

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL, INC.
AND THE
UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

This Memorandum of Understanding (MOU) is between the Certified Professional in Erosion and Sediment Control, Inc., hereinafter referred to as the CPESC, Inc., and the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS).

I. BACKGROUND

NRCS is responsible for providing technical assistance to land owners and operators in protecting soil, water, and related resources under the provisions of the Soil Conservation and Domestic Allotment Act, as amended 16 U.S.C. 590 (a-f), 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 (TSPs) by NRCS.

Section 2701 of the Farm Security and Rural Investment Act of 2002 Farm Bill, Public Law 107-171, May 13, 2002, amended Section 1242 of the Food Security Act of 1985 to require the Secretary to provide technical assistance under Title XII of the Food Security Act of 1985 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.

CPESC, Inc is a (501(c)(3), non-profit professional international certifying organization in two specialties that is headquartered in Marion, North Carolina. CPESC, Inc. certifies professionals qualified to practice in erosion and sediment control, and storm water quality. These individuals meet stringent educational, experience, and professional conduct standards set forth by CPESC, Inc.

II. PURPOSE

The purpose of this MOU is to establish a general framework for cooperation between CPESC, Inc., and NRCS through which the CPESC, Inc., under its two certification programs, may submit recommendations to NRCS of certified professionals who meet the CPESC, Inc. and/or Certified Professional in Storm Water Quality (CPSWQ) certification program standards; NRCS may consider such professionals for certification as TSPs. 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 utilize technical services provided by certified TSPs.

This MOU recognizes that a person who has met the certification standards set by CPESC, Inc. and is certified as a CPESC or CPSWQ meets the NRCS performance criteria for providing conservation assistance in the areas shown in Section III.A.1. Each CPESC, Inc. registrant seeking certification as a TSP will indicate their areas of expertise, as required in the TSP application process.

This MOU will mutually benefit NRCS and CPESC, Inc. by providing certified CPESC and CPSWQ professionals the opportunity to become certified as a TSP by NRCS, if approved by all NRCS certification criteria. This in turn 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 TSPs on the approved list to provide technical service in selected categories to USDA conservation program participants. Program participants may select TSPs from that list, thereby expanding the scope of services to existing and future clientele.

III. RESPONSIBILITIES

A. The CPESC, Inc. will:

1. Provide a directory of Certified Professionals that CPESC, Inc. recommends for certification as a TSP where:

CPESC, Inc. registrants that are certified as CPESCs meet the minimum NRCS standards for providing conservation assistance in the following NRCS TSP

Categories:

- a. Land Shaping (PE Not required);
- b. Land Treatment – Buffer;
- c. Land Treatment – Tillage and Erosion;
- d. Land Treatment – Vegetative Land Stabilization;
- e. Channel and Streambank Stabilization; and
- f. Soil Stabilization for Access Roads.

CPESC, Inc. registrants that are certified as CPSWQs meet the minimum NRCS standards for providing conservation assistance in the following NRCS TSP

Category:

- a. CNMP Plan Development – Land Treatment.

Within each of these categories, each CPESC or CPSWQ individual seeking certification as a TSP will indicate their own areas of expertise by noting which actual practices they are competent to plan, design, install, and checkout.

2. Establish and maintain a registry of individuals who meet the CPESC, Inc. qualifications to provide conservation technical assistance identified above. 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) Telephone and Fax Numbers, and e-mail address;
 - e) Certification Category (ies);
 - f) Expiration Date of qualification under CPESC, Inc ; and
 - g) CPESC, Inc. as the recommending organization.
3. Record recommended individuals' efforts to satisfy continuing education requirements to maintain certification under the CPESC, Inc. certification programs
 - a) Each individual who wishes to remain on the registry is required to receive appropriate training in conservation assistance to maintain skill levels.
 - b) The registry will indicate the training cycle completion deadline for each individual and maintain records of course titles, completion date, location, and training provider.
4. Update all information on its registry monthly, or more frequently if necessary, and provide this information in a mutually acceptable electronic format to NRCS.
5. 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 and immediately notify the individuals and NRCS
6. Notify CPESC, Inc. professionals when technical and programmatic materials are available from NRCS in a timely manner to ensure that its members deliver the highest quality of conservation technical assistance.
7. Upon request and with agreement from all parties involved, provide NRCS with a list of courses a certified professional on the CPESC, Inc registry has used to fulfill continuing education requirements.
8. Inform CPESC, Inc. registrants that to be certified by NRCS, they must submit an application, which includes a Certification Agreement as a condition of their certification by NRCS as a TSP.

9. Inform CPESC, Inc. registrants certified as TSPs by NRCS that they are subject to the same annual quality reviews as performed by NRCS employees.
10. Inform registrants 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 CPESC, Inc. of the knowledge, skills, and criteria an individual will need to possess to qualify as a TSP for each of the TSP categories covered by this MOU.
2. Periodically review CPESC, Inc. certification standards for consistency with NRCS criteria for technical services covered by this MOU.
3. Provide CPESC, Inc. with access to current program information and appropriate technical reference documents for use by TSPs. Such documents will include manuals, standards, and specifications for appropriate conservation practices.
4. Provide the approved list of TSPs to USDA offices.
5. Assist in suggesting training opportunities for CPESC, Inc. certified professionals, and serve as a resource when available.
6. Remove TSPs from the approved list through the decertification process if it is determined that the TSP has failed to meet the terms and conditions of the Certification Agreement.
7. Notify CPESC, Inc. of individuals removed from the approved list through the NRCS decertification process.

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 affect upon the signature of the NRCS and the CPESC, Inc. signing officials, and shall remain in affect for 3 years from the date of execution. This MOU may be extended or amended upon written request of either NRCS or CPESC, Inc. and the subsequent written concurrences of the other. Either NRCS or CPESC, Inc. 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 ISPs by NRCS. Certified individuals will continue to be listed on the approved list of TSPs in accordance with the terms and conditions of their certification.
- D. NRCS and CPESC, Inc., 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 CPESC, Inc. to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies of the USDA and CPESC, Inc. will require execution of separate agreements and be contingent upon the availability of appropriated 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, CPESC, Inc. They also shall not assist CPESC, Inc. 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 CPESC, Inc. concerning future employment and shall refrain from participation in efforts regarding such parties until approved by the Agency.
- G. All activities under this agreement will be in compliance with the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D).
- H. In accordance with NRCS Property Management Regulation, Temporary Regulation A-2, "The program or activities conducted under this memorandum of understanding will be in compliance with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended; the Civil Rights Restoration Act of 1987 (Public Law 100-259); and other nondiscrimination statutes: namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendment of 1972, and the Age Discrimination Act of 1975. They will also be in accordance with regulations of the Secretary of Agriculture (7 CFR 15, Subparts A & B), which provide that no person in the United States shall on the grounds of race, color, national origin, age, sex, religion, marital status, or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Agriculture or any agency hereof."

V. TECHNICAL AND ADMINISTRATIVE CONTACTS

A. CPESC, Inc.

Administrative

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B. NRCS:

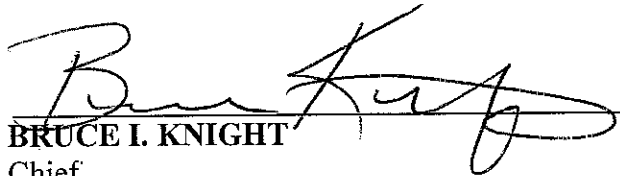
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VI. AUTHORITY

NRCS enters into this agreement under the authority of the Food Security Act of 1985, Section 1242, 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

8/2/05
DATE



DAVID H. WARD
Executive Director
CPESC, Inc.

02 August 2005
DATE