UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
100 USDA, Suite 102
Stillwater, OK 74074-2653

OK Notice CONOP-75

For: County Offices

Revised 2004 EQIP Joint FSA and NRCS Memorandum

Approved by: State Executive Director Jim Reese

1 Overview

A Purpose

This notice transmits the **revised** 2004 Joint Memorandum between FSA and NRCS concerning EQIP responsibilities.

2 Highlight of Revisions

A Revisions

The following outlines the revisions between the Exhibit 1, April 20, 2004, joint memorandum, and the previous joint memorandum dated April 8, 2004, provided as Exhibit 1 to OK Notice CONOP-74.

- Under the State FSA Office and State NRCS Office responsibilities, is the addition that the State FSA Office is to provide to the State NRCS Office a report of actual amounts allocated to county FSA offices. NRCS will ensure these amounts are reflected in ProTracts.

- Under the County FSA Office and County NRCS Office responsibilities, is the addition that the CED shall periodically meet with the Designated Conservationist to ensure allocation amounts on county ledger and amounts in ProTracts funds manager match.

3 Revised Joint Memorandum and Filing

A Revised Joint Memorandum

Exhibit 1 provides the Revised EQIP Joint Memorandum dated April 20, 2004.

B Filing

File the revised memorandum with the current EQIP manual.

Disposal Date:	**Distribution:**
05-01-05	County Offices

4 Obsolete Memorandum

A Joint Memorandum dated April 8, 2004

The April 20, 2004, joint memorandum, attached as Exhibit 1 to this notice, replaces the memorandum in Exhibit 1 to OK Notice CONOP-74.

USDA

United States Department of Agriculture

Farm and Foreign Agricultural Services

Farm Service Agency

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APR 20 2004

TO: SED's, All State FSA Offices
State Conservationists, All State NRCS Offices
Regional Conservationists

FROM: Robert Stephenson for
Director, Conservation and Environmental Programs Division

Thomas W. Christensen
Acting Director, Conservation Operations Division APR 20 2004

SUBJECT: EQIP - FSA and NRCS Responsibilities for FY 2004

The Memorandum of Understanding previously signed by the Administrator, FSA and the Chief, NRCS on August 28, 2002, reflects the cooperation, expectations, and responsibilities between FSA/Commodity Credit Corporation (CCC) and NRCS in implementing EQIP and continues in effect. This joint memorandum outlines the agreed-to tasks to be performed by FSA and NRCS, respectively, during FY 2004 at the National, Regional, State, and local levels, and serves as the basis for NRCS to reimburse FSA for the services it provides for EQIP.

Tasks outlined in this joint memorandum apply to all existing and new contracts, as applicable. FSA SED's and NRCS State Conservationists shall ensure that copies of this joint memorandum are provided, in a timely manner, to county FSA offices, county FSA committees, and NRCS field offices. File this memorandum with the current EQIP manual.

FSA Responsibilities

Because FSA services are reimbursed, FSA employees are authorized to perform for EQIP only the tasks outlined in the reimbursable agreement or as otherwise provided in the applicable statute. For FY 2004, FSA is responsible to perform the following EQIP tasks:

National FSA Office:

- Provide consultation regarding policies, procedures, regulations, manuals, national program priorities, funding decisions, and allocations to States
- Provide leadership and guidance for FSA offices on FSA activities in EQIP
- Develop user requirements and program, test, issue, and maintain software to support EQIP activities

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- Issue allocations to State FSA offices for initial allocations, reallocations, and errors, omissions, and appeals (EOAs) as requested by NRCS NHQ
- Maintain National EQIP ledgers
- Record all State adjustments in E-funds
- Maintain State E-funds allotments and adjustments
- Ensure prompt data entry and reports, as applicable, as requested by NRCS

State FSA Committee:

- May participate on the State Technical Committee regarding EQIP policy. This is a nonreimburseable item
- Hear and issue determinations for reconsiderations and appeals for which FSA made initial adverse determination. This is a nonreimburseable item

State FSA Office:

- SED provide leadership for FSA activities in EQIP in the State
- SED may participate on the State Technical Committee on EQIP policy. This is a nonreimburseable item.
- Implement administrative processes and procedures relating to:
    - Maintaining EQIP records in FSA automated system
    - Financial performance reporting
    - Financial matters, including allocation and program accounting
- Interpret National policy and procedure for FSA offices
- Draft and publish State supplemental policy and procedure, if applicable
- Maintain State allocation ledgers
- SED and State Conservationist will mutually agree on a date by which the amounts contained in the conservation plan of operations shall be final for the ranking period. Allocations shall be based on the final amounts
- Allot allocations to county FSA offices based on receipt of CCC-357 and/or written NRCS instructions, as applicable, including:
    - Initial allocation
    - Approved reallocation of funds
    - Approved EOAs, as applicable
- Provide to State NRCS office report of actual amounts allocated to county FSA offices. NRCS will ensure these amounts are reflected in ProTracts
- Maintain all county allotments and adjustments in E-funds
- Oversee county allocation management, including resolving discrepancies
- Prepare case files for and present appeals before the State FSA committee for which FSA made initial adverse determination. This is a nonreimburseable item
- Represent FSA in mediation and before the National Appeals Division (NAD) for appeals. This is a nonreimburseable item
- It has been determined that bankruptcy provisions may impact EQIP contracts

- FSA will contact OGC and prepare required documentation on behalf of NRCS for EQIP applicants and participants who have filed a petition for bankruptcy
- In general, follow established State procedures applicable to CCC programs administered by FSA. Advise county FSA office that to avoid the possibility of contempt charges and imprisonment, no adverse action should be taken affecting a producer who has filed for bankruptcy without the express advice of OGC
- Notify State NRCS office in writing of OGC advice regarding an EQIP applicant or participant in bankruptcy

County FSA Committee

- May participate on the Local Work Group regarding EQIP policy. This is a non-reimbursable item
- Verify individual or entity designation of applicant, as necessary
- Determine producer eligibility, including whether applicant is an agricultural producer, compliance with Adjusted Gross Income (AGI) certification, and whether there has been a violation of landlord/tenant provisions.

  Notes: If FSA determines producer does not meet eligibility requirements, FSA is responsible to notify producer of this FSA decision. Ensure appeal rights are provided according to Handbook 1-APP.

  To be eligible for EQIP, an applicant who certifies as a beginning farmer must also be determined an agricultural producer.

- Hear and issue determinations for EQIP reconsiderations and appeals according to Handbook 1-APP. This is a non-reimbursable item

County FSA Office:

- County Executive Director (CED) may participate on the Local Work Group regarding EQIP policy. This is a non-reimbursable item
- CED ensure effective working relationship and workflow with NRCS are maintained
- CED shall periodically meet with Designated Conservationist to ensure allocation amounts on county ledger and amounts in ProTracts funds manager match

Accepting Applications

- Update county eligibility tables
- Accept applications and receive applications accepted by NRCS. Record in FSA system before NRCS evaluates application or approves contract
  - Obtain signatures on applications and CCC-1200 appendix
  - Obtain other missing information on applications, as needed
  - Record producer certifications as beginning or limited resource

Note: FSA is not authorized to address any program policy questions regarding EQIP. Refer producers with questions to NRCS.

- Verify and, as necessary, establish farm records
- Verify signature authorization (Power of Attorney), as necessary
- Accept and process CCC-502
- Accept and process CCC-526 or statement of the AGI compliance for EQIP applicants
- Accept and process AD-1026. Determine whether producer has violated the Highly Erodible Land Compliance or Wetlands Conservation provisions and, if so, notify NRCS
- Determine amount of aggregate EQIP payment limitation remaining available for obligation
- Determine whether land offered for EQIP is enrolled in the Conservation Reserve Program and notify NRCS
- After recording application in system, provide application to NRCS in a timely manner

  Note: All applications shall be recorded, regardless of whether they result in funded contracts.

- Generate and provide to NRCS the Applications Received Report (EEB710-R001) on a weekly basis for each application period. Applications recorded in the FSA system will appear on this report.

  Note: In the future, this report will also include a flag for producer eligibility and the amount of funds available for obligation as of the date of the report.

- For each application, notify NRCS, in a timely manner, of producer eligibility determination and available obligation payment limitation
- Receive and record allocations
- Maintain ledgers to provide official fund tracking of allocations and obligations
- As requested by NRCS, provide the amount of unobligated balance available on the ledger. NRCS will minimize the number of times requested

Contract Requirements

- Receive from NRCS conservation plan of operations for contracts to be approved during this fiscal year that summarizes practice information and includes final amounts and initial contract expiration date. Record only conservation practices, but not components
- Within 10 work days after receipt of the conservation plan of operations from NRCS, return FSA system-generated CCC-1200 containing practice and cost share and

incentive payment information to NRCS. If available contract obligation amount has changed since application was recorded, provide current amount available in writing.

- If sufficient contract obligation is not available to fund the contract, do not record information and return conservation plan of operations to NRCS along with the written available obligation amount
- Receive copy of approved contract and promptly record contract approval date in system

Note: FSA will accept only FSA system-generated CCC-1200's containing producer contract and NRCS contract approval signatures to record obligations

- Ensure that obligations in excess of county allocations or available producer obligation limitation are NOT recorded in the system. Promptly notify NRCS office approving any obligation in excess of allocation or available producer obligation limitation and State FSA office that such transaction cannot be recorded
- According to provisions of Notice CONOP-16 and agreement between SED and State Conservationist, maintain and guarantee access to NRCS or transfer to NRCS and be guaranteed access to official files for all EQIP contracts

Payment Procedures

- Create CCC-1245's at the beginning of the FY in which practice is scheduled to be performed and provide to NRCS
- As requested by NRCS, before NRCS signs CCC-1245, if actual expenses exceed estimated expenses, provide the amount of funds remaining on the contract
- Receive from NRCS either completed FSA system-generated CCC-1245 or completed ProTracts CCC-1245

Note: Completed ProTracts CCC-1245 must always be stapled to corresponding FSA CCC-1245 which contains control number.

Completed CCC-1245 includes certification of partial or final performance, extent performed, amount earned, and signature in block 25 authorizing disbursement of funds. Completed ProTracts CCC-1245 should contain NRCS's electronic signature.

- If the amount of the cost-share/incentive earned in Block 13G is less than or equal to the cost-share approved in Block 13E of the original FSA CCC-1245, process the payment with the actual extent and cost-share/incentive earned.
- If the amount of the cost-share/incentive earned in Block 13G is more than the cost-share/incentive approved in Block 13E of the original FSA CCC-1245 and sufficient funds remain in the contract, before either signing CCC-1245 in Block 25 or electronically signing ProTracts CCC-1245, NRCS will provide FSA with a minor modification to the plan of operations. Record the modification in the automated system and provide a revised FSA CCC-1245 with the modified amounts to NRCS. When approved CCC-1245 is received, process payment.

  - If there are not enough funds remaining in the contract to fully fund the last practice, a payment for the amount remaining may be issued if approved by NRCS. If NRCS signs the original FSA CCC-1245 or a ProTracts CCC-1245 in an amount not to exceed the original FSA CCC-1245, then issue the payment. If EOA funds are approved and NRCS provides a modification to the plan of operations, prepare an FSA CCC-1245 and provide to NRCS. When approved FSA or ProTracts CCC-1245 is received, process payment.
- When issuing CCC-1245, record any contract modifications in system according to documentation received from NRCS
- FSA is responsible to return to NRCS without issuing payment any CCC-1245 having any of the following conditions:
  - recognized as containing inaccurate or incomplete data
  - signed in Block 25 approving payment to a producer who is not a party to the contract
  - signed in Block 25 approving payment in an amount exceeding the amount approved in Block 13 E on corresponding FSA CCC-1245
- Second-party review of CCC-1245 by FSA is not authorized
- Certify authority of the NRCS signature in block 25 of CCC-1245 by verifying against list and original signature on file

Note: FSA will accept either FSA-system-generated CCC-1245's or ProTracts CCC-1245's containing producer and NRCS signatures to issue payments. NRCS signatures on ProTracts CCC-1245 are authorized to be electronic.

- Ensure producer is eligible to receive payment according to AD-1026
- Process requests for assignment of payment, as applicable
- Beginning with all FY 2002 contracts, maintain $450,000 aggregate EQIP payment limitation by individual and entity
- Record performance in system, which will electronically create payment
- Issue payment

Contract Administration

- At the beginning of the fiscal year, provide to NRCS a report of contracts with expiration dates during that fiscal year
- If contract expiration date is revised, receive from NRCS a copy of CCC-1200 containing revised expiration date and promptly record in system
- Control aggregate payment limitation for participants
- Resolve ledger discrepancies
- Notify NRCS and State FSA office promptly of any funds remaining unobligated on ledger
- Follow procedure in Handbook 1-F1, Part 8 for processing EQIP claims in the receivable system when it is determined a refund is due. Receive from NRCS a copy of initial notification letter sent to the producer

- Record successor-in-interest contracts in system according to documentation received from NRCS
- It has been determined that bankruptcy provisions may impact EQIP contracts
  - When county FSA office becomes aware or is informed that an EQIP participant has filed for bankruptcy, notify State FSA office and share the information with local NRCS office. In general, follow established State procedures applicable to CCC programs administered by FSA

  - Follow advice provided by OGC through State FSA office regarding all actions affecting an EQIP applicant or participant in bankruptcy. To avoid the possibility of contempt charges and imprisonment, no adverse action should be taken affecting a producer who has filed for bankruptcy without the express advice of OGC
- Record increased contract obligations including EOA's as notified by State FSA office
- Create supplemental contracts for increased obligations due to EOA's for FY 2002 and subsequent contracts, succession-in-interest contracts, and/or contract revisions due to reconstitutions
- Prepare case files and participate in hearing for reconsiderations and appeals before county FSA committee and in mediation sessions. This is a non-reimbursable item

NRCS Responsibilities:

This memorandum clarifies that NRCS is responsible for the following tasks:

National NRCS Office

- Provide overall leadership and guidance for implementation of EQIP
- Consult FSA regarding policies, procedures, regulations, manuals, national program priorities, funding decisions, and allocations to States
- Work closely with FSA to ensure FSA's automated system supports EQIP activities
- Notify FSA in writing of all the following:
  - Initial allocation distribution
  - Allocations for approved EOA's
  - Allocation redistributions, as needed

State NRCS Offices

- Prepare and process requests for funds from National reserve for FY 1997, FY 1998, FY 1999, FY 2000, FY 2001 contract EOA's and submit to NRCS NHQ
- Prepare and approve requests:
  - For funds from State reserve for FY 2002 contract EOA's and notify State FSA office of amount to be allocated
  - To use current year (FY 2004) funds for FY 2002 and FY 2003 contract EOA's and notify State FSA office of amount to be allocated

- Notify NHQ of obligations approved for funded EOA's for FY 2002 and FY 2003 contracts
- State Conservationist and SED will mutually agree on a date by which the amounts contained in the conservation plan of operations shall be final for the ranking period
- Determine distribution for FY 2004 funding allocations based on final amounts contained in the conservation plan of operations and notify State FSA office in writing. Distribution within the state shall be based on applicant's administrative county, if different than physical location county
- Receive from State FSA office a report of the amounts actually allocated to each county FSA office. Ensure these amounts are reflected in ProTracts and local NRCS offices are notified
- If funds are subsequently determined to be redistributed, before recording the revised amounts in ProTracts or notifying local NRCS offices, State NRCS office shall notify State FSA office in writing and receive a report of the redistributed amounts actually allocated to applicable county FSA offices.
- Process each request for reallocation of funds for any FY 2003 contract approved by NRCS, but not recorded in FSA automated system, by COB September 30. Notify State FSA office of each approved reallocation in order that funds may be reallocated to applicable county and contract. Inform NRCS NHQ in writing of reallocations.
- Ensure EQIP contract approvals do not cause over-obligation of allocations
- State Conservationist shall review NRCS determinations, both technical and non-technical, referred by county FSA committee that heard appeal
- Ensure contracts are not approved before FSA has recorded application in system, has determined producer eligibility and available obligation payment limitation, and has provided FSA system-generated CCC-1200
- It has been determined that bankruptcy provisions may impact EQIP contracts
  When notified by local NRCS office that they have become aware or were informed that an EQIP participant has filed a petition for bankruptcy, promptly notify State FSA office. Advise local NRCS office that to avoid the possibility of contempt charges and imprisonment, no adverse action should be taken affecting a producer who has filed for bankruptcy without the express advice of OGC
  - Receive notification in writing from State FSA office of OGC advice regarding EQIP applicant or participant that has filed for bankruptcy. Promptly notify local NRCS office in writing of the OGC advice

Local NRCS Office

- Designated Conservationists ensure effective working relationship and workflow with FSA are maintained
- Designated Conservationist shall periodically meet with CED to ensure amounts in ProTracts funds manager and allocation amounts on county ledger match

Accepting Applications

- Announce application evaluation periods. Application is on-going

- Establish practice components, as applicable, to determine total practice costs
- Inform producers of $450,000 aggregate payment limitation for individuals and entities effective for all contracts FY 2002 - FY 2007
- Record administrative county on CCC-1200 application, Block 1
- Ensure all applications received are provided to FSA within five workdays to determine producer eligibility and to be recorded in the automated system, regardless of whether the applications will result in funded contracts
- After receiving notification from FSA of producer eligibility determination and available obligation payment limitation (software is being amended to reflect both when completed on the weekly Applications Received Report EEB710-R001), finalize conservation plan of operations
- Approve applications for plan development

Contract Requirements

- Ensure all new contracts meet 2002 Farm Bill requirements
- Address all EQIP program policy questions
- Ensure conservation plans of operations for contracts to be approved within the fiscal year contain final contract amount, not estimated amounts
- Provide to FSA conservation plan of operations that summarizes practice information, includes final amounts, and includes an initial expiration date. FSA will enter information and return FSA system-generated CCC-1200 to NRCS within 10 work days after receipt. Components will not be accepted by FSA
- Ensure contract approvals will not cause over-obligation of allocation
- On FSA system-generated CCC-1200 containing contract information, obtain participant's signature(s) and have appropriate designated conservationist approve contract on behalf of CCC and date
- Promptly return copy of approved contract to FSA to record contract approval date

  Note: FSA will accept only FSA system-generated CCC-1200's containing producer contract and NRCS contract approval signatures to record obligations

- Notify FSA of disapproved applications, including deferred applications for which the producer does not indicate a desire to continue or for which no subsequent application period is held
- Sign and mail to producers the following letters as appropriate:
  - Application deferred
  - Application disapproved
  - Contract approved
  - Contract terminated

  Note: NRCS is responsible to notify producer of its determination to disapprove contract. Ensure appeal rights are provided for adverse determinations according to CPM, Part 510.

- According to provisions of CONOP-16 and agreement between State Conservationist and SED, maintain and guarantee access to FSA or be guaranteed access to official files maintained by FSA for all EQIP contracts.

Payment Procedures

- Notify participants in writing of proof of payment requirements
- Gather supporting data for determining payment rates and levels
- May grant waivers to the requirement to commence financially-assisted practice in first twelve months and determine revised deadline if necessary and justified
- Verify practice completion and extent
- Accept, review, and verify receipts for performed practices, as applicable
- Date stamp and initial receipt of all billing documentation and payment information received from the producer
- Determine eligible documentation and calculate cost-share amounts
- Fill in the actual extent performed and the cost-share incentive earned on either the FSA system-generated CCC-1245 or the ProTracts CCC-1245.

Note: Completed ProTracts CCC-1245 must always be stapled to corresponding FSA CCC-1245 which contains control number.

Completed CCC-1245 includes certification of partial or final performance, extent performed, amount earned, and signature in block 25 authorizing disbursement of funds. Completed ProTracts CCC-1245 should contain NRCS's electronic signature.

- If the amount of the cost-share/incentive earned in Block 13G is less than or equal to the cost-share/incentive approved in Block 13E of the original FSA CCC-1245, no modification is required. Complete the appropriate sections of the CCC-1245.
- If the amount of the cost-share/incentive earned in Block 13G is more than the cost-share/incentive approved in Block 13E of the original FSA CCC-1245, and if sufficient funds remain in the contract, before either signing CCC-1245 in Block 25 or electronically signing ProTracts CCC-1245, provide FSA with a minor modification to the plan of operations. FSA will record the modification in their system and provide a revised CCC-1245 with the modified amounts to NRCS.
- If there are not enough funds remaining in the contract to fully fund the last practice, a payment for the remaining funds may be approved. NRCS may sign either the original FSA CCC-1245 or a ProTracts CCC-1245 in an amount not to exceed the original FSA CCC-1245 and may note that additional funds have been requested for the EOA. If EOA funds are approved, provide FSA with a modification to the plan of operations and FSA will record the modification and provide to NRCS a CCC-1245 for the balance of the payment.

- Obtain producer certification on CCC-1245 by checking Blocks 18, 19, and signing Block 27
- Certify the practice either by signing the FSA CCC-1245 in Block 16 or electronically signing ProTracts CCC-1245.
- Complete and sign either the FSA CCC-1245 in Block 25 authorizing payment or electronically sign ProTracts CCC-1245

  Notes: Although FSA system-generated CCC-1245, Block 25 is captioned "Payment Approved (Initials)," NRCS **signature** is required to authorize payment. If payment is authorized using ProTracts CCC-1245, NRCS electronic signature will be printed in Block 25.

  Only employees designated as authorized to sign on behalf of CCC and whose original signature has been provided to county FSA office shall sign CCC-1245s, including ProTracts generated CCC-1245.

- Ensure all approved CCC-1245s are provided to FSA in a timely manner

  Note: FSA will accept either FSA system-generated CCC-1245s or ProTracts CCC-1245's containing producer and NRCS signatures for issuing payments. Completed ProTracts CCC-1245's must be stapled to corresponding CCC-1245 which includes control number.

Contract Administration

- Ensure that all contracts which are within 12 months of expiration are reviewed with participants and scheduled work is timely completed or contract expiration date extended as appropriate
- Notify producer in writing of impending contract expiration date at least 90 days before contract expiration date if there are any remaining contract items to be completed

  Note: Practices must be scheduled to be installed no later than end of 9th year of contract.

- If contract expiration date is revised, provide a copy of the CCC-1200 with revised expiration date to FSA to record in system. Revisions must be provided to FSA before contract expires
- Notify producer in writing of revised contract expiration date
- When refunds are determined to be due, issue initial notification letter to producer according to Handbook 1-FI, Part 8, and provide copy to FSA
- Process any succession-in-interest contracts and provide copy of revised CCC-1200 to FSA to record in system

- When NRCS makes initial adverse technical or non-technical determination, notify participant and provide opportunity to have either a field visit or mediation as prescribed by 7 CFR § 614.101
- Notify participants in writing of determination that an issue is not appealable and of right to review by NAD Director
- Notify participants in writing of right to appeal an NRCS final determination regarding EQIP to the county FSA committee within thirty days of the date of notification of the decision
- Prepare for and participate in hearing of NRCS adverse technical or non-technical determination before county and State FSA Committee and NAD
- Spot check limited resource and beginning farmer producer certifications according to program policy
- It has been determined that bankruptcy provisions may impact EQIP contracts
  - When local NRCS office becomes aware or is informed that an EQIP applicant or participant has filed a petition for bankruptcy, promptly notify State NRCS office and share the information with county FSA office. State NRCS office will notify State FSA office which will contact OGC for advice
  - Receive notification in writing from State FSA office through State NRCS office of OGC advice regarding EQIP applicant or participant in bankruptcy. Carefully follow the advice of OGC in all actions affecting the producer. In order for the employee to avoid the possibility of contempt charges and imprisonment, no adverse action should be taken affecting a producer who has filed for bankruptcy without the express advice of OGC