.1 Policy

Technical Service Provider regulation 7 CFR Part 652 sets the policy found in the General Manual 180, part 4XX, and detailed policy located in the Conservation Programs Manual 440, part 504. In case of a conflict with policy found in the manual and the regulation, the regulation does prevail.

XXX.2 Definitions

- A. **American Indian Tribe** means any Indian tribe, band, nation or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
- B. **Approved List** means the list of individuals, private sector entities, public agencies or American Indian Tribe certified by NRCS to provide technical services in specific States to a participant.
- C. **Certification** means the action taken by NRCS to approve an individual that meets, or an entity or public agency as having an employee or employees that meet, the minimum NRCS criteria for providing technical services for conservation planning, specific conservation practices, or other categories of technical services.

- D. **USDA** means the NRCS, the Farm Service Agency, or any other agency or instrumentality of the U.S. Department of Agriculture that is assigned responsibility for all or apart of a conservation program authorized to utilize the services of technical service providers.
- E. **Entity** means a corporation, joint stock company, association, limited liability partnership, limited liability company, cooperative, nonprofit organization, a member of a joint venture, or a member of a similar organization.
- F. **Private Sector** includes private individuals, private entities, and nonprofit organizations.
- G. **Program Participant or Participant** means a person who is eligible to receive technical or financial assistance under a conservation program authorized to utilize the services of technical service providers.
- H. **Public Agency** means a unit or subdivision of federal, state or local government, other than the U.S. Department of Agriculture.
- I. **Recommending Organization** means a professional organization, association, licensing board or similar organization with which NRCS has entered into an agreement to recommend qualified individuals for NRCS certification as technical service providers for specific technical services.
- J. **Technical Service Categories** include specific conservation practices, combinations of conservation practices that normally fit with specific land uses in conservation systems or resource management systems, and conservation planning to the resource management system level or progressive planning.
- K. **Technical Service** means the technical assistance provided by Technical Service Providers, including conservation planning, and/or the design, layout, installation, and checkout of approved conservation practices, or other categories of technical services.
- L. **Technical Service Provider (TSP)** means an individual, entity, public agency or American Indian Tribe certified by NRCS and placed on the approved list to provide technical services to participants.

Part XXX -

Subpart B – General Requirements

XXX.20 General Requirements

The following serve as the basis for TSP implementation:

A. Individuals, private sector entities, public agencies, American Indian Tribes and individuals must be certified as TSPs by NRCS or under contract or agreement with USDA before providing technical assistance to participants.

B. NRCS will:

- (1) Establish national certification, certification renewal, decertification, and recertification processes for TSPs.
- (2) Subject to availability of funds, ensure that participants receive necessary technical assistance directly from NRCS or through assistance from a TSP.
- (3) Reimburse participants or make direct payment to TSPs upon receipt of an assignment of payment from participants.
- (4) Establish and publish payment rates, called not-to-exceed (NTE) rates, applicable when participants contract directly with TSPs for technical services; allow for state-level adjustment of NTE rates on a case by case basis; require state-level coordination of NTE rates between adjacent states where needed; and review payment rates at least annually and adjust the rates based upon available data.
- (5) Ensure that the process to make payments for TSP services is in accordance with the policy specific to the conservation program being utilized.
- (6) Implement an accountability system to measure and monitor progress, overall use, performance, and accomplishments of certified TSPs.
- (7) Make technology and technological tools widely available for use by TSPs, reserving the option to apply fees to specific technology and tools.
- (8) Retain responsibility for all decision-making and consultation required by Federal agencies related to compliance with resource protection laws.
- (9) Use NRCS appeals and mediation policy to resolve disputes regarding technical services acquired from TSPs. (See subpart G, 4XX.71)
- (10) Incorporate appropriate bonding and insurance requirements in any contract or agreement entered into with a TSP.
- (11) Follow policy and procedures regarding technical assistance waste, fraud, and abuse and reporting mechanisms. (See subpart H)

C. Technical Service Providers:

- (1) Must be certified by NRCS or under an agreement or contract with NRCS in order to provide technical assistance directly to participants.
- (2) Must ensure that assistance provided to participants meets NRCS technical standards and specifications and in compliance with appropriate statutory and regulatory requirements.
- (3) Are responsible for obtaining training they need to become certified as TSPs, for establishing and maintaining training records, and providing training documentation to NRCS or to recommending organizations.
- (4) May utilize the services of certified subcontractors, as provided by NRCS policy.

- (5) May help collect or assess data to support processing program applications, but administrative and program responsibility will remain with NRCS, including determining eligibility, ranking applications, approving contracts, practice payments, etc.
- (6) May work with participants to help ensure that all approvals, authorities, rights, permits, and easements necessary for the implementation, operation, and maintenance of conservation practices have been obtained prior to conservation practice installation when the scope of services agreed upon includes check-out.
- (7) 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 and must accept responsibility in writing for the particular technical services provided.
- (8) May be decertified if they do not abide by the requirements of the certification agreement.

D. Participants:

- (1) May select either NRCS or a TSP to perform the technical services needed.
- (2) Must meet the eligibility requirements for and enter into a conservation program contract or, if not under contract and at the option of the State Conservationist or Director, Pacific Basin Area or Caribbean Area, a written agreement before employing the services of a TSP, to qualify for reimbursement of TSP expenses.
- (3) Will receive reimbursement for the technical services provided by a TSP up to the NRCS-determined not-to-exceed rate, or the rate determined by the State Conservationist.
- (4) Are responsible for meeting compliance and regulatory responsibilities, obtaining necessary records, and ensuring payment provisions are included in the conservation program contract or agreement prior to employing TSP services.

XXX.21 Freedom of Information Act and Privacy Act.

- A. When the participant is receiving technical services from TSPs hired by NRCS, the inclusion of a non-disclosure clause must be included by NRCS in NRCS agreements and contracts to ensure that confidentiality of a program participant's personal information is maintained.
- B. TSPs are not subject to Federal disclosure and privacy laws, including the Freedom of Information Act and the Privacy Act. Consequently, participants are solely responsible for including appropriate confidentiality of personal information in contracts entered into with TSPs.

XXX.22 Ethics

A. Memorandums of Understanding and associated agreements between NRCS, conservation partners and American Indian Tribes will need to be evaluated and modified to avoid inappropriate use of Government resources, non-public information, or conflicts of interest or the appearance thereof for those that choose to engage in providing technical services as TSPs in accordance with participant acquisition of technical services.

B. NRCS employees are prohibited from:

- (1) Providing references for TSP applicants.
- (2) Recommending specific TSPs to participants.

C. Employee involvement in TSP

There are potential ethics issues when an NRCS employee seeks to also serve as a TSP, has a financial interest in a TSP, or seeks to work under the auspices of a TSP. Accordingly, NRCS

employees should consult with the NRCS Ethics Office before acting in any of these capacities to ensure that they do not run afoul of government ethics rules.

- (1) Approval to Engage in Outside employment. Certain NRCS employees must obtain prior approval from the State Conservationist or Deputy Chief for Management before engaging in outside employment. The requirement to obtain approval before engaging in outside employment applies to all financial disclosure report filers, except Special Government Employees. Traditionally, it has been NRCS policy not to approve outside employment that could appear to be an extension of the employee's official work. Therefore, State Conservationists generally will not give approval for a covered employee to engage in outside employment related to TSP if it:
 - Would appear to be an extension of NRCS duties;
 - Might be interpreted by the general public as NRCS work; or
 - Might raise a question of unfair advantage based on access to non-public information

Employees who are not financial disclosure report filers are not required to obtain NRCS approval to engage in outside employment. However, the ethics rules relating to conflicting interests and prohibited representation do apply.

- (2) Conflicting Interest. Ethics rules prohibit a Government employee from taking official actions on particular matters affecting the employee's financial interests. Employees with outside activity involving TSP are reminded that these rules also prohibit them from working on matters in their NRCS capacity that affect the interest of a landowner with whom they are involved as a TSP.
- (3) Prohibited representation. Federal employees considering outside activity related to TSP are reminded that there are ethics laws that generally bar Federal employees from representing anyone else before Federal agencies other than in the proper discharge of official duties. 18 U.S.C. 203 prohibits an employee from receiving compensation based on anyone's representations before NRCS, on behalf of another, intended to influence in relation to any particular matter in which the Government is a party or has a substantial interest. 18 U.S.C. 205 prohibits an employee from personally representing anyone else, with or without compensation, with the intent to influence, before a Federal agency or employee.

Part XXX -

Subpart C - Certification

XXX.30 General Requirements

- A. NRCS will administer a national certification process utilizing national certification criteria as set forth by 7 CFR Part 652.
- B. Individuals, entities, public agencies and American Indian Tribes meeting the certification criteria for the technical services they desire to provide may be certified by NRCS to provide technical services in the States (and equivalent) and counties they request certification.
- C. Conservation districts, public agencies and American Indian Tribes partnering with NRCS under a revised cooperative working agreement or a memorandum of understanding in conjunction with NRCS acquisition of technical services through contribution agreements, may not be subject to the national certification process. They are, however, subject to the specific terms and conditions contained in the contribution agreement and any revisions to the cooperative working agreement or the memorandum of understanding for delivering technical services as TSPs.
- D. Certification encompasses specific categories of conservation practices, conservation planning, and other technical services. State Conservationists and Directors of the Pacific Basin and Caribbean Areas are not expected to utilize those conservation practices or technical services that do not apply to their particular States and Areas.
- E. Applicants are required to sign a Certification Agreement with NRCS to become certified. The Certification Agreement will include the terms and conditions of the certification. (Exhibit XXX.91)
- F. Applicants must become certified and be placed on the NRCS approved list of Technical Service Providers before they are eligible to provide technical services as a Technical Service Provider in accordance with the 2002 Farm Bill and the agency's regulation as set forth at 7 CFR Part 652.
- G. Employees of public agencies seeking certification to provide technical services outside of the auspices of their employing agency, or who have or are obtaining a financial interest in a TSP business or organization should follow the appropriate ethics requirements of their employing agency when providing technical services as an individual or through a business or organization.
- H. NRCS may enter into a memorandum of understanding with qualified organizations to operate as recommending organizations which will review, train and/or test qualifications of TSP applicants and recommend applicants to NRCS for certification. (Exhibit XXX.92)
- J. The State Conservationist in whose State a Technical Service Provider is certified to provide technical service, may decertify the Technical Service Provider, a private-sector entity, American Indian Tribe or public agency and all members thereof or specifically named certified individuals of the entity, tribe or agency pursuant to the decertification process set forth at 7 CFR Part 652 - Subpart C - Decertification.

XXX.31 Certification Qualification Exemptions, Requirements, and Criteria

A. Certification Exemptions

When NRCS enters into procurement contracts, cooperative agreements or contribution agreements, the qualification and performance criteria will be a part of the contract or agreement. When technical services are obtained in this manner, the TSP is not required to be certified in accordance with XXX.33 or identified on the approved list.

B. Certification Criteria and Requirements

To qualify for certification applicants must:

- (1) Have the technical training, education, and/or experience to perform the level of technical service for which certification is sought. Necessary requirements for specific categories of technical service are found on the TechReg website at <http://techreg.usda.gov>.
- (2) Meet any applicable professional or business licensing, permitting, or similar qualification standards established by State (and equivalent), local or Tribal or Federal law (for cultural resources compliance or planning services, must meet the Professional Qualification Standards for the specific services they are to perform-see Section 112(a)(1)(A) of the NHPA;
- (3) Demonstrate, through documentation of training or experience, familiarity with NRCS guidelines, criteria, conservation practice standards and specifications as set forth in applicable NRCS manuals, handbooks, field office technical guides, and supplements thereto for conservation planning, and designing and applying specific conservation practices and management systems for which certification is sought;
- (4) Not be decertified as a Technical Service Provider at the time of application for certification.
- (5) Be familiar with any unique requirements at the county level or on specific tribal lands for particular conservation practices or technical services before providing those services locally. Applicants must agree to familiarize themselves with those requirements by contacting the appropriate NRCS conservationist before providing technical services.
- (6) Entities, American Indian Tribes and public agencies wishing to qualify for certification must be authorized to provide such services in the jurisdiction and have a certified individual providing, in accordance with this part, technical services on its behalf.
- (7) TSPs must enter into a Certification Agreement with NRCS specifying the terms and conditions of the certification. (Exhibit **XXX.91**)
- (8) NRCS will certify TSPs for a time period specified by NRCS not to exceed 3 years. Renewal of certification will be handled as found in Subpart C, **XXX.35**.
- (9) NRCS may, pursuant to 31 U.S.C. 9701, establish and collect fees for the certification of TSPs.

4XX.32 Certification Process and Agreements with Recommending Organizations

A. Certification Process for Individuals (See Subpart I, Exhibit **XXX.95**) [dm1] In order to be considered for certification as a TSP, individuals must:

- (1) Submit an application for certification to NRCS by fulfilling the certification requirements and documenting them as a part of the application process through TechReg (<http://techreg.usda.gov>), or
- (2) Request certification through a recommending organization to NRCS. (See Subpart C, **XXX.33**, par E), or
- (3) Request certification through an application submitted by a private entity or public agency. (See Subpart C, **XXX.33**, par B, C)

B. Upon receipt of a complete certification application documenting that certification criteria has been met, NRCS will:

- (1) Review the application and verify if the applicant meets the requirements in accordance with Subpart C, **XXX.34**, Verification of Certification Applications, and, if all requirements are met, will;
- (2) Enter into a Certification Agreement with the applicant
- (3) Place the applicant on the NRCS approved list of Technical Service Providers; and

- (4) Make available to the public the list of approved TSPs by practice or category of technical service.

C. Certification Process for Private Sector Entities (See Subpart I Exhibit **XXX.96**) [dm2] In order to be considered for certification as a TSP, a private sector entity must:

- (1) Provide supporting documentation that it has the requisite professional and business licensure for states it seeks certification for and that one or more individuals in the firm;
- (2) Has been certified as an individual(s) in accordance with Subpart C, **XXX.33**, par A, or
- (3) Seeks certification as an individual as part of the private-sector entity's certification and ensures that the requirements for certification in the entity's application support such certification.

Upon receipt of the supporting documentation from the private sector entity, NRCS will:

- (1) Verify whether the individual(s) identified in the private-sector entity's application meet the certification requirements found in Subpart C, **XXX.32**, par B;
- (2) Review the application and verify if the private sector entity meets the requirements in accordance with Subpart C, **XXX.35**, Verification of Certification Applications, and, if all requirements are met, will
- (3) Enter into a certification agreement that shall:
 - (i) Identify the certified individual(s) who are authorized to perform technical services on behalf of the entity;
 - (ii) Require that the entity have, at all times, an individual who is a certified TSP authorized to act on the entity's behalf;
 - (iii) Require that the entity promptly provide an amended Certification Agreement to NRCS for approval when the list of certified individuals performing technical services changes;
 - (iv) Require that responsibility for any work performed by non-certified individuals be assumed by a certified individual authorized to act on the entity's behalf;
 - (v) Require that the entity be liable for the work performed by any individual working under the auspices of its certification.

C. Certification Process for Public Agencies (Includes American Indian Tribes)[dm3] In order to be considered for certification as a TSP, a public agency must:

Provide supporting documentation that it has the authority within its jurisdiction to provide technical services and an individual(s) authorized to act on its behalf:

- (i) Has been certified as an individual in accordance with Subpart C, **XXX.33**, par A,
- (ii) Seeks certification as an individual as part of public agency's certification and ensures that the requirements for certification in the agency's application support such certification.

Upon receipt of the supporting documentation from the Public Agency, NRCS will:

- (1) NRCS will verify whether the individual(s) identified in the public agency's application meet the certification requirements found in Subpart C, **XXX.32**, B;
- (2) Review the application and verify if the public agency meets the requirements in accordance with Subpart C, **XXX.35**, Verification of Certification Applications, and, if all requirements are met, will; enter into a certification agreement that shall:
 - (i) Identify the certified individuals who are authorized to perform technical services on behalf of the public agency;
 - (ii) Require that the entity have, at all times, an individual who is a certified TSP authorized to act on the public agency's behalf;
 - (iii) Require that the public agency promptly provide an amended Certification Agreement to NRCS for approval when the list of certified individuals performing technical services changes;

- (iv) Require that responsibility for any work performed by non-certified individuals be assumed by a certified individual authorized to act on the public agency's behalf;
- (v) Require that the public agency be liable for the work performed by any individual working under the auspices of its certification.

D. Agreements with Recommending Organizations

- (1) NRCS may enter into agreements, including memorandums of understanding (See Subpart I Exhibit 4XX.92) or other appropriate instrument, with a recommending organization that NRCS determines has an adequate accreditation program in place to train, test, and evaluate candidates for competency in a particular area or areas of technical service delivery and whose accreditation program NRCS determines meets the certification criteria as set forth for the technical services to be provided.
- (2) Recommending organizations will, pursuant to an agreement entered into with NRCS:
 - (i) Train, test, and evaluate candidates for competency in the category of technical services applicants wish to be certified to deliver;
 - (ii) Verify that candidates meet all the certification requirements for the specific category of technical services.
 - (iii) Provide the names of individuals identified by the recommending organization as meeting NRCS criteria as set forth in Subpart C, **XXX.32**, par B, for specific practices or categories of technical service(s) and recommend that NRCS certify these individuals as TSPs for the specific categories applied.
 - (iv) Inform the recommended individuals that they must meet the requirements of this part, including entering into a Certification Agreement with NRCS, in order to provide technical services under this part;
 - (v) Reassess individuals that request renewal of their certification in accordance with Subpart C, **XXX.35**;
 - (vi) Notify NRCS of any concerns or problems that may affect the organization's recommendation concerning the individual's certification, recertification, certification renewal, or technical service delivery.
- (3) Upon receipt of the list of individual(s) from the recommending organization NRCS will follow the procedure for certifying individuals found in Subpart C, **XXX.33**, par A, Certification Process for Individuals.
- (4) NRCS will notify recommending organizations concerning any changes in the agency's certification criteria for individuals to become certified to provide specific technical services.
- (5) NRCS may terminate an agreement with a recommending organization if concerns or problems with its accreditation program, its recommendations for certification, or other requirements under the agreement arise.
- (6) Current memorandums of understandings with recommending organizations can be found at: <http://techreg.usda.gov>.

XXX.33 Verification of TSP Certification Applications[dm4] (See Subpart I, Exhibit XXX.98)

The TSP certification process is a national process with individual state verification of certification criteria.

A. Individual state verification of certification process

Within 60 days of receiving an application for certification from an individual, private sector entity, public agency or American Indian Tribe, NRCS in the state where the applicant is applying for certification will:

- (1) Verify training, education and experience requirements are met by requesting and reviewing transcripts, documentation of training completion, identifying how experience was obtained;
- (2) Verify familiarity with NRCS technical and program requirements;
- (3) Contact references to verify information;
- (4) Verify the individual state requirements, licensing, etc are met for the category(s) of technical services the TSP has applied for certification in;
- (5) Verify that the applicant has not been de-certified by checking the decertified list;
- (6) Verify that the applicant has signed the certification agreement;

Verification check sheets that can be used to assist with this process are located in Subpart I, Exhibit **XXX.93**

B. Multiple state verification of certification process;

- (1) The state where the applicant resides will verify compliance with certification criteria, as stated in (1) above, and refer to
- (2) Other states where applicant applies for certification to verify that applicant meets specific state requirements, licensing, etc and provide documentation to the resident state within the 60 day timeframe.

C. Once verification is complete NRCS will:

- (1) Notify the applicant of missing information or that applicant does not meet the requirements and request that the applicant provides additional information or takes action to meet requirements if certification is desired, or
- (2) If the applicant meets the certification criteria for the categories specified, will place the applicant on the approved certified list.

D. Verification of certification criteria for applicants being recommended by a recommending organization is the responsibility of the recommending organization.

XXX.34 Certification Renewal

A. TSP certifications are in effect for a time period specified by NRCS in the Certification Agreement not to exceed three years and automatically expire unless renewed through application by and approval of NRCS.

B. TSPs can renew their certification by:

- (1) Submitting a complete certification renewal application to NRCS or through a private sector entity, public agency, American Indian Tribe, or approved recommending organization to NRCS at least 60 days prior to expiration of the current certification;
- (2) Providing verification on the renewal form that the requirements of this part are met, and;
- (3) Agreeing to abide by the terms and conditions of a Certification Agreement.

XXX.35 Causes for Decertification

The State Conservationist in whose state a TSP is certified to provide technical services, may decertify the TSP for the following reasons:

- (1) Failure to meet NRCS standards and specifications while providing the technical services requested by the participant or USDA.
- (2) Violation of the terms of the Certification Agreement which may include but is not limited to a demonstrated lack of understanding of, or an unwillingness or inability to implement NRCS

- standards and specifications for a particular practice for which the TSP is certified, or the provision of technical services for which the TSP is not certified.
- (3) Engages in a scheme or device including, but not limited to coercion, fraud, misrepresentation, or providing incorrect or misleading information.
 - (4) Any other cause of a serious or compelling nature as determined by NRCS that demonstrates the TSP's inability to fulfill the terms of the Certification Agreement in providing the technical service.

XXX.36 Decertification Process

A. Notice of Proposed Decertification [dm5]

- (1) The State Conservationist or Director of the Pacific Basin or Caribbean Area will send, by certified mail, return receipt requested, a written notice of proposed decertification to the TSP proposed for decertification. The notice contains:
 - (i) The cause(s) for decertification, and
 - (ii) All documentation supporting decertification.
- (2) When a private sector entity or public agency is being notified of a proposed decertification, any certified individual(s) working under the auspices of such organization who are also being considered for decertification, will receive a separate notice of proposed decertification. The certified individual(s) will be afforded separate appeal rights following the process set forth below.

B. Contesting a Notice of Decertification

- (1) To contest a proposed decertification notice, the TSP must submit the reasons why the State Conservationist should not [dm6] decertify him/her in writing, including any mitigating factors as well as any supporting documentation.
- (2) The written challenge and documentation must be submitted to the State Conservationist within 14 20 calendar days from the [dm7] date of receipt of the notice of proposed decertification.

C. Determination by the State Conservationist/Director of the Pacific Basin or Caribbean Area

- (1) The State Conservationist/Director of the Pacific Basin or Caribbean Area will issue a written determination within 40 days of the date of the notice of proposed decertification. A copy of the decision and the administrative record will be sent promptly by certified mail, return receipt requested, to the TSP.
- (2) The decertification determination will be based on an administrative record comprised of:
 - (i) The notice of proposed decertification and supporting documents, and
 - (ii) The TSP's written response and supporting documentation.
- (3) If the State Conservationist determines to decertify the Technical Service Provider, the decision will include:
 - (i) The reasons for the decertification,
 - (ii) The period of decertification, and
 - (iii) The scope of decertification.
- (4) If the State Conservationist/Director of the Pacific Basin or Caribbean Area determines not to decertify the TSP, written notice of the determination will be sent to the TSP.

D. Appealing a Decertification Determination

- (1) TSP has 20 calendar days from the date of receipt of the State Conservationist's/Director's determination to appeal the determination to the Chief of NRCS.
- (2) Any appeal by the TSP must be in writing.

- (3) An appeal of a decertification decision must state the reason(s) for the appeal and any arguments in support of those reasons.
- (4) If the TSP fails to appeal the decertification decision within 20 calendar days of the date of its receipt, the determination of the State Conservationist/Director of the Pacific Basin or Caribbean Area is final.

E. Final Determination by the Chief of NRCS

- (1) Within 30 calendar days of receipt of the TSP's written appeal, the Chief or his/her designee will make a final determination of decertification. The final determination will be based upon the administrative record and any additional information submitted to the Chief by the TSP.
- (2) The determination of the Chief or his/her designee is final and not subject to further administrative review.
- (3) The Chief's determination will include the reason(s) for decertification or for overturning a decertification determination, and if decertifying the TSP, the period of decertification and the scope of decertification.

F. Period of Decertification

The period of decertification will not exceed three years in duration and will be decided by the decertifying official, the State Conservationist/Director of the Pacific Basin or Caribbean Area or the Chief, as applicable, based on all relevant facts and the seriousness of the reasons for decertification, mitigating factors, if any, and the following general guidelines:

- (1) For failures in the provision of technical service for which there are no mitigating factors, e.g., no remedial action taken by the TSP, a maximum period of three years decertification.
- (2) For repeated failures in the provision of technical service for which there are mitigating factors, e.g., the TSP has taken remedial action to the satisfaction of NRCS, a maximum period of one to two years decertification; and
- (3) For a violation of certification agreement terms, e.g., failure to possess technical competency for a listed practice, a period of one year or less, if the TSP can master such competency within a period of one year.

XXX.37 Effect of Decertification

- A. NRCS will not make payment for any technical services provided by a decertified TSP during the period of decertification.
- B. NRCS will not procure the services of a decertified TSP during the period of decertification.
- C. NRCS will maintain a list of decertified TSPs and will remove decertified providers from the approved list.
- D. Decertification of a Technical Service Provider in one State decertifies the provider in all States, the Pacific Basin Area and the Caribbean Area.
- E. A decertified Technical Service Provider may apply to be certified in accordance with the certification provisions in this policy as a new applicant after the period of decertification has expired.

Part XXX -

Subpart D - Technology, Technological Tools, and Training

XXX.40 Availability of Technology and Technological Tools

- A. To the extent practical, NRCS will make technology and technological tools widely available for use by TSPs.
- B. Provide web site addresses and links or referrals for sources of technical and related resources, as appropriate. Examples include NRCS' electronic Field Office Technical Guide (eFOTG), the electronic directives , general and topical policy, procedures, instructions, and other technical guidance, topical manuals and handbooks, and other references;
- C. Work with recommending organizations, universities, Cooperative Extension Service, American Indian Tribes, private sector entities, public agencies and others to make available the training needed for individuals to become TSPs, as well as professional development opportunities for certified TSPs.
- D. NRCS may apply fees to specific technology and tools.
- E. NRCS will use existing agency policy and guidance for the evaluation and assessment of all new technologies and innovative practices prior to approval and acceptance for use in NRCS administered programs. Policy for interim conservation practice standards and variances to national conservation practice standards can be found in Title 450, Technology, of the General Manual, Part 401, Technical Guides, Subpart B, Conservation Practice Standards. Policy for field trials is located in Title 450, Technology, of the General Manual, Part 403, Conservation Field Trials. The process for developing, reviewing, and approving State interim standards is included in the National Handbook of Conservation Practices (NHCP), Exhibit 2.

XXX.41 Technical Service Provider Training

- A. NRCS will identify technical training needs and assist recommending organizations, universities, Cooperative Extension Service, American Indian Tribes, private sector entities, public agencies and others to make available the training needed for individuals to become TSPs, as well as professional development opportunities for certified TSPs.
- B. NRCS may establish fees for the value of the NRCS training provided.

Part XXX -

Subpart E - Acquisition of and Payment for Technical Services

XXX.50 Participant Acquisition of Technical Services

- A. Participants may select NRCS or a TSP to perform the technical services needed in conjunction with their conservation program contract or agreement. (Exhibit XXX.100)
- B. If a participant enters into a program contract or agreement with NRCS for use of TSP services and that work is performed in accordance with NRCS standards and program requirements, the participant will, subject to availability of funds, receive reimbursement for the technical services provided up to the not-to-exceed rate determined by NRCS.

XXX.51 Development of Not To Exceed Rates

- A. NRCS will establish payment rates by calculating not-to-exceed (NTE) rates for technical services. NRCS will calculate these rates using price data that it may acquire through various sources that it deems reliable by:
 - (1) NRCS will analyze the pricing information using a standardized methodology;
 - (2) NTE payment rates will be established nationally on a state by state basis for categories of technical services;
 - (3) State Conservationist/Director of the Pacific Basin or Caribbean Area will coordinate payment rates between adjacent states to ensure consistency where similar resource conditions and agricultural operations exist, taking into consideration differences in state laws, competition, and other variables;
 - (4) NRCS will review payment rates at least annually and adjust the rates based upon available data;
 - (5) State Conservationist/Director of the Pacific Basin or Caribbean Area may adjust payment rates 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 limitation. These rates must be adjusted before obligating funds in the program contract.
- B. NTE payment rates can be found at: <http://techreg.usda.gov>.

XXX.52 Use of Subcontractors

- A. TSPs may utilize the services of subcontractors to provide specific technical services or expertise needed by the TSP, provided that the:
 - (1) Subcontractors are certified by NRCS for the particular technical services to be provided, and
 - (2) Technical services are provided in accordance with the terms of their Certification Agreement.
- B. TSPs using non-certified subcontractors may be subject to de-certification by NRCS.

XXX.53 Reimbursement for Technical Services To a Participant (See subpart I, Exhibit 4XX.105)

- A. The process for making payments for technical services will be in accordance with the policy specific to the conservation program being utilized.

B. Payment provisions must be included in the participant's program contract or agreement prior to the participant employing the services of a TSP, except as provided in C., below.

C. A participant, at the discretion of the state conservationist, may be reimbursed for TSP technical services incurred prior to entering into a program or contract. State Conservationists will need to review program policy to determine source of funds for reimbursing TSPs in these situations. Program dollars may not be allowed to be used before the contract is funded, which may require CTA funds to be used. These costs include the development of a conservation plan or practice design that may be subsequently incorporated into a program contract or agreement. To be reimbursed for these technical service costs the participant must:

- (1) Enter into a written agreement with NRCS, signed by the participant and the state conservationist or designee, approving reimbursement of these technical service costs not to exceed the approved NTE rates before any work is started;
- (2) Meet the requirements specified in the agreement identified in paragraph 1;
- (3) Utilize the services of a certified TSP from the NRCS approved list of technical service providers, and;
- (4) Provide to NRCS an invoice and related documentation in accordance with the appropriate Statement of Work for the technical services provided.

D. Payments will not be made for technical services provided by individuals, private sector agencies, American Indian Tribes, public agencies or others that are not certified or use non-certified subcontractors at the time services were provided.

4XX.54 Procurement Contracts, Contribution Agreements, and Cooperative Agreements

State Conservationists and Directors of the Pacific Basin and Caribbean Areas may utilize procurement contracts, contribution agreements, and cooperative agreements to obtain needed technical or administrative services. These services include, planning, design, practice implementation, installation, checkout, etc. These contracts and agreements will be utilized in accordance with the proper authorities, regulations, policies, and the following guidance:

- A. Contracts will be solicited and awarded in accordance with applicable Federal, Departmental, and Agency regulations
- B. Contribution agreements will be entered into non-competitively. NRCS pays up to 50% of the cost of the technical service.
- C. Cooperative agreements will be awarded based on competition in accordance with 7 Code of Federal Regulations (CFR) 3015.158 (d). Requests for Proposals will be used for all cooperative agreements.

XXX.55 Economy Act Agreements

Economy Act agreements will be utilized with Federal agencies. These agreements shall be in accordance with the Economy Act of 1932, as amended, 31 U.S.C. 1535, and the Federal Acquisition Regulations and related OMB Circulars.

XXX.56 Authorities

A. The authority for contribution agreements is Section 714 of the 2001 USDA Appropriation Act, Public Law 106-387. NRCS policy and guidance is in Title 120 of the General Manual, Circular 12, Part 401, available at <http://policy.nrcs.usda.gov> and cited therein.

B. NRCS policy and guidance for cooperative agreements are located in the Title 120 of the General Manual, Circular 12, Part 401 and the NRCS Federal Grants and Cooperative Agreements Handbook, available at <http://policy.nrcs.usda.gov> <http://policy.nrcs.usda.gov/>

Part XXX -

Subpart F – Measurement and Accountability System

XXX.60 Measurement and Accountability System

A national NRCS measurement and accountability system will be used to measure and monitor the overall use, performance, and accomplishments of TSPs.

XXX.61 Performance Results System (PRS)

TSPs are responsible for reporting the technical services they perform in the NRCS Performance Results System. TSPs can access PRS through the TechReg website.

XXX.62 Quality Assurance

NRCS is responsible for TSP quality assurance. Agency policy and guidance for review of technical services provided is found in the General Manual, GM 340, Part 404 and GM 450, Part 407.

A. NRCS will respond to technical service concerns or problems when notified of such issues by participants, entities, or other agencies.

B. NRCS will be proactive in identifying and resolving issues in order to proceed with efficient and effective implementation of the TSP process.

C. Quality assurance reviews or spot checks will determine if the technical service provided meets policy, procedures, standards, specifications, and other requirements. In the case that a deficiency is found, NRCS will document the deficiencies found and notify the TSP and participant of the deficiency and specify necessary corrective action to remediate the deficiency within a reasonable period of time. Failure to correct the deficiency in the time frame set by NRCS may trigger the decertification process. If the technical services are a part of a program contract, rules in regard to non-compliance of the program contract will be followed.

D. The procedure for conducting quality assurance reviews or spot checks for technical services provided by TSPs will be addressed in each State Quality Assurance Plan. The State Quality Assurance Plan will include more stringent quality assurance safeguards as the magnitude or complexity of the technical services provided increases and as the risk increases for environmental damage and negative environmental impacts from practice failure.

XXX.63 Compliance with Statutory and Regulatory Requirements

A. The responsible party or agency will carry out compliance with all applicable Federal, State, and Tribal laws, rules, regulations and local requirements in the course of delivering or receiving technical services to enable NRCS to carry out its responsibilities to comply with resource protection and environmental requirements.

B. NRCS has legal responsibility for all decision-making and consultation required of Federal agencies related to compliance with several resources protection laws, including but not limited to the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA), and the National Environmental Policy Act (NEPA) when the planning and application of a conservation practice may have an impact.

C. TSPs contracted with NRCS to gather information to enable NRCS' compliance with the NHPA will meet the Secretary of Interior's professional qualification standards as specified in Section

XX2(a)(1)(A) of the Act and in the implementing regulations for section 106 of the NHPA at 800.2(a)(1) and 800.2(a)(3). Such TSPs shall be used in accordance with 800.2(a)(3) ("Use of Contractors").

D. TSPs shall work with the participants to help ensure that all approvals, authorities, rights, permits, and easements necessary for the implementation, operation, and maintenance of conservation practices have been obtained prior to practice installation.

Part XXX -
Subpart G - Reserved

Part XXX -

Subpart H - Technical Assistance Waste, Fraud, and Abuse

XXX.80 Authority and Regulation

A. The Commodity Credit Corporation (CCC) Charter Act, 15 U.S.C. Sec.714m, Crimes and Offenses, describes the crimes and offenses, and the punishment thereof, relating to Commodity Credit Corporation business, including the use of false statements, embezzlement, larceny, and conspiracy to commit offense, and the general statutes of applicability.

B. USDA Departmental Regulation (DR), DR XX10-2, Management Accountability and Control, establishes Department-wide policy for all agencies and staff offices to improve the accountability and effectiveness of USDA programs and operations through the use of sound systems of internal and management controls to reasonably ensure that programs and resources are protected from waste, fraud, and mismanagement.

XXX.81 Zero Tolerance

NRCS has a zero-tolerance policy regarding waste, fraud, and abuse. TSPS who engage in waste, fraud, and abuse will be subject to the decertification process and other penalties as allowed by law.

XXX.82 Instructions for Contacting the USDA Office of Inspector General

All NRCS offices will prominently display instructions for contacting the USDA Office of Inspector General (OIG), Investigative Branch, to aid a NRCS employee and/or program participant in making appropriate contact(s) in reporting an act(s) of waste, fraud, and abuse.

XXX.83 Erroneous Representation Affecting Program Determination

A. Any person who NRCS determines to have erroneously represented any fact affecting a program determination made in implementing the program shall not be entitled to any payment and shall refund all prior payments received.

B. NRCS State Conservationists and Directors of the Pacific Basin and Caribbean Areas will ensure that each case of suspected fraud involving an employee, program participant, or TSP, is turned over to the USDA OIG, Investigative Branch.

Part XXX -

Subpart I - Exhibits

XXX.90 TSP Certification Agreement

[Click here for a copy of the TSP Certification Agreement](#)

XXX.91 MOU Between NRCS and Recommending Organization

[Click here for a copy of the MOU](#)

XXX.92 Verification Check Sheets

[Click here for a copy of the Verification Check Sheets](#)

XXX.93 Reserved

XXX.94 Reserved

XXX.95 Certification Process for Private Sector Entity (Reserved)

XXX.96 Contribution Agreements (Reserved)

XXX.97 Reserved

XXX.98 Reserved

XXX.99 Participant Acquisition of Technical Services (Reserved)

XX.100 Proposed Decertification Letter

[Click here for a copy of a Proposed Decertification Letter](#)

XXX.101 Decertification Letter

[Click here for a copy of a Decertification Letter](#)

TECHNICAL SERVICE PROVIDER CERTIFICATION AGREEMENT

By signing this Certification Agreement, I (insert name of individual, Private Sector Entity, American Indian Tribe or Public Agency) agree to the terms set forth below, which are required for certification as a technical service provider. I understand that certification for specific categories of technical service by the USDA qualifies me to provide technical services to Title XII of the Food Security Act of 1985 program participants and the USDA. Certification does not constitute federal employment or any other legal relationship with the federal government nor does it entitle me to any special benefits or rights (Exemption is American Indian Tribe because USDA does have a trust responsibility as stated in XXX.XX of this policy). Further, I understand that I am not a certified technical service provider until the Natural Resources Conservation Service (NRCS): (1) determines that my certification application meets the requirements for certification set forth in 7 CFR Part 652, (2) signs this Certification Agreement, and (3) includes my name on the approved list of technical service providers.

I. Certification Terms.

A. **USDA Standards and Specifications.** I am familiar with and agree to meet all applicable USDA national and state standards, specifications, and program requirements as set forth in USDA guides, handbooks, and manuals for the technical services I provide.

B. **Compliance with Applicable Laws and Regulations.** I agree to comply with all applicable Federal, State, Tribal and local laws and requirements for the technical services I provide, including but not limited to, 7 CFR part 652. I further agree that I must be familiar with any unique criteria required at the county level for particular conservation practices or technical services before providing technical services in a particular county. I acknowledge that I must be aware of these local criteria and agree to familiarize myself with any such criteria by contacting the appropriate NRCS field office staff before providing technical services.

C. **Legal Responsibility of Work Quality.** I agree to assume legal responsibility in writing on each plan or other technical service document submitted to USDA or the program participant that the technical services rendered: (1) comply with all applicable Federal, State, Tribal, and local laws and requirements, (2) meet applicable USDA national and state standards, specifications, and program requirements, (3) are consistent with and meet the particular conservation program goals and objectives for which the program agreement or contract was entered into by the program participant or USDA, respectively, and (4) incorporate, where appropriate, cost effective alternatives that address the resource issues.

D. **Liability and Indemnification.** I assume all legal responsibility for the technical services I provide, including any costs, damages, claims, liabilities, and judgments arising from past, present and future negligent or wrongful acts or omissions in connection with technical services provided.

E. **Quality Assurance.** I agree to submit to quality assurance reviews by the USDA or its agents for the technical services I provide.

F. **Reporting and Documentation.** I will develop and maintain documentation of the technical services I provide, including invoices, in accordance with USDA manuals, handbooks, and technical guidance and furnish this documentation to the local USDA Service Center office and the program participant when the particular technical service is completed. I will report technical service accomplishments into the NRCS electronic reporting (techPRS) system at the time the technical services are completed.

G. **Licensing Requirements.** I will maintain, for the period of this certification, any licensing or similar qualification standards established by Federal, State, Tribal, or local law that I identified in my Application for Certification or that are required for the type of technical services I provide.

H. **Duration of Certification, Cessation of Services, and Renewal Requirements.** I acknowledge that my certification as a technical service provider is for a term determined by NRCS not to exceed three years. I will cease providing services as a technical service provider immediately upon the expiration of the NRCS certification, the lapse of any applicable licensing or similar qualifications standards, or the effective date of being decertified. If I

wish to renew my certification as a technical service provider, I will submit an application for certification renewal at least 60 days prior to the expiration of this certification.

I. Civil Rights. I agree that, in providing technical services, I will not discriminate on the basis of race, color, national origin, sex, age, or disability. I further agree that if I am providing technical services as a private-sector entity that I will meet all Federal requirements as an equal opportunity employer. This includes administering policies and practices that are designed to prevent discrimination against any qualified employee or applicant on the basis of race, color, religion, national origin, sex, or disability. This policy of nondiscrimination applies to all employment practices, including hiring, compensation, benefits, promotion, training, and termination.

J. Disclosure of On-Line Information. I agree that the personal information (excluding sensitive data like Social Security Number) I enter into my application for certification will be available on-line for public access. I understand that program participants seeking the services of a Technical Service Provider will have access to this information as well as other members of the public that access the Technical Service Provider TechReg web site.

II. Additional Terms Applicable to Private Sector Entity, American Indian Tribe or Public Agency.

In addition to the terms set forth above, a private sector entity, American Indian Tribe or public agency agrees to the following terms:

A. Certified Individual. A private sector entity, American Indian Tribe or public agency will have, at all times, an individual who is a certified technical service provider authorized to act on its behalf.

B. Changes to List of Certified Individuals. A private sector entity, American Indian Tribe or public agency will provide to NRCS a list of certified individuals who are authorized to act on its behalf and will provide to NRCS an amended list whenever there is a change in the identity of the individuals working under its auspices.

C. Liability for Individuals Performing Work under Auspices. A private sector entity, American Indian Tribe or public agency assumes all liability for the work performed by an individual working under its auspices.

This agreement is entered into under the authority of 16 U.S.C. 3842.

I am signing this agreement as _____ an individual, or on behalf of _____ a private-sector entity, or on behalf of _____ American Indian Tribe, or on behalf of _____ a public agency (please check one).

Signature Title Date

Name_____

Mailing Address_____

Telephone and Facsimile Number_____

E-Mail Address_____

_____ State Conservationist, NRCS _____
Signature Title Date

For specific State Technical Service Provider information, contact the appropriate NRCS State Technical Service Provider Contact listed on the TechReg Web site.

Based on the above signature, this agreement will expire on _____.

For Private Sector Entity, American Indian Tribe or Public Agency: List the certified individuals authorized to act on your behalf (use additional pages as necessary). Individuals must have a current NRCS certification in each State in which your organization plans to provide technical services:

Name of Certified Individual Date of Certification Categories and States where Certified

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

(INSERT ORGANIZATION NAME)

AND THE

U.S. DEPARTMENT OF AGRICULTURE

NATURAL RESOURCES CONSERVATION SERVICE

This Memorandum of Understanding (MOU) is entered into between the (INSERT NAME) and the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS).

I. BACKGROUND

NRCS is responsible for providing technical assistance to landowners and operators in protecting soil, water, and related resources under the provisions of Title XII of the Food Security Act of 1985, as amended, 16 U.S.C. 3801 et seq., and other applicable legislation. This legislation authorizes NRCS to cooperate with various Federal agencies, State and local governments, nongovernmental organizations, and individuals in order to carry out its responsibilities and further the conservation mission of NRCS on private lands in a voluntary, scientifically-based manner.

In addition to the technical assistance available from NRCS, USDA conservation program participants have the option of obtaining conservation technical assistance from individuals certified as Technical Service Providers by NRCS.

Section 2701 of the Farm Security and Rural Investment Act of 2002, Public Law 107-171, May 13, 2002, (2002 Farm Bill) amended Section 1242 of the Food Security Act of 1985 to require the Secretary to provide technical assistance under Title XII of the Act to a program participant "directly, or ... through a payment ... for an approved third party, if available."

Section 1242 also requires the Secretary to establish a system for approving individuals and entities to provide technical assistance to carry out programs under this title including criteria for the evaluation of providers or potential providers of technical assistance.

(INSERT PARAGRAPH DESCRIBING ORGANIZATION/TRIBE)

II. PURPOSE

The purpose of this MOU is to establish a general framework for cooperation between (INSERT NAME) and NRCS for the purpose of recommending individuals for possible NRCS certification. Through this MOU, (INSERT NAME) may submit recommendations to NRCS of individuals who meet the (INSERT NAME) certification program standards, and NRCS may consider such individuals for certification as technical service providers. It is the intent of both parties that this cooperative effort shall be for the mutual benefit of each party as well as program participants who wish to avail themselves of technical services provided by certified Technical Service Providers.

This MOU recognizes that a person who has met the standards set by (INSERT NAME) meets the NRCS performance proficiencies for providing conservation assistance in the technical service category of (INSERT SPECIFIC CATEGORY).

This MOU will mutually benefit NRCS and (INSERT NAME) by providing an opportunity for professionals recommended by (INSERT NAME) to become certified by NRCS as a Technical Service Provider. This will assist NRCS in carrying out its mission of providing quality conservation technical assistance to its customers.

NRCS will place those recommended individuals whom it certifies as Technical Service Providers on the approved list to provide technical assistance to USDA conservation program participants, thereby expanding their scope of services to existing and future clientele.

III. RESPONSIBILITIES

A. Recommending Organization (INSERT NAME) will:

1. Provide a written assurance to NRCS that the individuals that it recommends for certification as a Technical Service Provider meet the minimum NRCS performance proficiencies for providing conservation assistance in the technical service category of (INSERT SPECIFIC CATEGORY);
2. Establish and maintain a registry of individuals who meet the (INSERT NAME) qualifications to provide conservation technical assistance in the technical service category identified in A.1. The registry will include a list of services each individual is qualified to provide. The registry will contain the following information:
 - a) Name of individual
 - b) Company (if applicable)
 - c) Address
 - d) Phone and fax numbers, and e-mail address if applicable
 - e) Skill area(s)
 - f) Service area(s)
3. Update all information on its registry annually, or more frequently if necessary, and provide this information to NRCS in a timely manner;
4. Remove individuals from the registry who do not maintain required levels of training within the 3-year timeframe or who are found to be providing substandard assistance from its registry and immediately notify these individuals and NRCS;
5. Notify recommended members in a timely manner when technical and programmatic materials are available from NRCS to ensure that the highest quality of conservation technical assistance is available;
6. Upon request and with agreement from all parties involved, provide NRCS with a list of courses individual used to fulfill continuing education requirements;
7. Inform members that all providers to be certified by NRCS must complete a Certification Agreement as a condition of their certification by NRCS as a Technical Service Provider;
8. Inform members certified as Technical Service Providers by NRCS that they are subject to the same annual quality reviews as NRCS employees; and
9. Inform members that, if certified as Technical Service Providers by NRCS that they cannot legally certify completed cost shared practices for payment. Only NRCS employees have the legal authority to do so.

B. NRCS will:

1. Advise (INSERT NAME) of the knowledge, skills, and proficiencies an individual will need to possess to qualify for Technical Service Provider designation for each of the technical service categories identified in this MOU;

2. Ensure that the (INSERT NAME) standards for recommending individuals meet NRCS performance proficiency criteria for the technical service categories covered by this MOU;
3. Provide (INSERT NAME) with access to current program information and appropriate technical reference documents for use by Technical Service Providers. Such documents will include manuals and standards and specifications for appropriate conservation practices;
4. Provide the approved list of Technical Service Providers to USDA offices;
5. Assist in suggesting training opportunities for (INSERT NAME) members, provide training materials when available, and serve as a resource when practicable; and
6. Notify (INSERT NAME) and remove Technical Service Providers from the approved list through the decertification process if it is determined that the Technical Service Provider has failed to meet the terms and conditions of the Certification Agreement.

C. Both Parties will:

Meet as requested by either party to review progress and discuss methods of improving this process.

IV. GENERAL PROVISIONS

- A. This MOU takes effect upon the signature of NRCS and (INSERT NAME) and shall remain in effect for (INSERT) years from the date of execution unless amended or terminated as set forth herein. This MOU may be extended or amended upon written request of either NRCS or (INSERT NAME) and the subsequent written concurrences of the other. Either NRCS or (INSERT NAME) may terminate this MOU with a 30-day written notice to the other.
- B. This MOU is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.
- C. Termination of this agreement will not affect individuals certified as Technical Service Providers by NRCS. Certified individuals will continue to be listed on the approved list of Technical Service Providers in accordance with the terms and conditions of their certification.
- D. NRCS and (INSERT NAME) and their respective officers will handle their own activities and utilize their own resources, including expenditures of their own funds in pursuing the purposes of this MOU. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.
- E. None of the information in this MOU shall obligate either USDA or (INSERT NAME) to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of USDA and (INSERT NAME) will require execution of separate agreements and be contingent upon the availability of funds. Such activities must be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.
- F. Employees of NRCS shall participate in efforts under this MOU solely as representatives of the United States. To this end, they shall not participate as directors, officers, employees, or otherwise serve or hold themselves out as representatives of, (INSERT NAME). They also shall not assist (INSERT NAME) with efforts to lobby Congress, or to raise money through fund-raising efforts. Further, NRCS employees shall report to their immediate supervisor any negotiations with (INSERT NAME) concerning future employment and shall refrain from participation in efforts regarding such parties until approved by the agency.

V. TECHNICAL AND ADMINISTRATIVE CONTACTS

A. (NAME OF ORGANIZATION)

NAME

TITLE

ADDRESS

PHONE/FAX:

E-MAIL ADDRESS

B. NRCS

Lawrence E. Clark

Deputy Chief for Science and Technology

Post Office Box 2890, Room 5006 South Building Washington, DC 20013-2890 Phone: (202) (202) 720-4630

Fax: (202) 720-7710

e-mail: lawrence.clark@usda.gov [mailto:lawrence.clark\(\(4,usda.gov](mailto:lawrence.clark((4,usda.gov)

VI. AUTHORITY

NRCS enters into this agreement under the authority of section 1242 of the Food Security Act of 1985, 16 U.S.C. 3842.

VII. APPROVAL

The undersigned parties hereby agree to the terms and conditions specified above.

BRUCE I. KNIGHT Chief
Natural Resources Conservation Service

DATE

NAME
President
Name of Organization

DATE

NAME
Chair, Certification Board
Any Organization

DATE

PROPOSED DECERTIFICATION LETTER

U. S. DEPARTMENT OF AGRICULTURE
Natural Resources Conservation Service
<Applicable State Office>
<Street Address>
<City, State, Zip Code>
Telephone: < >
FAX: < >
Email: < >

November 1, 2004

BY CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Text for Proposed Decertification Letter (TSPs)

[address box]

Re: Notice of Proposed Decertification

Dear [Technical Service Provider name]:

By this letter, and in accordance with 7 CFR 652, Subpart C-- Decertification, I am proposing to decertify you as a technical service provider based upon my determination that causes for decertification exist under 7 CFR §652.32(a) and (b).

Specifically, on October 1, 2004, NRCS completed a quality assurance review on the technical services you provided to John Doe under your contract with Mr. Doe to design, install, and checkout Mr. Doe's waste storage pond. Mr. Doe was acquiring your technical services in accordance with Mr. Doe's [agreement/contract number] with NRCS. NRCS's review of your design found several items that did not meet NRCS standards and specifications, which resulted in the installation of a waste storage pond that was not constructed in accordance with our standards and specifications. In addition, the field sheets you were responsible for completing during checkout incorrectly reflected that the structure was built to NRCS standards. Furthermore, despite being notified of these deficiency by NRCS, you have failed to take any action to remedy these deficiencies. Copies of the documents supporting the causes of decertification are attached to this letter.

To contest this proposed decertification, you must submit to me, in writing, within 20 calendar days from the date of receipt of this Notice, any reasons why I should not decertify you, including any mitigating factors as well as any supporting documentation. Within 40 calendar days from the date of this Notice of Proposed Decertification, I will issue my written determination whether to decertify you based upon the administrative record before me.

Please refer to and review 7 CFR 652, Subpart C, which is available on line at _____, for any questions related to the decertification process, including deadlines and appeal rights. I have also attached a copy of the

regulations for your reference. Decertification results in a technical service provider's name being removed from the list of certified technical service providers for a period of up to three years. If you have any questions regarding this Notice of Proposed Decertification, please contact me at [enter telephone number].

Sincerely,

State Conservationist

DECERTIFICATION LETTER

U. S. DEPARTMENT OF AGRICULTURE
Natural Resources Conservation Service
<Applicable State Office>
<Street Address>
<City, State, Zip Code>
Telephone: < >
FAX: < >
Email: < >

November 1, 2004

BY CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Text for Decertification Letter (TSPs)

[address box]

Re: Notice of Decertification

Dear [Technical Service Provider name]:

By this letter, and in accordance with 7 CFR 652, Subpart C-- Decertification, I am decertifying you as a technical service provider based upon my determination that causes for decertification exist under 7 CFR §652.32(a) and (b).

The cause(s) for decertification were set forth in the Notice of Proposed Decertification, dated [insert date]. I have reviewed the administrative record, which includes the reasons and supporting documentation you provided to contest the proposed decertification. Based upon the administrative record, I have decided to decertify you for a period of [insert period of decertification].

The basis for the [] year(s) decertification period is that you made no attempt to remedy the deficiencies identified during the quality assurance review conducted by NRCS on [insert date] and because there was a serious failure on your part in the provision of technical services. This period of decertification is in accordance with 7 CFR part 652.37 (a).

You have the right to appeal this decision to the Chief of NRCS. Your appeal must be made in writing within 20 calendar days from the date of receipt of this Decision. Your appeal must state the reasons(s) for the appeal and any arguments in support of your appeal. If you fail to appeal this Decision within 20 calendar days of receipt, my decision is final. Within 30 calendar days of receipt of any appeal from you, the Chief of NRCS will make a final determination of whether to decertify, based on the administrative record and any additional information that may be submitted. The determination by the Chief is final and cannot be appealed further.

Please refer to and review 7 CFR 652, Subpart C, which is available on line at _____, for any questions

related to the decertification process, including deadlines and appeal rights. A copy of the regulations was previously provided to you.

Sincerely,

[insert name]
State Conservationist

Attachment
(Administrative record to be provided to TSP)