



U.S. Department of Agriculture



Office of Inspector General
Midwest Region

Audit Report

Natural Resources Conservation Service Controls Over Technical Service Providers

Report No. 10601-5-Ch
September 2008



UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20250



DATE: September 16, 2008

REPLY TO
ATTN OF: 10601-5-Ch

TO: Arlen L. Lancaster
Chief
Natural Resources Conservation Service

ATTN: Diane Gelburd
Director
Operations Management and Oversight Division

FROM: Robert W. Young /s/
Assistant Inspector General
for Audit

SUBJECT: Controls Over Technical Service Providers

This report presents the results of our audit of the Natural Resources Conservation Service's (NRCS) Technical Service Providers (TSP) process, which obligated \$62.6 million in fiscal year (FY) 2006 and \$57.3 million in FY 2007 to support the use of private individuals, nonprofit organizations, tribes, universities, and public agencies, as TSPs, in providing conservation technical assistance to producers.

The purpose of the audit was to identify and evaluate NRCS' management controls over the TSP process to ensure that the process was effectively implemented and to ensure the propriety and accuracy of payments. Specific objectives were to identify and evaluate controls for (1) certifying and monitoring TSPs and the payment of technical assistance funds, (2) establishing not-to-exceed (NTE) rates for individual landowners and the cost of procuring technical assistance through NRCS contracts or contribution¹ and cooperative agreements, and (3) collaborating with the Farm Service Agency (FSA) regarding program outreach and to ensure the quality of services provided by TSPs. We met the objectives through our review at the NRCS national office and reviews of the TSP process in two State offices, Iowa and Ohio, that represented 7 percent of the \$80 million targeted to be obligated nationally through the TSP process in FYs 2006 and 2007. We conducted interviews and record reviews at nine NRCS district offices and five FSA county offices in those States; we also interviewed TSP officials and producers.

¹ NRCS can noncompetitively enter into a contribution agreement with any party (such as a State, political subdivision, or agency thereof, a public or private organization, etc.) that will serve a mutual interest in carrying out NRCS programs with both of the parties contributing resources to carryout the common program activity. See *Contribution Agreement Handbook*, 120-VI-CAH, First Edition, April 2004, subpart A, part 610.0.

Based on the results of our audit, we concluded that NRCS' management controls over the TSP process were generally adequate. However, we determined that the process for acquisition of TSP services through contribution agreements, and their subsequent payment, needed to be improved. (This issue is described in the Findings and Recommendations section of this report.)

Despite the weaknesses we noted in the handling of contribution agreements, the TSP process generally worked as intended. In our discussions with NRCS State and district office staffs, producers/landowners, TSPs, and FSA State and local office staffs, we identified no complaints about the TSP process and confirmed that FSA county offices participated in outreach efforts to acquaint producers/landowners with the TSP process. The Iowa and Ohio NRCS State Conservationists verified each TSP applicant's qualifications, certified them for participation, and timely included them on the active list of TSPs. Quality assurance spot checks of their performance were completed as required. The spot checks did not disclose any deficiencies with the conservation assistance completed by TSPs. Moreover, we did not identify any backlogs of requests for TSP services. Additionally, we analyzed one architectural and engineering (A&E) contract at the Indiana State NRCS Office,² finding that NRCS had properly awarded the contract and supervised its completion.³

In addition, we determined NRCS properly established NTE payment rates applicable to TSPs. We tested and re-calculated NTE payments at the national, State, and district office levels, and confirmed TSPs were accurately paid. NRCS had recognized NTE rates were low; therefore, in April 2007, NRCS revised the NTE rates upward approximately 18 percent. The rate increase reflected recent Federal salary increases and also included overhead costs that NRCS had neglected to include in the previously established rates. We also determined that NTE rates were generally comparable to the cost of conservation assistance procured through contribution agreements.

In its August 15, 2008, written response (see exhibit A) to the official draft report, NRCS concurred with the findings and recommendations. The Office of Inspector General's (OIG) position is incorporated into the relevant sections of the report. Based on the information in NRCS' written response, we accept management decisions for Recommendations 1 and 2. Management decision has been reached on all recommendations.

BACKGROUND

The 2002 Farm Bill expanded the availability of technical assistance to producers by encouraging the use of third party vendors, called TSPs. TSPs supplement NRCS staff and provide convenient access to technical services for producers/landowners. TSP assistance is another tool for NRCS to use in the implementation of conservation programs. TSPs must be competent to perform technical services in most aspects of conservation, including the conservation planning, design, layout, installation, and checkout of conservation practices.⁴ NRCS program participants may either select NRCS or a TSP to

² This contract was selected for review because in February 2007 the U.S. Environmental Protection Agency's Office of Inspector General issued audit report 2007-4-00045 that questioned significant amounts paid to a subcontractor of an EPA grantee as unallowable. This subcontractor also participated in NRCS conservation programs as a TSP. We selected this contract for review to determine if NRCS had properly contracted with this TSP and had provided the necessary oversight.

³ *Federal Acquisition Regulations*, Subpart 36.6, "Architect-Engineer Services," revised October 1, 2007.

⁴ *Code of Federal Regulations* Part 652, "Technical Service Provider Assistance," November 29, 2004.

perform the technical services needed. When participants select a TSP, the payment for the technical services provided is determined using NTE rates. NTE payment rates are the maximum NRCS will reimburse producers/landowners when they contract with a TSP. These payment rates generally reflect what it would cost NRCS to perform the technical service. NRCS set these initial rates by analyzing the amount of time, by NRCS discipline, required to develop a conservation plan or complete a design, installation, or checkout of specific conservation practices. NRCS released revised NTE payments rates for certified TSPs that work directly with producers/landowners in April 2007. However, State Conservationists can adjust NTE payment rates for individual producers/landowners with adequate justification and documentation. TSPs working directly with producers/landowners need certification through NRCS' TechReg system.⁵ Each NRCS State office verifies compliance with eligibility criteria for applicants within their State. These TSPs must renew their certification every 3 years.

If a program participant selects NRCS and NRCS' workload precludes its staff to perform the work, NRCS can acquire the technical assistance needed through qualified third parties. TSPs under the provisions of a procurement contract, contribution agreement, or cooperative agreement with NRCS do not need to be certified in TechReg, but must meet Federal acquisition or Department of Agriculture (USDA) Federal assistance rules and requirements for competency, quality, and selection, as appropriate.

The 2002 Farm Bill also established funding for the NRCS conservation programs it authorized, such as the Environmental Quality Incentives, Wetlands Reserve, and Wildlife Habitat Incentives Programs. From these funds, the Office of Management and Budget (OMB) determined that for each fiscal year, a portion would be required to be expended through TSPs. For instance, in FYs 2006 and 2007, OMB required that at least \$40 million of the various conservation programs technical assistance funds be used for TSPs each year. To accomplish this, NRCS set a TSP technical assistance monetary goal for each State. The total of the States' TSP technical assistance goals exceeded the \$40 million threshold set by OMB for each year.

The most common practices planned and applied by TSPs include pest management, nutrient management, fencing, firebreaks, manure transfer, and comprehensive nutrient management plans. To date, NRCS has more than 1,692 certified TSPs listed in TechReg. In consultation with FSA, local NRCS district offices randomly review the quality of technical assistance services provided by TSPs.

OBJECTIVES

The objectives of this audit were to identify and evaluate controls for (1) certifying and monitoring TSPs and the payment of technical assistance funds, (2) establishing NTE rates for individual landowners and the cost of procuring technical assistance through NRCS contracts or contribution and cooperative agreements, and (3) collaborating with FSA regarding program outreach and to ensure the quality of services provided by TSPs.

⁵ TechReg is NRCS' web based registry of technical experts. Individuals and organizations apply through TechReg to become certified as technical service providers. Producers/landowners then use TechReg to locate and choose technical service providers that have been authorized to provide conservation services in their area.

SCOPE AND METHODOLOGY

We performed our audit at the NRCS national office. We judgmentally selected two States: Iowa and Ohio. We based our selection on the level of TSP activity and a request from the NRCS national office. We also judgmentally selected nine NRCS district offices for visits within the two States according to the number of producers using TSPs and geographic locations and selected six FSA State and county offices based upon the NRCS site visits. In addition, we selected one A&E contract with a TSP in Indiana for review because of the TSP involved (see footnote 2). (See exhibit B for a list of offices visited.)

The scope of our audit covered FYs 2006 and 2007. OMB required that NRCS use at least \$40 million for technical assistance through TSPs in each of FYs 2006 and 2007. NRCS then assigned Ohio a target goal of \$1,085,400 in FY 2006 and \$1,066,500 in FY 2007 to expend through TSPs. Iowa was given a target goal of \$1,809,400 in FY 2006 and \$1,592,700 in FY 2007. Indiana's TSP goal was \$1,021,100 in FY 2006 and \$1,054,500 in FY 2007. Overall, NRCS obligated \$62.6 million in fiscal year FY 2006 and \$57.3 million in FY 2007 for technical assistance provided by TSPs.

We judgmentally selected for review, based on the value of the agreements, 11 of 65 contribution agreements (17 percent) representing about \$1.4 million of the \$4.7 million (30 percent) obligated by the Iowa and Ohio State NRCS Offices through the agreements in FYs 2006 and 2007. We interviewed 13 of the 79 TSPs certified in the 2 States. We also interviewed 10 producers/landowners and reviewed their files regarding TSP use. Finally, we reviewed one A&E contract in Indiana (discussed above).

To accomplish our objectives we also:

- Reviewed applicable laws, regulations, policies and procedures governing the TSP process;
- Interviewed NRCS State and district office staff;
- Interviewed FSA State and local office staff regarding knowledge of the TSP process and outreach efforts;
- Evaluated and tested NRCS' process for certification of TSPs;
- Assessed controls over the TechReg, Technical Assistance Cost for Conservation Practice, Performance Results System, and Program Contracts System databases;
- Tested the calculations of NTE rates and payments to TSPs;
- Verified quality assurance reviews were completed and reviewed producer files for accuracy and compliance;
- Analyzed the award and payment of TSP services through contribution agreements; and
- Assessed an A&E contract for compliance with contract requirements.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

FINDINGS AND RECOMMENDATIONS

1. Use and Oversight of Contribution Agreements Needs To Be Improved

Our review at one of the three NRCS State offices visited disclosed that the use of contribution agreements by the State office to acquire TSP services needed to be improved. We noted that contribution agreements partnering with outside entities did not always include budgets to support the dollar amounts awarded, types of deliverables to be provided, or timeframes for completion to support the funds obligated. In addition, the State office made payments to partners based on claims that were not always supported by adequate documentation of the work performed and costs incurred. This occurred because the State office did not have a contracting officer at the time and the various staff used to develop and oversee contribution agreements did not have adequate training to ensure the agreements were properly awarded and the subsequent payments properly supported. In addition, oversight of contribution agreements by the NRCS national office was not sufficient to identify and correct ongoing problems. As a result, without better documentation, misunderstandings between landowners, TSPs, and NRCS may occur regarding the type and extent of assistance provided, and unsupported claims for payments could result in improper payments to partner entities.

State Office Needs To Better Document Provisions Under Contribution Agreements

The Iowa and Ohio State NRCS Offices used contribution agreements to obligate the majority of TSP funds in FYs 2006 and 2007. Entities partnering with NRCS through contribution agreements provide matching funds (or in-kind services) to complete agreed-to conservation assistance. We evaluated the contribution agreements awarded by the Iowa and Ohio State NRCS Offices according to the policies and regulations established by NRCS.⁶ We determined that the processes used by the Iowa State NRCS Office were compliant with the requirements; however, the Ohio State NRCS Office lacked much of the information required prior to awarding contribution agreements and issuing payments to partnering entities.

According to NRCS' *Contribution Agreements Handbook*, the partnering applicant must describe the mutual interests of the parties and the resources each will contribute. The applicant must also submit a detailed plan of work and a proposed budget. NRCS must evaluate the information including whether costs are allowable, allocable, and reasonable.⁷ At the Ohio State NRCS Office, we reviewed 5 of 41 contribution agreements representing \$748,026 of \$2,375,639 awarded during FYs 2006 and 2007. Our reviews disclosed that the State office did not always award contribution agreements with budgets and cost analyses in place, or clearly define the responsibilities of NRCS and the partner entity. We found that items submitted by the partners such as the Statements of Work were vague and did not always provide sufficient information about the required deliverables, unit costs, or timeframes for completion. We also noted that the State office made payments to partners without receiving required performance reports and without adequate documentation for expenses claimed. NRCS State officials explained that because the State office lacked a contract specialist, various staff had been assigned to prepare contribution agreements but they did not have the requisite knowledge or training. Staff used

⁶ *Contribution Agreements Handbook*, 120-VI-CAH, First Edition, April 2004.

⁷ *Contribution Agreements Handbook*, 120-VI-CAH, First Edition, April 2004, parts 610.20 and 25.

older agreements, patching various sections together, to make up new agreements. Through our discussions with NRCS district office staff in Ohio, our visits to three TSPs (the partner entities), and our review of sample producer/landowner's files, we concluded that TSPs provided the conservation assistance intended by the agreements. But the State office had no documentation of the technical services provided prior to issuing payments. State officials told us that because of limited staff, no one in the State office had been assigned oversight responsibility for ensuring contribution agreements were properly awarded and paid. State officials stated that a contract specialist has now been hired and will fulfill that function.

National Office Needs To Improve Its Oversight of Contribution Agreements

Prior to our audit, NRCS' efforts to oversee the TSP process included a nationwide acquisition review for TSP assistance in FY 2004.⁸ We obtained a copy of this report, dated May 2004, in its draft form. The report identified many of the same deficiencies we found such as agreements not clearly defining deliverables, the costs involved, or the timeframes for completion. However, NRCS' Management Service Division (MSD) officials stated that NRCS never officially issued the draft report and considered it a work in progress. Therefore, the Ohio State NRCS Office had no opportunity to take corrective actions in response to the report's recommendations, which could have corrected the deficiencies we identified.

Additionally, in response to a previous Office of Inspector General (OIG) audit,⁹ MSD implemented an acquisition management review process at its 56 procuring offices. NRCS planned to conduct these reviews over a 5-year period. MSD performed a pilot management review at the Ohio State NRCS Office in August 2007, reporting that, generally, the State office conducted contribution agreement functions in a manner that complied with applicable laws and regulations. Although NRCS' management review noted that there was no documentation regarding initial funds approval or funding documentation to support amendments to the original action, the finding was too generic to identify why these deficiencies occurred. As of the end of our fieldwork, NRCS has not finalized and issued the draft report to the State office.

Because our audit found contribution agreements issued by the Ohio State NRCS Office lacked both information needed to award the agreements and support for the payment of resulting claims by the partnering entities, we evaluated the guide MSD had followed to perform its review of contribution agreements. We determined that steps in the management review guide were general and would not necessarily identify the type of deficiencies we noted. Only one step addressed the post award process, requesting a determination whether the sampled grant closeout had been performed in accordance with Federal regulations. It did not address determining whether costs claimed by the partner entity were properly identified and supported prior to payment. We also noted the draft recommendations provided by MSD were general and did not always request specific corrective actions to remedy findings.

⁸ Oversight and Evaluation Report "FY 2003 NRCS Contracts and Agreements with Technical Service Providers for Delivery of Technical Assistance," Draft, May 2004.

⁹ Audit Report No. 10001-1-Hy, "Review of Contract Administration at NRCS," issued March 2007.

NRCS national officials acknowledged the weaknesses in the methods some State offices use to process contribution agreements. They agreed to take action on a nationwide basis to resolve the problems. Officials said this would include revising the acquisition management review guide to ensure that more effective reviews are conducted and initiating quarterly progress reports. In correspondence to OIG, dated March 5, 2008, NRCS officials stated they planned to provide additional training to State offices for the types of acquisition agreements being used, revise the management review guide to provide more specific findings and recommendations than those identified in Ohio, outline requirements for corrective action plans, and provide for quarterly progress reports until the corrective actions have been completed.

Summary

We have concluded that NRCS' TSP process is generally functioning as intended. However, NRCS needs to improve the oversight of the use of contribution agreements issued by its State offices to ensure the effective acquisition of technical assistance. The Ohio State NRCS Office has taken action to address the deficiencies we noted by hiring a contract specialist to better assure the integrity and accountability of the acquisition process. Improved oversight proposed by the NRCS national office would also contribute to ensuring contribution agreements are effective in advancing conservation assistance provided through TSPs.

Recommendation 1

Revise the MSD guide for conducting management reviews of the acquisition process in State offices to improve coverage of the pre- and post-award functions when procuring conservation assistance through contribution agreements and to provide recommended corrective actions that more directly address the causes of deficiencies identified.

Agency Response

NRCS officials agreed with the recommendation. In their response, dated August 15, 2008, NRCS officials stated that the Guide to Conducting Administrative Reviews was revised on June 6, 2008, and subsequently on June 27, 2008, following their first review conducted in FY 2008, to adequately address review of all administrative processes. During reviews conducted in FY 2008, focus was placed on all stages of procurement, including contribution agreements, emphasizing the review of documentation in the areas of pre- and post-award functions.

OIG Position

We accept NRCS' management decision.

Recommendation 2

Issue the MSD pilot management review draft report conducted at the Ohio State NRCS Office.

Agency Response

NRCS officials agreed with the recommendation. In their response, dated August 15, 2008, NRCS officials stated that the pilot Administrative Review Draft Report was issued to the Ohio NRCS State Conservationist during the exit conference.

OIG Position

We accept NRCS' management decision.

We appreciate the courtesies and cooperation extended to us by members of your staff during the review.

Exhibit A—Agency Response

Exhibit A – Page 1 of 2

United States Department of Agriculture



Natural Resources Conservation Service
P.O. Box 2890
Washington, D.C. 20013

AUG 15 2008

SUBJECT: Natural Resources Conservation Service (NRCS) Responses to Office of the Inspector General (OIG) Audit Report 10601-5-Ch, TSP, Controls Over Technical Service Providers

TO: Robert W. Young
Assistant Inspector General for Audits
Office of the Inspector General

Please find attached the NRCS responses to OIG recommendations 1 and 2 contained in Audit Report 10601-5-Ch, TSP, Controls Over Technical Service Providers.

If you have questions or need additional information, please contact Leroy Hall, Acting Compliance Team Leader, at (202)-720-0040.

A handwritten signature in black ink that reads "Arlen L. Lancaster" with "Acting for" written in smaller cursive below it.

Arlen L. Lancaster
Chief

Attachment

Helping People Help the Land

An Equal Opportunity Provider and Employer

Exhibit A—Agency Response

Exhibit A – Page 2 of 2

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Recommendation 1

Revise the MSD guide for conducting management reviews of the acquisition process in State offices to improve coverage of the pre- and post-award functions when procuring conservation assistance through contribution agreements and to provide recommended corrective actions that more directly address the causes of deficiencies identified.

Agency Response

The Guide to Conducting Administrative Reviews was revised on June 6, 2008, and subsequently on June 27, 2008, following the first review conducted in fiscal year (FY) 2008, to adequately address review of all administrative processes during a review. The revised Guide to Conducting Administrative Reviews has been utilized for four reviews thus far in FY 2008, with two final reports and two reports awaiting final signature. During the reviews conducted in FY 2008, focus has been placed on all stages of procurement, including contribution agreements, with emphasis on the review of documentation particularly in the areas of pre- and post-award functions.

OIG Position

Recommendation 2

Issue the MSD pilot management review draft report conducted at the Ohio State NRCS Office.

Agency Response

The pilot Administrative Review Draft Report for the review conducted at the Ohio State NRCS office was issued to the State Conservationist (STC) during the exit conference. During FY 2008, administrative reviews have been conducted at the Maryland, Pacific Basin Area, Minnesota, and Kentucky organizational units. Reports have been issued for Maryland and the Pacific Basin Area, and the reports for Minnesota and Kentucky are completing the final review process. Two reviews are still scheduled for Indiana and Rhode Island NRCS organizational units in FY 2008. Corrective action plans addressing all recommendations are required from the STC within 45 days of the issuance of the report.

OIG Position

Exhibit B—Sites Visited During Fieldwork

Exhibit B – Page 1 of 1

STATE	NRCS OFFICES	FSA OFFICES
Indiana	State Office	
Iowa	State Office	
	Carroll District	Carroll County Office
	Polk District Office	Polk County Office
	Sac City District Office	Sac City County Office
	Tama District Office	
Ohio	State Office	State Office
	Fairfield District Office	
	Logan District Office	
	Marion District Office	Marion County Office
	Mercer District Office	Mercer County Office
	Union District Office	