

## Commodity Credit Corporation, USDA

## § 1466.20

(b) Participants may use technical services from qualified personnel of other Federal, State, and local agencies, Indian Tribes, or individuals who are certified as TSPs by NRCS.

(c) Technical services provided by qualified personnel not affiliated with USDA may include, but are not limited to: conservation planning; conservation practice survey, layout, design, installation, and certification; and information; education; and training for producers.

(d) NRCS retains approval authority of work done by non-NRCS personnel for the purpose of approving EQIP payments.

[74 FR 2313, Jan. 15, 2009]

### § 1466.20 Application for contracts and selecting applications.

(a) In evaluating EQIP applications, the State Conservationist or designated conservationist, with advice from the State Technical Committee or local working group, takes into account the following guidelines:

(1) Any producer who has eligible land may submit an application for participation in EQIP. Applications are accepted throughout the year. Producers who are members of a joint operation may file a single application for the joint operation.

(2) The State Conservationist, to the greatest extent practicable, will group applications of similar crop, forestry, and livestock operations for evaluation purposes.

(3) The State Conservationist will evaluate applications within each established grouping.

(b) In selecting EQIP applications, the State Conservationist or designated conservationist, with advice from the State Technical Committee or local working group, may establish ranking pools to address a specific resource concern, geographic area, or agricultural operation type or develop a ranking process to prioritize applications for funding that address national, State, and local priority resource concerns, taking into account the following guidelines:

(1) The State Conservationist or designated conservationist will periodically select the highest ranked applications for funding based on applicant

eligibility, fund availability, and the NRCS ranking process. The State Conservationist or designated conservationist will rank all applications according to the following factors:

(i) The degree of cost-effectiveness of the proposed conservation practices;

(ii) The magnitude of the expected environmental benefits resulting from the conservation treatment and the priority of the resource concerns that have been identified at the local, State, and national levels;

(iii) How effectively and comprehensively the project addresses the designated resource concern or resource concerns;

(iv) Use of conservation practices that provide long-term environmental enhancements;

(v) Compliance with Federal, State, Tribal, or local regulatory requirements concerning soil, water and air quality; wildlife habitat; and ground and surface water conservation;

(vi) Willingness of the applicant to complete all conservation practices in an expedited manner;

(vii) The ability to improve existing conservation practices or systems, which are in place at the time the application is accepted, or that complete a conservation system;

(viii) Other locally defined pertinent factors, such as the location of the conservation practice, the extent of natural resource degradation, and the degree of cooperation by local producers to achieve environmental improvements.

(2) For applications that include water conservation or irrigation efficiency practices, the State Conservationist will give priority to those applications where:

(i) Consistent with State law in which the producer's eligible land is located, there is a reduction in water use in the agricultural operation, or where the producer agrees not to use any associated water savings to bring new land under irrigation production, other than incidental land needed for efficient operations.

(ii) A producer who brings new land under irrigated production may be excluded from this latter condition if the producer is participating in a watershed-wide project that will effectively

**§ 1466.21**

**7 CFR Ch. XIV (1-1-10 Edition)**

conserve water. The State Conservationist will designate eligible watershed-wide projects that effectively conserve water, using the following criteria:

(A) The project area has a current, comprehensive water resource assessment;

(B) The project plan has demonstrated effective water conservation management strategies; and

(C) The project sponsors have consulted relevant State and local agencies.

(3) If the State Conservationist determines that the environmental values of two or more applications for payments are comparable, the State Conservationist will not assign a higher priority to the application solely because it would present the least cost to the program.

(4) The ranking will not give preferential treatment to applications based on size of the operation.

(5) The ranking process will determine the order in which applications will be selected for funding. The approving authority for EQIP contracts will be the State Conservationist or designee, except that the approving authority for any EQIP contract greater than \$150,000 and up to \$300,000 will be the appropriate NRCS Regional Assistant Chief.

(6) The State Conservationist will make available to the public all information regarding priority resource concerns, the list of eligible practices, payment rates, and how the EQIP program is implemented in the State.

[74 FR 2313, Jan. 15, 2009]

**§ 1466.21 Contract requirements.**

(a) In order for a participant to receive payments, the participant must enter into a contract agreeing to implement one or more conservation practices. Technical services may be included in the contract.

(b) An EQIP contract will:

(1) Identify all conservation practices to be implemented, the timing of practice installation, the operation and maintenance requirements for the practices, and applicable payments allocated to the practices under the contract;

(2) Be for a minimum duration of one year after completion of the last practice, but not more than 10 years;

(3) Incorporate all provisions as required by law or statute, including requirements that the participant will:

(i) Not implement any practices within the agricultural or forestry operation that would defeat the program's purposes;

(ii) Refund any program payments received with interest, and forfeit any future payments under the program, on the violation of a term or condition of the contract, consistent with the provisions of § 1466.26;

(iii) Refund all program payments received on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees to assume all obligations, including operation and maintenance of the EQIP contract's conservation practices, consistent with the provisions of § 1466.25;

(iv) Implement a comprehensive nutrient management plan when the EQIP contract includes an animal waste management facility;

(v) Implement a forest management plan when the EQIP plan of operations addresses nonindustrial private forest land;

(vi) Supply information as may be required by NRCS to determine compliance with the contract and program requirements;

(vii) Specify the participant's responsibilities for operation and maintenance of the applied conservation practices, consistent with the provisions of § 1466.22; and

(4) Specify any other provision determined necessary or appropriate by NRCS.

(c) The participant must start at least one financially assisted practice within the first 12 months of signing a contract. If a participant, for reasons beyond their control, is unable to start conservation practice within the first year of the contract, the participant can request a waiver from the State Conservationist.

(d) Each contract will be limited to no more than \$300,000. The Chief may waive this contract limitation to allow up to \$450,000 for projects of special environmental significance that include