

PART 505 - NON-NRCS ENGINEERING SERVICES

SUBPART A - INTRODUCTION

505.00 General.

(a) Non-NRCS engineering and other technical services may be used to meet NRCS workload demands, and technical and program needs. It is essential that NRCS not engage in engineering services and activities that are in direct conflict or competition with services available in the private sector. NRCS must maintain a quality, well trained engineering staff to support the administration of NRCS programs and work with non-NRCS employees called on to assist in our work. In using non-NRCS services, NRCS will strive to ensure:

- 1) professionalism and respect for others,
- 2) quality work,
- 3) excellence in customer service,
- 4) teamwork with others,
- 5) clearly defined responsibilities,
- 6) partnerships with State boards of registration,
- 7) engineering and ecological integrity, and
- 8) effective empowerment.

(b) For the purpose of this policy, non-NRCS engineering services means services provided by any engineer, landscape architect, geologist, or others employed by a consulting firm, sponsoring local organization, other unit of government, private individual land users, manufacturers of structural elements or components, and construction contractors.

(c) For the purpose of this policy, technical services means engineering related and construction support activities provided by private individuals such as individual landowners and users, conservation contractors, and others. Individuals providing these services are not under the supervision of an NRCS employee and may not be licensed to practice engineering. NRCS may use the documentation furnished by private individuals performing technical services for reporting and certifying conservation

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practices. Non-NRCS engineers shall certify to NRCS that all work meets current NRCS standards. This certification may be the basis for NRCS acceptance.

(d) This policy does not apply to non-NRCS services for software development or maintenance.

505.01 State criteria.

Opportunities to use non-NRCS engineering services vary greatly from State to State. State conservationists are to periodically review the scope, type, and volume of engineering work in their states; consider the availability of non-NRCS engineering sources; and establish criteria in accordance with this policy for the kinds of jobs for which these sources are to be used. Each State is to maintain liaison with consulting engineering organizations in that State to ensure an understanding of the division of work.

505.02 Exchange of technical services between government agencies.

NRCS participates in the exchange of engineering services between government agencies to expedite and improve technical work of the agencies by sharing expertise and enhancing on-the-job training. An agreement for exchange of services may be formal or informal depending on the nature of the work. Generally, simple routine exchanges are arranged by correspondence between the agencies. More complex jobs require formal agreements. See 505.40, USDA Memorandum of Understanding Between the Natural Resources Conservation Service and the Forest Service.

505.03 Review of work performed by consultants and suppliers.

(a) Standard designs and drawings prepared by others. NRCS is often requested to approve standard drawings for measures such

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as manure tanks or pre-fabricated structures. State conservation engineers are to use all appropriate means to handle this request efficiently.

(1) The state conservation engineer may perform the review and, if appropriate, provide approval using available NRCS resources.

(2) The state conservation engineer may request the firm to supply a peer review conducted by an independent engineering firm.

(3) The state conservation engineer will require the firm to supply NRCS with a certification that the measure meets all NRCS standards for the States where the measure is to be applied.

(4) Designs to be reviewed by NRCS shall be accompanied by all necessary substantiating data and calculations.

(5) The state conservation engineer will notify the Director of Conservation Engineering Division of all approved standard designs and drawings prepared by others.

(b) Site specific plans and specifications. Designs, drawings and specifications completed for NRCS, sponsors, or landowners by consultants and others can expedite implementation of NRCS administered programs.

(1) NRCS will provide the non-NRCS individual with the applicable NRCS standards and provide appropriate pre-design support at the request of the landowner or sponsor.

(2) The individual will certify on the drawings that "to the best of my professional knowledge, judgment and belief, these plans meet applicable NRCS standards".

(3) An NRCS employee with the necessary job approval authority shall perform a functional review to ensure, as a minimum, that the work:

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- (i) achieves the objectives of the plan, programs,
- (ii) meets the criteria in the applicable practice standards,
- (iii) complies with the applicable State and Federal programs,
- (iv) includes an Inspection Plan and Operation and Maintenance Plan, and
- (v) does not require a technical review as defined in National Engineering Manual Section 511.05.

(c) Site specific installations. Landowners and sponsors are encouraged to use the designers to provide construction inspection.

(1) The landowner or sponsor will submit final as-built drawings with a certification by the responsible individual that "to the best of my professional knowledge, judgment, and belief this practice is installed in accordance with the plans and specifications and meets NRCS standards."

(2) NRCS may make a field visit to review the application.

(3) NRCS will make any necessary program certification for cost sharing.

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SUBPART B - USE OF NON-NRCS ENGINEERING SERVICES

505.10 Non-project activities.

(a) Non-NRCS Engineering Services.

(1) Non-NRCS engineering services may be used to provide assistance to individual and groups on planning, design, and inspection services for conservation practices. Small individual and group jobs unattractive to non-NRCS sources have a priority for NRCS assistance. For the larger individual and group jobs, NRCS strongly encourages using non-NRCS engineering services to make field surveys, soil and geologic investigations, and other special investigations, to prepare plans and specifications, and to provide construction inspection services.

(2) State conservationists are to utilize non-NRCS sources to meet program needs and to satisfy appropriate interest expressed by non-NRCS sources. Generally, non-NRCS engineering services are used for larger jobs to free NRCS for other work for which non-NRCS engineering services cannot be obtained.

(i) The state engineering job approval classification can be used to delineate the upper limits, in size and complexity, of jobs NRCS regularly handles in the State or area. For example, the state conservationist may decide that in a given area NRCS will not handle jobs outside the approval authority of the responsible engineer and that non-NRCS engineering services should be used for such jobs.

(ii) If non-NRCS engineering services are used in NRCS programs, NRCS generally makes preliminary investigations and studies needed to support the development of the conservation plan and, as necessary, provides needs and feasibility determinations. NRCS also provides criteria and consultation and maintains contact with the work to ensure that it meets the conservation objectives of the program and that it is acceptable by NRCS standards.

(3) When a landowner elects to use non-NRCS engineering services to design or inspect the installation of a conservation

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practice, the responsible NRCS employee must ensure that the landowner and consultant understand the responsibilities of all parties involved, especially if the practice involve~ cost-sharing. It is recommended that a letter like the sample shown in Subpart E - Exhibit 505.43, be used to ensure effective communications with all involved parties.

(b) Technical Services.

(1) Conservation contractors often provide technical services to landowners and land users in conjunction with the installation of terraces, diversions, grassed waterways, stabilization structures, on-farm drainage and irrigation systems, low hazard agricultural waste management systems, land grading and leveling, and other conservation practices. These services are considered support activities. To enhance the working relationship between conservation contractors and NRCS, a Memorandum of Understanding (MOU) has been signed between the Land Improvement Contractors of America (LICA) and NRCS. A copy of the MOU is located in Subpart E, Exhibit 505.41.

(2) NRCS is responsible for technical standards, conservation planning and application, and the certification and reporting of conservation practices. When technical services are provided during the installation phase, the field office staff will review the checkout and/or layout and other construction documentation provided by the contractors to ensure that the documentation submitted shows that the practices were installed in accordance with the approved drawings and specifications. Practice documentation is to comply with General Manual (GM) 450, Part 407 - Documentation, Certification, and Spot-Checking. Documentation aids may be developed by NRCS staff to assist contractors in providing the necessary documentation.

(3) NRCS will ensure that the quality of services provided by the contractor during the design phase meets NRCS program needs and technical standards. Contractor developed designs will be reviewed for technical adequacy by an individual having engineering job approval authority for the work.

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(4) The state conservationist will establish procedures to make random, periodic field checks and quality reviews (330-GM, Part 405) to assure that practices were installed in accordance with the documentation furnished by the contractor and approved drawings and specifications. Records will be maintained in the field office to document that the contractor provides services meeting NRCS standards.

(5) In the event a deficiency exists with the contractor's documentation or installation, the policies expressed in GM-340, Part 405, apply. In addition to notifying the participant or owner, the field office staff shall work with the contractor to satisfactorily resolve the issues. A satisfactory resolution will range from correcting a simple error or misunderstanding to not accepting future documentation until such documentation is submitted in an accurate, acceptable manner.

(6) Upon request from a contractor, the field office staff will furnish to that contractor information related to acceptance of his or her work by NRCS. The sample letter shown in Subpart E - Exhibits 505.42, should be used in responding to the contractor. The practices and elements of work performed (construction of a practice and checkout, layout, and/or design documentation) are shown as examples only. Each letter will be tailored to identify the acceptance of construction and documentation for the individual contractor. This information is protected by the Privacy Act from unwarranted disclosure and may not be divulged by NRCS to any individual or organization other than the contractor to whom it pertains. Exceptions to this require approval of the Freedom of Information Officer.

505.11 Project activities.

(a) Scope. Engineering services for work in project activities are provided by NRCS or by non-NRCS engineering staffs, including sponsoring local organizations, State agencies, or other units of government; private engineers under contract with NRCS; and private engineers under contract with sponsoring local organizations.

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(b) Staffing. NRCS must have an adequate staff of engineers and other personnel to maintain a technically sound program and rate of progress consistent with the intent of the Congress and the Administration. The engineering staff should be large enough for the normal workload of preparing plans, making field surveys and investigations, preparing construction drawings and specifications, and inspecting construction. For some projects, part of this workload is performed by non-NRCS sources. Sponsoring local organizations may elect to provide engineering services.

(c) Use of non-NRCS engineering services. Non-NRCS engineering services contracted by NRCS or sponsoring local organizations are used to perform:

(1) Engineering work in excess of the amounts NRCS and sponsoring local organizations can do because of peak loads greater than normal seasonal peaks.

(2) Unusual kinds of work for which NRCS and the sponsoring local organizations lack the necessary facilities or specialized knowledge.

(3) Engineering services for which sponsoring local organizations elect to employ private engineers.

(4) Consulting services and special studies such as review and evaluation of engineering data, independent safety reviews for design of dams, consultation in design of complex or unusual structures, and hydraulic model studies.

(5) Certain engineering and architectural services for basic facilities for recreation or fish and wildlife and for municipal and industrial water supply.

(d) Inspections. Local organizations provide for all inspections of features not paid for from NRCS funds. NRCS inspects features whose malfunction or failure could adversely affect portions of the work that are paid from NRCS funds. When inspection of construction paid from NRCS funds is performed by

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other than NRCS personnel, the NRCS representative provides such supervision as necessary to ensure that the inspection is adequate and that the work meets the requirements of the construction contract. Inspection of construction in which NRCS-administered funds are invested is usually provided by NRCS. These services may be provided by others if one of the following circumstances prevails:

- (1) Qualified NRCS personnel are not available.
- (2) The work was designed by non-NRCS engineers because NRCS did not have the skills to do the design work.
- (3) The work is principally financed by the sponsoring local organization or other non-NRCS interest.
- (4) The work includes installations or parts of installations requiring specialized knowledge and experience not available in NRCS.

(e) Recreation and fish and wildlife facilities. Basic facilities for recreation or fish and wildlife are planned by sponsoring local organizations, by private engineers or other professionals, or by NRCS. These facilities are designed by sponsoring local organizations, by private engineers, or other professionals, not by NRCS.

- (1) Standard plans developed by State or Federal agencies and approved by NRCS can be used as guides. Criteria for facilities for which no standards are available must be established by conference of the interested parties.

- (2) Basic facility plans must be detailed enough to establish the general location and size of the major elements and the types and approximate quality and quantity of the various features and to provide reasonable estimates of costs.

- (3) The general location and size of the major elements and the types, quality, and quantity of the various features of

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basic facilities are to be designed in conformance with the information in the plan.

(4) NRCS review of the design documents, drawings and specifications is limited to that needed to determine that they clearly specify the work to be done; they are consistent and compatible with all other provisions of the contract document; the facilities conform to the details established in the work plan; and public health and safety are protected.

(f) Single-purpose municipal and industrial water supply. NRCS does not provide or contract for engineering services for planning, design or installation of single-purpose structures for municipal and industrial water supply.

(g) Multiple-purpose municipal and industrial water supply. Multiple-purpose structures for municipal and industrial water supply can have provisions for flood control, irrigation water management, recreation, fish and wildlife, water quality management, or any combination of these or other purposes. The division of engineering work among NRCS and others depends on which purposes are included.

(1) In the planning stage, if storage of water for municipal or industrial use is proposed in a multiple-purpose structure, the sponsoring local organization provides or contracts for engineering services at non-NRCS cost. This includes all surveys and investigations necessary to determine what storage volume is needed for municipal and industrial water, whether the water yield and quality are adequate, and whether the proposed structure will hold water without undue loss. The sponsoring local organization or a non-NRCS engineering source employed by the local organization also plans all water control features required exclusively for the municipal and industrial water and all other features for which NRCS cost sharing is not authorized.

(i) NRCS makes or contracts for studies of water yield and quality, and potential seepage loss or gain of reservoirs. The data are used to evaluate the feasibility of storing water

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for irrigation, recreation, fish and wildlife, water quality management, or any other purpose for which NRCS cost sharing is provided.

(ii) To avoid duplication of effort, NECS and the sponsoring local organizations share and exchange information. If similar studies are needed for the various purposes, independent studies shall be made as each considers necessary.

(iii) NRCS makes or contracts for all foundation investigations and other needed studies in addition to those provided by the sponsoring local organization. This ensures that the proposed structure can be constructed at a reasonable cost, will be safe, and will perform the functions for which NRCS cost sharing is provided.

(2) In the design stage, non-NRCS engineering services are used for multiple-purpose structures with municipal or industrial water supply features. These services include, but are not limited to, field surveys, geologic and soil investigations, design studies and computations, and preparation of construction drawings and specifications.

(i) NRCS does not perform engineering work for the design of structures for municipal or industrial water; even if the work is paid for in part by NRCS funds.

(ii) The Chief may consider exceptions to this rule, at the request of sponsoring local organizations and on submission of justification, if the storage volume for municipal and industrial water is less than 20 percent of the total water storage volume.

505.12 River basin studies.

River basin studies are overall studies and assessments of water and related land resources, regional and river basin plans of a preliminary or reconnaissance nature, and implementation studies of program or project feasibility. In overall studies

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and in regional and river basin planning, NRCS usually provides the engineering services or consultative assistance to others performing the work. In implementation studies of program or project feasibility, engineering services can be provided by NRCS and/or non-NRCS sources.

505.13 Engineering services not provided by NRCS.

(a) Frequently engineering services that NRCS does not provide are needed for carrying out NRCS programs. Cooperating individuals, groups, and organizations must arrange for such services from non-NRCS sources.

(b) Among the services NRCS engineers do not provide are the following:

(1) Boundary or location surveys for legal purposes, unless the state conservationist has determined that providing such service in a State meets the requirements of the State Professional Engineers and Land Surveyors Board.

(2) Representation of drainage or irrigation districts or similar enterprises in legal proceedings required by State laws, unless non-NRCS sources are not available and the state conservationist presents justification acceptable to the Chief.

(3) Obtaining water rights or filing applications with regulating agencies for pollution abatement facilities, except as provided in 130 (Agency General) Part 400.

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SUBPART C - CRITERIA

505.20 Non-project activities.

NRCS encourages conservation district cooperators and others whom it assists to follow applicable NRCS standards when conservation work is done for them by private engineers. If Federal cost sharing or technical assistance is provided, the work must comply with NRCS standards.

505.21 Project activities.

(a) Non-NRCS engineering services provided under contract with NRCS usually require the use of NRCS standard drawings, specifications, and design criteria.

(b) Sponsoring local organizations that elect to furnish engineering services for work cost-shared by NRCS are to be encouraged to use applicable NRCS standard drawings, specifications, and design criteria, but may use other drawings, specifications, and design criteria acceptable to NRCS, as agreed to prior to a design start. The quality of all work (performance, durability, safety, and economy) must be equal to the quality required by the NRCS standards. Drawings and specifications must be compatible with the general provisions and special provisions to be used in the construction contract.

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SUBPART D - PROCEDURES

505.30 Engineering services, contracts, and agreements.

(a) If NRCS contracts directly for engineering services, the appropriate Architect-Engineer Evaluation Board selects the best qualified sources and establishes the order of priority for negotiating purposes (NRCS Procurement Regulation 41-4.1004). The contracting officer negotiates the contract. If the sponsoring local organization is to pay a part of the cost of the work performed under an NRCS contract, an agreement for services is required.

(b) If NRCS provides funds for engineering performed by a sponsoring local organization or by a private source engaged by a sponsoring local organization, an agreement for services is required. If a sponsoring local organization elects to employ a private source whose services will be paid for with NRCS funds, the state administrative officer and the state conservation engineer assist in selection and negotiation.

(c) If higher level of approval for the practice or project is required, the specifications for engineering services contracts and agreements are to be prepared jointly and contractual negotiations are not to be initiated until concurrence is received.

(d) Instructions for preparing and negotiating engineering services contracts and agreements are given in the Administrative Services Handbook, Federal and NRCS procurement regulations. Detailed guidance in the engineering aspects of preparing and negotiating engineering services contracts is provided in the National Contracts, Grants, and Cooperative Agreements Manual.

505.31 Selection of non-NRCS engineering services.

(a) If non-NRCS engineering services are to be paid for by NRCS, whether the contract is negotiated by NRCS or by a sponsoring local organization, NRCS is responsible for proper expenditure of funds and will assist in the selection and negotiation. The cost of non-NRCS engineering services must be

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reasonable compared to the cost of using NRCS engineering services, considering any differential between private and public costs.

(b) Non-NRCS engineering sources must be approved by the state administrative officer and the state conservation engineer and must meet the following requirements:

(1) Registration is necessary in the State in which the work is to be undertaken if registration is required by State law, and non-NRCS engineering sources must be properly authorized to practice in compliance with other State laws.

(2) They must have had satisfactory experience in the kind of engineering work to be undertaken and must be available to supervise the work directly.

(3) They must have the necessary facilities and staff to do the work in the specified time.

505.32 Responsibility for engineering services performed under engineering services, contracts, and agreements.

(a) Non-NRCS sources performing engineering services bear the primary responsibility for the soundness and adequacy of engineering services. NRCS and sponsoring local organizations also assume certain responsibilities in setting criteria for the work, in financing and sponsoring it, and in reviewing, approving, and accepting it.

(1) Approval and acceptance of the work by NRCS or by the local organization does not absolve the non-NRCS sources of responsibility. The extent of their responsibility depends on the nature of the services required. There are three general kinds of non-NRCS engineering services:

(i) Routine design and drafting or other routine work strictly following NRCS criteria, standards, and instructions. The non-NRCS source is responsible for errors or deficiencies in the prepared designs, drawings, and specifications.

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(ii) Engineering services requiring professional experience and judgment. The contract may require that NRCS criteria and standards be followed insofar as they are applicable but the non-NRCS source is expected to make independent decisions. To the extent that the contract requires, the source furnishing services of this kind is held responsible for the soundness and adequacy of the designs, drawings, specifications, and other services performed under the contract. A professional is responsible to the public in general for safe and sound engineering services.

(iii) Engineering services outside the realm of NRCS knowledge and experience. A contract for design work of this kind usually provides for construction inspection by those responsible for the design. When this is the case, in accepting the work, NRCS relies largely on the competence and dependability of the professional.

(2) A contract for design work under 505.32(a)(1)(ii) or (iii) normally provides for services during construction, whether the non-NRCS source performs the inspection or not. These services include concurrence in any deviations from the design. The source must be permitted to retain control over the design if they are to be held responsible for it, and any changes made without their concurrence tend to relieve them of responsibility. Basic design changes are not to be made until approved by the professional responsible for the design. Approval of minor deviations and corrections that become necessary during construction is to be obtained as quickly as practical, but construction should not be delayed to await approval unless there is reason to doubt that the change will be approved.

(3) If engineering services are furnished by a sponsoring local organization under an agreement for services, the sponsoring local organization assumes responsibility for soundness and adequacy of the work. This applies to services performed by the local organization itself as well as to services performed by others under contract with the local organization. NRCS approval and acceptance of the work does not relieve the local organization of its responsibility. If problems caused by a deficiency in engineering services furnished by a sponsoring

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local organization arise during or after construction of any works of improvement, NRCS holds the local organization liable for any damage to others that may result and for any additional construction costs to correct the situation.

(b) If NRCS-administered Federal construction funds are paid, or works of improvement paid by NRCS funds are affected, NRCS is responsible for protection of the government's interest; namely, the works of improvement must satisfactorily and safely perform the functions for which funds are invested. The performance of engineering services and assumption of attendant responsibility by non-NRCS sources does not relieve NRCS of this responsibility.

(1) If the detailed construction inspection of work paid from NRCS funds is performed by other than NRCS personnel, the NRCS representative is to verify that the work complies with the requirements of the construction contract. Such verification requires spot checking of inspection procedures, continuous review of job records and reports, and periodic observation of the work.

(2) NRCS engineering job approval authority (Part 501, Subpart A) is the same for engineering work done by non-NRCS sources as for work done by NRCS.

(3) NRCS is not liable for damages or additional costs caused by deficient or improper investigations, designs, or other engineering services performed by others.

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SUBPART E - EXHIBITS

505.40 Exchange of technical services between NRCS and FS.

USDA Memorandum of Understanding  
For  
Exchange of Technical Services  
Between  
Natural Resources Conservation Service  
And  
Forest Service

Signed January 17, 1979

1. PURPOSE

The purpose of this agreement is to establish procedures for an exchange of technical services between the Natural Resources Conservation Service (NRCS) and the Forest Service (FS). Either agency may provide technical assistance depending on the location, scope, and complexity of the work and the availability of necessary skills. This interdepartmental agreement will not alter and/or change the delegations of authority or agency policy of practice in the planning, design, installation, or maintenance of works of improvement. The intent of this exchange is to expedite and improve technical work of the agencies by utilizing the expertise of the personnel skills of both agencies and by enhancing on-the-job training.

2. SCOPE

This agreement applies to the exchange of technical services for training, consultation, and review relating to planning, design, installation, and maintenance of dams, roads, sanitary facilities, and other related natural resource protection activities. The exchange can include but is not limited to technical assistance in landscape architecture, geology, engineering, biology, plant sciences, and other natural resource discipline areas.

3. PROCEDURE

FS regional foresters and/or area directors and NRCS state conservationists are normally responsible for initiating and

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coordinating agency requests for assistance. If assistance involves more than one State or more than one FS Region or Area, the coordination will include the Chief of the NRCS and the Chief of the FS.

Informal interagency consultation between technical specialists is currently encouraged and practiced. Assistance that may require a significant amount of time expenditure or obligation of other resources should be requested in writing. The request is to include sufficient information for the assisting agency to determine the scope of work and the extent of resources needed to complete the task. If reimbursement for actual costs is required, provisions for reimbursement are to be outlined in an exchange agreement for the task.

Work performed under the terms of the exchange agreement is to follow normal agency approval procedures. Each agency will coordinate for any required higher level reviews and approvals.

Assistance resulting from a written request is to be documented in the form of a technical report to identify the scope of work, report the results of studies or analyses, and make recommendations.

Work performed under exchange agreements is to be accomplished using the criteria of the assisting agency that are appropriate for the size and type of project. Generally, FS and NRCS criteria and standards are compatible. If during the course of the work, criteria variations become evident and/or normal practices are determined to not apply, the two agencies are to agree on their applicability before the final report is prepared. The final decision on the adequacy of the work and the adoption of recommendations is to be made by the requesting agency.

#### 4. SUPPLEMENTS

As necessary to adapt to local conditions, this memorandum of understanding may be supplemented at the State level by agreement between the state conservationist and the appropriate regional forester or area director.

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5. DURATION

This memorandum of understanding becomes effective on the date of the last affixed signature and continues in effect until terminated in writing by either party after providing sixty (60) days' notice to the other.

/S/John R. McGuire, Chief  
Forest Service, USDA

/s/J. w. Haas, acting for  
R.M. Davis, Administrator  
Soil Conservation Service, USDA

DATE: January 17, 1979

DATE: December 28, 1978

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SUBPART E - EXHIBITS

505.41 Memorandum of Understanding between LICA and NRCS.

MEMORANDUM OF UNDERSTANDING  
between  
UNITED STATES DEPARTMENT OF AGRICULTURE  
NATURAL RESOURCES CONSERVATION SERVICE (NRCS)  
and  
LAND IMPROVEMENT CONTRACTORS OF AMERICA (LICA)

I. PURPOSE

This Memorandum of Understanding (MOU) is between the Natural Resources Conservation Service of the United States Department of Agriculture, hereinafter called NRCS; and the Land Improvement Contractors of America, hereinafter called LICA.

This MOU establishes the joint and individual interests of the two parties in the application of natural resources conservation practices. Effective cooperation can aid significantly in advancing the missions of both parties and in achieving increased efficiency in the application of conservation practices.

II. GENERAL

Under the provisions of Public Law 74-46, 49 Stat. 163, NRCS was established to provide technical assistance in controlling and preventing soil erosion. This assistance is provided through a variety of technical assistance and cost-share programs. It is essential that conservation practice application with NRCS assistance meet minimum NRCS standards.

NRCS is responsible for certifying that conservation practices meet minimum NRCS standards and specifications. NRCS cannot delegate this responsibility. To assist in the efficient application of conservation practices, NRCS can use documentation furnished by contractors to support the certification process.

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III. RESPONSIBILITIES

A. NRCS AGREES TO:

1. Provide or assist with training contractors in surveying, design, layout, and construction checks of conservation practices in accordance with the availability of resources.

2. Furnish to any contractor, upon request, only such information as related to his/her acceptance by NRCS of previously submitted surveying, design, layout and/or construction check documentation of conservation practices. This information may be obtained from the local NRCS employee responsible for certifying that conservation practices have been installed in accordance with NRCS standards and specifications. The contractor may provide this information to LICA and others.

3. Approve all designs and randomly field check contractor's layout and/or construction checks. In the event that random field checks reveal a deficiency in the contractor's layout and/or construction check of a given conservation practice, the NRCS employee responsible for certifying conservation practices in his/her work area will notify the contractor that his/her documentation is no longer acceptable for NRCS certification of that specific practice.

B. LICA AGREES TO:

1. Promote and, where possible, participate in training contractors in surveying, design, layout, and construction checks of conservation practices.

2. Provide guidance and leadership to local chapters of LICA in the training of contractors.

3. Encourage contractors to provide designs for NRCS approval and to submit layout and construction check documentation to NRCS for certification of practices for programs and activities for which NRCS is responsible.

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4. Promote a program among the local chapters of LICA that recognizes the knowledge and skills of contractors in surveying, design, layout, and/or construction check of conservation practices.

C. IT IS MUTUALLY AGREED THAT:

1. Training activities outlined in this MOU will be voluntary and available to LICA members and non-members alike. NRCS will accept contractor documentation from either LICA members or non-members. Participation in training sponsored by LICA, NRCS, or any other organization or group is not a requirement for accepting contractor documentation. NRCS accepted documentation is based on demonstrated competency of the contractor to furnish neat, accurate notes showing that the practices installed meet the design requirements and NRCS standards and specifications.

2. The program or activities conducted under MOU will be in compliance with the nondiscrimination provisions contained in the 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 Amendments 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, martial 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 thereof.

3. This MOU shall become effective upon the date of the last signature affixed hereto and remain in full force and effect indefinitely. It will be reviewed every five years from the effective date and amended, if necessary, by duly authorized officials of LICA and NRCS. This MOU may be terminated by either party hereto through a 30-calendar-day written notice to the other party.

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4. The activities under this MOU will be in compliance with Title V of the Drug-Free Workplace Act of 1988, 41 U.S.C. 702, and 7 CFR, Part 3017, Subpart F

5. This MOU defines in general terms the basis on which the signatory agencies will cooperate, 'and as such, does not institute a financial obligation to serve as a basis for expenditures. Expenditure of funds, human resources, equipment, supplies, facilities, training, public information and expertise will be provided for by each signatory agency to the extent that their participation is required and resources are available. Any exchange of funds between the parties must be executed by a separate agreement.

LAND IMPROVEMENT CONTRACTORS  
OF AMERICA (LICA)

U.S. DEPARTMENT OF AGRICULTURE  
NATURAL RESOURCES CONSERVATION  
SERVICE (NRCS)

/s/PAUL SANDEFUR  
President

/S/PAUL W. JOHNSON  
Chief

DATE: 2/20/97

DATE: 2/15/97

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SUBPART E - EXHIBITS

505.42 Conservation contractor - sample letter.

USDA  
NATURAL RESOURCES CONSERVATION SERVICE  
400 Water Street  
Anytown, Anystate 00000

Current Date

Name  
Address

Dear:

As you requested on November 5, 1997, I am furnishing you this office's acceptance of your construction and documentation of conservation practices installed by farmers and ranchers in this county. Our acceptance is based on a review of the documentation you submitted and our field review of your work. The practices are:

Ponds - Construction only  
Terraces - Construction and checkout documentation  
Grassed Waterways - Construction and checkout documentation  
Diversions - Construction, layout, and checkout documentation  
Land leveling - Construction, design, layout, and checkout documentation

We commend you and greatly appreciate your efforts and cooperation in promoting and installing high quality conservation practices in this county.

Thank you for your support in protecting our soil and water resources.

Sincerely,

District Conservationist

PART 505 - NON-NRCS ENGINEERING SERVICES

SUBPART E - EXHIBITS

505.43 Landowner use of a consultant - sample letter.

USDA  
NATURAL RESOURCES CONSERVATION SERVICE  
400 Water Street  
Anytown, Anystate 00000

Current Date

Name  
Address

Dear

You have requested cost sharing from the Farm Service Agency (FSA) for practice 313, Waste storage Facility. You have indicated that your system will be designed by a private consultant. The Natural Resources Conservation Service (NRCS) welcomes the involvement of your consultant. However, you need to be aware that the NRCS will require that the consultant be responsible for meeting NRCS standards and specifications and for certifying the work.

There are certain items which must be submitted to the NRCS to meet this requirement. These items are outlined in this letter. We hope this will provide a clear understanding for all parties involved and prevent any possible misunderstanding. The following items are needed.

Prior to construction

1. A waste utilization plan must be prepared. I will be able to assist you with this plan.

2. You need to submit the following items prepared by the consultant to the NRCS:

a. A copy of the signed engineering plans which meet NRCS standards. In addition to the Professional Engineer's certification, the plans shall contain the following statement: "To the best of my professional knowledge, judgment and belief, these plans meet applicable NRCS standards and specifications."

b. A copy of the design engineer's cost estimate.

PART 505 - NON-NRCS ENGINEERING SERVICES

c. A copy of an inspection plan which describes inspection items and qualifications of those doing the inspection.

3. You are responsible for obtaining all permits (State Pollution Control Agency, Watershed District, County zoning, etc.) and contacting all utility companies with facilities in the work area.

During Construction

1. You are responsible for hiring the contractor and ensuring that the inspection plan is carried out and that the structure is completed according to the approved plan and specifications.

2. Changes during construction will need to be approved by the consultant and noted on "as-built" drawings.

After Construction

1. Upon completion, you must submit to NRCS a copy of the "as-built" drawings, a certification statement signed by your consultant, and a copy of any construction documentation required in the inspection plan. The certification statement should read, "To the best of my professional knowledge, judgment and belief, the installed practice meets NRCS standards" and should be signed by the engineer who designed it.

2. NRCS will make a field visit to the site and will certify completion to FSA based on the consultants certification statement.

3. You will need to follow the Operation and Maintenance Plan for the system.

I hope this letter fully explains NRCS expectations. If you have any questions, please call me.

Sincerely,

District Conservationist

cc: