



National Sustainable Agriculture Coalition

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Technical Service Provider Team
Natural Resources Conservation Service
U.S. Department of Agriculture
Room 5234-S
PO Box 2890
Washington, DC 20013

512

Submitted via <http://www.regulations.gov>

RE: NRCS Docket No. NRCS-IFR-08011: NRCS, Technical Service Provider Assistance Interim Final Rule, 74 Federal Register 2800 (Jan. 16, 2009).

Dear TSP Team:

I am submitting these comments on behalf of the National Sustainable Agriculture Coalition (NSAC), which represents family farm, rural, and conservation organizations from around the U.S. that share a commitment to federal policy that promotes sustainable agriculture production systems, family-based farms and ranches, and healthy, vibrant rural communities. A complete list of our represented members is appended at the end of these comments.

Many of our member organizations conduct conferences, workshops, and field day for sustainable and organic farmers and ranchers, as well providing one-on-one training and technical assistance on sustainable and organic systems and practices. A number of organizations prepare educational materials, conduct workshops, and maintain websites with valuable and timely information for farmers and ranchers on NRCS conservation programs. In addition, some NSAC organizations are accredited under the National Organic Program as organic certifiers.

COMMENTS OF THE NATIONAL SUSTAINABLE AGRICULTURE COALITION

1. NSAC recommends that NRCS undertake a comparison of overall TSP costs with internal costs for NRCS personnel to provide technical assistance in order to ensure that overall financial resources for Farm Bill conservation programs are used to maximize the delivery of technical services to farmers and ranchers. TSP services should be targeted to areas or situations where TSPs can provide conservation services for substantially less money than internal NRCS costs.

As emphasized in the Managers Statement for the 2008 Farm Bill, the demand for technical assistance for USDA conservation programs exceeds the present supply of technical resources. NSAC generally approves of the use of third party TSPs to *augment technical services* to farmers and ranchers, especially where NRCS lacks staff with specific conservation expertise needed by local farmers and ranchers. But we are concerned that "privatizing" technical services could

significantly increase the costs of providing technical services and *result in diminishing the overall availability of technical services.*

The IFR preamble indicates that NRCS did not conduct a cost comparison of TSP costs versus NRCS internal costs for providing technical services in either the 2004 or 2008 TSP cost-benefit analysis. This is a serious omission. TSP services should not be established just to create a private services market just for the sake of privatization. The IFR states that NRCS will determine TSP payment rates “according to local NRCS cost data, procurement data, and market data.” As NRCS sets payment rates for TSPs, the rates should reflect whichever is lower – the market rate or the local NRCS cost data in order to avoid paying more for TSP services than it would cost to provide the service directly through NRCS employees.

2. TSP contracts and agreements should be targeted to farming systems, practices or regional situations where NRCS employees do not have the critical skills needed to deliver adequate technical services.

Over the years, the Farm Bill’s conservation programs have expanded significantly to require expertise in conservation planning and the implementation of farming systems and practices to protect a wide array of resources and meet the needs of farmers and ranchers using a wide array of production systems. The 2008 Farm Bill is no exception, with an increased focus on meeting the needs of organic farmers and ranchers and farmers producing a diverse array of specialty crop. There is also an emphasis on climate change issues, on-farm renewable energy production, energy conservation and the incorporation of new crops to be used for bioenergy feedstocks. NRCS will find that for some kinds of conservation planning and in some locations, NRCS employees will not have the critical training and skills needed to meet farmer and rancher needs. Examples include wildlife habitat planning, fishery restoration, grass-based livestock, whole-farm energy audits and both the transition to and maintenance of organic farming systems.

We recommend that NRCS undertake to educate and train its employees in these specialized areas, in order to ensure that the agency can take a comprehensive approach to meeting the needs of all the nation’s farmers and ranchers. The development of conservation practice standards and the training and continuity of personnel that underpins the nation’s agricultural conservation initiatives requires the comprehensive, professional development approach taken by NRCS.

But we also recognize that to provide technical services to farmers and ranchers that meet their conservation needs, NRCS will need to supplement its own personnel through the use of TSP contracts, cooperative agreements with non-profits or units of state government and other entities. NSAC recommends that this supplemental assistance be targeted to circumstances and regions where NRCS employees do not have the critical skills needed to deliver technical services.

3. NRCS should make full use of the new provision in the 2008 Farm Bill to include education and outreach activities and related technical assistance services that accelerate conservation program delivery as activities eligible for payment to a third party provider.

As noted above, successive farm bills have greatly increased the requirements for NRCS to meet the needs of a wider array of farmers and ranchers and to provide expertise on specific farming and ranching systems. This includes outreach to different groups of farmers and ranchers, including many beginning farmers and ranchers who are the first in their families to farm or who want to change a family's farm to significantly increase its conservation performance. In addition, NRCS is being required to increase its outreach to socially disadvantaged farmers and ranchers, many of whom may require assistance in a language other than English.

Many NSAC member groups have a wealth of experience in outreach and education activities with these groups of farmers and ranchers. These member organizations, and other NSAC partners and allies, are ready, willing and able to assist as TSPs with education and outreach activities on NRCS conservation programs. The assistance of these groups can also help prepare all farmers and ranchers with information on the Farm Bill conservation programs, developing records for program applications and walking farmers and ranchers through the application process.

In addition, many NSAC groups have staff and farmer-rancher members with expertise in organic and sustainable farming systems who conduct outreach and education activities for conservation planning and the implementation of organic and sustainable farming systems and practices. These groups can also provide training on sustainable and organic farming systems to NRCS staff to help increase their expertise and competence.

4. NSAC recommends that NRCS undertake a number of initiatives under the TSP program to ensure that it can meet the new requirements in the 2008 Farm Bill to serve farmers and ranchers using organic production systems. These initiatives including but are not limited to: (1) giving a priority to organizations that can provide TSP outreach and education activities for organic farmers and ranchers; and (2) working closely at the national level with the National Organic Program staff and at the state level with organic certifying organizations and other entities with expertise in organic systems to provide them with training in NRCS conservation planning and plan implementation so that they can act as TSPs for organic farmers and ranchers.

The 2008 Farm Bill includes a new focus on providing conservation services to farmers and ranchers using organic production systems. EQIP has a new provision making organic farming systems a national purpose of the program and another new provision dedicated to assistance for farmers and ranchers who are converting to organic production systems. The CSP includes a "cross-walk" between the organic plan required by the National Organic Program and the conservation plan required by the CSP to give organic farmers and ranchers a comprehensive approach to meeting the requirements of both CSP and the NOP simultaneously. In addition, there is a new Conservation Reserve Program transition option for beginning farmers and ranchers establishing sustainable and organic systems on land coming out of CRP contracts. The 2008 Farm Bill requires NRCS to give these beginning farmers and ranchers a priority for enrollment in EQIP or Conservation Stewardship Program (CSP).

Our recommendations should help ensure that NRCS meets the expectation of organic farmers and ranchers to receive a level of conservation services and resources at least commensurate with that offered by NRCS to conventional producers.

In addition to these comments, NSAC also endorses the comments submitted on the TSP IFR by our member organization the Organic Farming Research Foundation.

5. NRCS funds should not be used to provide TSP services for “cookie cutter” conservation plans or other TSP services provided remotely, without a TSP putting “boots on the ground.”

The Managers Statement to the 2008 Farm Bill includes the expectation that NRCS will implement the TSP provision in a way that results in “. . . *locally relevant* conservation technical assistance from public and private sources increasingly available and accessible to producers.” NSAC is in complete accord with this goal. An example of a need for this locally relevant example was provided by the review of the Kansas TSP list by NSAC member the Kansas Rural Center. The list consisted mostly of out of state engineers signed up to do cookie cutter nutrient management plans or build livestock waste management plans. The Center also found that most of the TSPs offering conservation planning services in Kansas for organic farm planning were from out of state and many offered only “remote planning services.” Given the range of ecosystems from east to west in Kansas, an adequate outcome for “remote” conservation planning seems highly unlikely.

NSAC also understands that it is common in many states to have remote services offered by out of state TSPs, particularly conservation planning services. The reality, however, is that all truly adequate conservation work is local. A cookie cutter nutrient management plan developed remotely may well miss important resources, topographical features, etc. Turn key, one-size-fits all waste storage and handling facilities for animal feeding operations are often seriously under-engineered or inappropriate for specific climatic conditions.

NRCS should target TSP contracts and contribution agreements to in-state entities who know the conditions in their region and who will be a resource for the locally relevant conservation technical assistance expected by the Managers of the 2008 Farm Bill.

6. NSAC recommends that NRCS ensure that farmers and ranchers using NRCS services for conservation planning are not provided a lower cost-share from NRCS than NRCS provides to producers through TSP payments. In promoting and awarding TSP contracts and making cost-share available for conservation planning activities, NRCS should avoid the inequity of providing different levels of assistance to competing producers, and should use TSP contracts and agreements and cost-share rates to promote whole-operation, multi-resource conservation planning and planning that addresses the highest resource priorities in an area. .

NRCS generally pays the full cost of conservation planning services provided by the TSPs, on the theory that NRCS employees would otherwise be providing that service to the farmer or rancher for free. Under EQIP and other cost-share provisions, however, NRCS generally pays

only 50% to 75% of the costs of conservation planning. NSAC understands that a significant portion of TSP funds under the 2002 Farm Bill went to nutrient management planning for the CAFO sector. The result was that a grass-based livestock producer could end up paying 25-50% of the costs for a developing a whole-farm conservation plan, while a large-scale animal feeding operation could be provided a nutrient management plan and engineering for a large-scale constructed facility at no cost to the producer. Similar inequities occurred in other sectors.

NSAC understands that NRCS is developing 11 new categories of conservation activity planning that would be eligible under EQIP (and perhaps other programs) for cost-share assistance. Those new conservation activities will, we are told, match 11 new TSP certification categories that will allow TSPs to be certified in those planning areas. We recommend that NRCS ensure that farmers and ranchers who use NRCS technical services do not receive lower cost-share rates than those who get such services from TSPs.

7. NSAC recommends that NRCS revise the TSP regulation to incorporate conflict of interest provisions which prohibit a TSP who provides conservation planning assistance from having a financial interest in products or services recommended by the plan. This would provide the highest level of protection from conflicts of interest, protecting taxpayer funds and the participants from such potential conflicts.

At a minimum, we recommend that NRCS adopt conflict of interest provisions which require that any TSP or non-governmental entity providing NRCS-funded conservation planning (through a direct TSP contract, contribution agreement, cooperative agreement, procurement contract or cost-share agreement) include prominently in its materials used to solicit participants, and in the contract or agreement with the producer to provide the services, any direct or indirect financial interest that the TSP has in products or services related to the area of the plan, and include in the plan or plans developed a statement that clearly notes any direct or indirect financial interest that the TSP has in any of the products or services recommended or identified in the plan.

In our comments to NRCS on implementation of the 2002 Farm Bill TSP provisions, we made a basic recommendation for good public policy governing the provision of TSP funding – that TSPs not be allowed to gain financially from goods or services that would be required by a conservation plan produced by the TSP. NRCS, however, did not include any conflict of interest measure, even a simple disclosure requirement, in that regulation.

We are dismayed to see that the IFR to implement the 2008 Farm Bill's TSP measure also has no provisions regarding TSP conflicts of interest. One of the strengths of having a NRCS employee provide conservation planning and associated recommendations is that, as a government employee, the NRCS person undertaking conservation planning services will have no financial stake in the recommendations made.

In contrast, many TSPs do have a direct financial interest in selling products or services that could be identified or recommended through a conservation plan. For example, crop consultants or cooperatives could also sell or market seeds and agrichemicals; CNMP engineering firms could also have an interest in carrying out construction of such facilities; TSPs providing wildlife

habitat planning could have an interest in selling seeds and installation services; and TSPs providing energy audits could have a financial interest in selling or installing weatherization practices.

In such cases, the recommendations of the TSP could be slanted towards products or practices provided by that TSP. Even where those firms, organizations or individuals are not selected by the producer to provide the service or product, the fact that the TSP is recommending certain kinds of practices or products can tend to increase demand for those products and services, and thus provide an indirect financial benefit by boosting the market for services or products the TSP provides beyond conservation planning.

In these cases, there is at least the appearance of a conflict of interest, which could cloud the legitimacy of the conservation plans developed by TSPs with funding from NRCS. This conflict of interest should be completely eliminated. At a minimum, farmers and ranchers provided advice by TSPs should have the benefit of a conflict of interest disclosure and the opportunity to look for another TSP or to engage in a discussion of alternatives to the conservation plan.

Thank you for considering the comments of the National Sustainable Agriculture Coalition.

Sincerely,

Martha L. Noble

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