

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
ENVIRONMENTAL MANAGEMENT SOLUTIONS, LLC
AND THE
U.S. DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

This Memorandum of Understanding (MOU) is between the Environmental Management Solutions, LLC. (EMS) and the U.S. 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 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.

EMS is a for profit corporation providing a complete line of environmental services and training for agriculture.

II. PURPOSE

The purpose of this MOU is to establish a general framework for cooperation between EMS and NRCS through which the EMS, may submit recommendations to NRCS of individuals who meet the EMS Certification Program standards for possible certification as third party 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 EMS, and is certified by EMS, also meets the NRCS performance proficiencies for providing conservation assistance in the suites of practices of: Manure and Wastewater Handling and Storage (MWHS), Comprehensive Nutrient Management Plan (CNMP) Plan Approval, Comprehensive Nutrient Management Plan (CNMP) Planning and Assistance, and Nutrient Management.

This MOU will benefit NRCS by providing EMS-certified individuals who are recommended by EMS with the opportunity to become certified by NRCS as a Technical Service Provider. This, in turn, will assist NRCS in carrying out its mission of providing quality conservation technical assistance to its customers.

This MOU will benefit the EMS by providing EMS-certified individuals with the opportunity to become certified by NRCS as a Technical Service Provider. NRCS will place the certified Technical Service Provider on the approved list to provide technical service to USDA conservation program participants, thereby expanding their scope of services to existing and future clientele.

III. RESPONSIBILITIES

A. The EMS will:

1. Provide a statement that the EMS-certified individuals who EMS recommends for certification as a Technical Service Provider meet the minimum NRCS performance proficiencies for providing conservation assistance in the suites of practices of: Manure and Wastewater Handling and Storage; Comprehensive Nutrient Management Plan (CNMP) Plan Approval; Comprehensive Nutrient Management Plan (CNMP) Planning and Assistance; and Nutrient Management;
2. Establish and maintain a registry of individuals who meet the EMS qualifications to provide conservation technical assistance in the suites of practices 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
 - f) Service Area
 - g) Expiration Date of qualification under EMS
 - h) EMS as the recommending organization;
3. Annually record recommended individuals' efforts to satisfy continuing education requirements each year to maintain certification under the EMS:
- a) Each individual who wishes to remain on the registry is required to receive appropriate training in conservation assistance to maintain skill levels at least once every 3 years; and
 - b) The registry will indicate the deadline by which each individual must receive training. Updates indicating the date training was last received will be submitted in accordance with their continuing education cycle dates;
4. Update all information on its registry annually, or more frequently if necessary, and provide this information to NRCS in a timely manner;
5. Remove individuals from the registry who do not maintain required levels of training within the 3-year time frame or who are found to be providing substandard assistance from its registry and immediately notify the individuals and NRCS;
6. Notify EMS 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;
7. Upon request and with agreement from all parties involved, provide NRCS with a list of courses an individual on the EMS registry used to fulfill continuing education requirements;
8. Inform members that all providers to be certified by NRCS must execute a Certification Agreement as a condition of their certification by NRCS as a Technical Service Provider;
9. Inform members certified as Technical Service Providers by NRCS that they are subject to the same annual quality reviews as NRCS employees; and

10. Inform members 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 EMS of the knowledge, skills, and proficiencies an individual will need to possess to qualify for Technical Service Provider (TSP) designation for each of the technical service categories identified in this MOU;
2. Ensure that the EMS standards for recommending individuals meets NRCS performance proficiency criteria for the specific suites of practices covered by this MOU;
3. Provide EMS 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 EMS members, provide training materials when available, and serve as a resource when practicable; and
6. 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. Agreed that 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 EMS, and shall remain in effect for 5 years from the date of execution. This MOU may be extended or amended upon written request of either NRCS or EMS, and the subsequent written concurrences of the other. Either NRCS or EMS 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, the EMS, 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 EMS 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 USDA and EMS 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.

V. TECHNICAL AND ADMINISTRATIVE CONTACTS

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B. NRCS

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Mr. Earl Dotson
President and CEO
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P.O. Box 14586
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JUN 9 2004

Dear Mr. Dotson:

As agreed to by the Natural Resources Conservation Service (NRCS) on May 21, 2004, the Memorandum of Understanding between the NRCS and Environmental Management Solutions, LLC, is being amended to include Certified Conservation Planners.

The following amendments are hereby included:

- 1) A person who has been trained and certified as a Conservation Planner by Environmental Management Solutions (EMS), LLC, will also be considered as meeting the Natural Resources Conservation Service (NRCS) performance proficiencies to serve as a Conservation Planner and may be certified as such;
- 2) To the extent that NRCS considers necessary and appropriate, NRCS will monitor and review EMS, LLC, training sessions in order to ensure equivalence with NRCS conservation planning training courses, generate feedback, and suggest improvement in the training provided by EMS, LLC, and
- 3) EMS, LLC, agrees to modify the training they provide consistent with the feedback and suggested improvements recommended by NRCS.

We look forward to working with EMS, LLC, in this new capacity.

Sincerely,


LAWRENCE E. CLARK
Deputy Chief
Science and Technology