

STATE OF IOWA



CITIZENS' AIDE/OMBUDSMAN

**REPORT TO GOVERNMENT OVERSIGHT COMMITTEE
REGARDING
SOIL AND WATER CONSERVATION DISTRICTS
COMPETITION WITH SMALL BUSINESS**

Issued: March 23, 2006

Submitted to Government Oversight Committee: April 3, 2006

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Introduction

Competition by County Soil and Water Conservation Districts

At the request of the Government Oversight Committee, the Ombudsman gathered information regarding competition by county Soil and Water Conservation Districts (SWCD) with small business through the sale of products and services. The goal of the Ombudsman's review was to assist the Government Oversight Committee (Committee) in gaining an objective understanding of the issues so the Committee can ascertain whether there is a problem that requires legislation this legislative session.

The Ombudsman focused on gathering specific information from four SWCD offices in central Iowa; Dallas, Greene, Guthrie and Jasper. These offices were specifically identified in documentation presented to the Government Oversight Committee by affected small business owners (contractors), Jon Judson of Diversity Farms and Dan Brouse of Iowa Restorations. However, with 100 SWCDs in Iowa,¹ each with their own elected commissioners and each with different practices, priorities and fundraising activities, what the Ombudsman learned about these four counties may not be applicable to all the SWCDs in Iowa.

The Ombudsman assigned the case to the Assistant Citizens' Aide/Ombudsman for Small Business, Kristie Hirschman. For reference purposes in this report, actions taken by Ms. Hirschman will be ascribed to the Ombudsman.

Interviews

The Ombudsman visited the SWCD offices in Dallas, Greene, Guthrie and Jasper Counties on February 1. The Ombudsman also visited the Madison County SWCD office for comparison purposes.

In addition, the Ombudsman interviewed Jim Gillespie, Director of the Field Services Bureau within the Iowa Department of Agriculture and Land Stewardship's (IDALS) Division of Soil Conservation (DSC); Deb Ryan, Executive Director for Conservation Districts of Iowa; contractors; individuals who purchased services from these SWCDs; and staff at multiple SWCD offices in Iowa.

Compilation of Information

From the complaint information, the Ombudsman focused on whether the IDALS employees in four central-Iowa SWCDs, Dallas, Greene, Guthrie and Jasper, were assisting SWCDs in competing with private contractors in violation of Iowa Code Chapter 23A. This review included whether the IDALS employees directly assisted in furnishing products or services provided by the respective SWCD, as well as whether the SWCDs were in compliance with IDALS policy regarding district sales of products and services. The products and services

¹ Each district is organized by county boundaries with the exception of Pottawattamie County, which is divided into two districts, east and west.

offered by these four county SWCDs include drilling/seeding² services and the sale of seed.

In addition, the Ombudsman reviewed whether these four SWCDs were profiting at the expense of contractors by furnishing labor, machinery, seed and other materials financed in part with state and federal monies.

The information gathered by the Ombudsman and compiled in this document is divided into seven sections:

- 1) Agency Background Information
 - a) Division of Soil Conservation of the Iowa Department of Agriculture and Land Stewardship
 - b) Soil and Water Conservation Districts
 - c) USDA Service Centers
- 2) Funding Application Process
 - a) Federal Cost-Share Funding
 - b) State Cost-Share Funding
- 3) Services Offered by SWCDs to Cooperators³ and Authority to Compete
 - a) Dallas County SWCD
 - b) Greene County SWCD
 - c) Guthrie County SWCD
 - d) Jasper County SWCD
 - e) Other SWCDs
- 4) SWCD Secretary Involvement in the Sale of Services and Products
- 5) Compliance with Provisions of DSC Policy Regarding the Sale of Services and Products
- 6) Cooperators' Comments Regarding Their Decision to Utilize SWCD Services and Products
- 7) Are the SWCDs Profiting From the Sale of Products and Services?
 - a) State Funded Projects – IFIP, REAP and WSPF
 - b) Federally Funded Projects – CRP

Each section is followed by the findings and conclusions of the Ombudsman.

Due to the large number of acronyms used in this report, an alphabetical acronym guide sheet is included on the following page for your convenience.

² The terms “drilling” and “seeding” are interchangeable to the extent that they both involve the planting of seed. A drill is actually a specific piece of equipment used to plant seed. While the term “seeder” may be inclusive of a drill, there is also a specific piece of equipment known as a broadcast seeder. Broadcast seeders are not recommended for some types of seeding projects.

³ Persons utilizing the services and programs of SWCDs are referenced in this report as “cooperators”.

Acronym Guide Sheet

CDI – Conservation Districts of Iowa. CDI is a nonprofit 501(c) 3 organization devoted to providing educational programs on the conservation of soil, water, and other natural resources. Soil and Water Conservation Districts pay dues to CDI.

CRP – Conservation Reserve Program.

CREP – Conservation Reserve Enhancement Program.

CSP – Conservation Security Program.

DC – District Conservationist. The DC is an employee of the United States Department of Agriculture's Natural Resources Conservation Service.

DNR – Department of Natural Resources.

DSC – Division of Soil Conservation. DSC is a division of the Iowa Department of Agriculture and Land Stewardship.

EHC – Environmental Habitat Corporation. EHC is a non-profit corporation in Greene County.

EQIP – Environmental Quality Incentives Program.

FSA – Farm Services Agency. FSA is under the authority of the United States Department of Agriculture.

IDALS – Iowa Department of Agriculture and Land Stewardship.

IFIP – Iowan Financial Incentives Program.

LWPP – Local Water Protection Program.

NRCS – Natural Resources Conservation Service. NRCS is under the authority of the United States Department of Agriculture.

REAP – Resource Enhancement and Protection.

SWCD – Soil and Water Conservation Districts. There are 100 SWCDs in Iowa, one in each county with the exception of Pottawattamie County which is divided into east and west SWCDs.

SRF – State Revolving Fund.

USDA – United States Department of Agriculture.

WHIP – Wildlife Habitat Incentives Program.

WPF – Water Protection Fund.

WRP – Wetland Reserve Program.

WSPF – Watershed Protection Fund.

1) Agency Background Information

Iowa Code Chapter 161A, known and cited as the “*Soil Conservation Districts Law*”, governs the Division of Soil Conservation of the Iowa Department of Agriculture and Land Stewardship and Soil and Water Conservation Districts. Section 161A.2 specifically states the following:

161A.2 DECLARATION OF POLICY.

It is hereby declared to be the policy of the legislature to integrate the conservation of soil and water resources into the production of agricultural commodities to insure the long-term protection of the soil and water resources of the state of Iowa, and to encourage the development of farm management and agricultural practices that are consistent with the capability of the land to sustain agriculture, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist and maintain the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands and promote the health, safety and public welfare of the people of this state.

a) Division of Soil Conservation of the Iowa Department of Agriculture and Land Stewardship

According to the Division of Soil Conservation’s (DSC) webpage⁴:

The Division of Soil Conservation is responsible for state leadership in the protection and management of soil, water and mineral resources, assisting soil and water conservation districts and private landowners to meet their agricultural and environmental protection needs.

The DSC within the Iowa Department of Agriculture and Land Stewardship’s (IDALS)⁵ is “established within the department to perform the functions conferred upon it in chapters 161A through 161C, 161E, 161F, 207, and 208.”⁶ Some of the duties and powers of the DSC as it applies to the DSC’s relationship with the SWCDs are found in §161A.4 (4):

4. In addition to other duties and powers conferred upon the division of soil conservation, the division has the following duties and powers:
 - a. To offer assistance as appropriate to the commissioners of soil and water conservation districts in carrying out any of their powers and programs.
 - b. To take notice of each district's long-range resource conservation plan established under section 161A.7, in order to keep the commissioners of each of the several districts informed of the activities and experience of all other districts, and to facilitate an interchange of advice and experience between such districts and cooperation between them.
 - c. To coordinate the programs of the soil and water conservation districts so far as this may be done by advice and consultation.

⁴ <http://www.agriculture.state.ia.us/soilconservation.html> Accessed March 20, 2006

⁵ Actions taken by the DSC may be ascribed to IDALS in this report.

⁶ §161A.4(1)

- d. To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts.
- e. To disseminate information throughout the state concerning the activities and program of the soil and water conservation districts.
- f. To render financial aid and assistance to soil and water conservation districts for the purpose of carrying out the policy stated in this chapter.
- g. To assist each soil and water conservation district in developing a district soil and water resource conservation plan as provided under section 161A.7. The plan shall be developed according to rules adopted by the division to preserve and protect the public interest in the soil and water resources of this state for future generations and for this purpose to encourage, promote, facilitate, and where such public interest requires, to mandate the conservation and proper control of and use of the soil and water resources of this state, by measures including, but not limited to, the control of floods, the control of erosion by water or by wind, the preservation of the quality of water for its optimum use for agricultural, irrigation, recreational, industrial, and domestic purposes, all of which shall be presumed to be conducive to the public health, convenience, and welfare, both present and future.
- h. To file the district soil and water resource conservation plans as part of a state soil and water resource conservation plan. The state plan shall contain on a statewide basis the information required for a district plan under this section.
- i. To establish a position of state drainage coordinator for drainage districts and drainage and levee districts which will keep the management of those districts informed of the activities and experience of all other such districts and facilitate an interchange of advice, experience and cooperation among the districts, coordinate by advice and consultation the programs of the districts, secure the cooperation and assistance of the United States and its agencies and of the agencies of this state and other states in the work of the districts, disseminate information throughout the state concerning the activities and programs of the districts and provide other appropriate assistance to the districts.

In addition, §161A.4(5) requires the DSC, in consultation with the commissioners of the SWCDs, to “conduct a biennial review to survey the availability of private soil and water conservation control contractors in each district.” The DSC is required to post the findings of the review on its website.⁷

The DSC operates in accordance with policies established by the State Soil Conservation Committee and is divided into three bureaus; Field Services Bureau, Mines and Mineral Bureau and Water Resources Bureau. The Field Services Bureau oversees DSC’s statutory responsibilities related to Iowa’s SWCDs. Jim Gillespie is the Bureau Chief.

⁷ <http://www.agriculture.state.ia.us/swcdcontractors.htm> Accessed March 20, 2006

According to its website, Field Services Bureau programs include:

- Cooperative Soil Survey
- Cost Share
- Field Office Staff
- Iowa Buffer Initiative
- Local Water Protection Program
- No Interest Loans
- Water Quality Protection Practices
- Water Quality Protection Projects

Aside from the Cooperative Soil Survey, the balance of the programs listed above provide funding for conservation practices.⁸ Some of the applications for these programs are approved at the DSC level and some are approved by the local SWCD. All monies for conservation projects are paid by the DSC directly to the cooperator, regardless of whether the individual funding application is approved by the local SWCDs.

The DSC employs secretaries in each of the 100 SWCDs. Each SWCD is also served by one of three DSC field representatives. The DSC field representatives are directly responsible for supervising the state employees housed in SWCD offices, including the secretary, as well as providing assistance regarding state funds and other relevant issues.

b) Soil and Water Conservation Districts

Chapter 161A details the statutory authority for SWCDs.⁹ The 100 SWCDs are each governed by a board of five elected commissioners. These commissioners administer the state funded soil conservation and water quality programs in their respective counties. According to IDALS website:¹⁰

Each SWCD is unique in the resource conservation problems it addresses and the way it chooses to package and deliver programs to landowners, farm operators, and local communities. Types of program activities conducted by soil and water conservation districts with support from the Division of Soil Conservation and other partners include:

- Implementation of Iowa financial incentive programs
- Development of soil and water resource conservation plans
- Development and implementation of water quality protection projects
- Establishing soil loss limits
- Administering soil loss complaints
- Carrying out conservation education programs in schools
- Conducting demonstrations and field days

⁸ There are also three funding programs administered by the Water Resources Bureau within IDALS; the Conservation Reserve Enhancement Program (CREP), the Watershed Protection Program and Ag Drainage Well Closure Program.

⁹ The Iowa General Assembly passed enabling legislation in 1939 and the 48th General Assembly was responsible for the Conservation Districts law and establishment of the State Soil Conservation Committee.

¹⁰ <http://www.agriculture.state.ia.us/swcdistricts.htm> Accessed March 20, 2006

The state funded programs approved by the SWCD commissioners include, but are not limited to, State Cost Share (IFIP), Resource Enhancement and Protection (REAP), and Watershed Protection (WSPF). These three programs are the primary programs utilizing seed, drilling equipment and nursery stock.

As noted earlier, DSC employs secretaries in each of the 100 SWCDs. In addition, through a variety of funding sources, including the DSC's Buffer/District Initiative, SWCDs may employ one or more Soil Conservation Technicians.

Each SWCD also receives approximately \$2000 from IDALS to reimburse SWCD commissioners for administrative expenses, including, but not limited to, travel expenses, technical training and professional dues.¹¹ Program monies approved for federally or state funded conservation projects on private property are not deposited in SWCD accounts; the checks for these projects are made out to the cooperators by the federal government and/or the DSC.

The fifth paragraph of §161A.6 states the following regarding SWCD commissioners' financial responsibilities:

The commissioners shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall regularly report to the division a summary of financial information regarding moneys controlled by the commissioners, which are not audited by the state, according to rules adopted by the division.

According to the [SWCD] *Commissioner Handbook*¹², the SWCD commissioner holding the office of treasurer is required to submit a financial statement of all district funds, both state and local, in the SWCD's Annual Report to the public and to the DSC. In addition, the treasurer arranges "for a commissioner supervised annual audit of district funds, within 90 days after fiscal or calendar year end" and a copy of this annual audit is provided to the DSC.

A survey conducted by DSC in 2004 indicates that 68 of the 100 SWCDs provided one of the following services or products: drill/seeder, tree planter, mower, fabric check, seed,

¹¹ During the 2005 Legislative Session, three bills were enacted that appropriated monies to reimburse SWCD commissioners for administrative expenses. SF 71 was a supplemental appropriation for FY04-05 requiring IDALS to use \$250,000 from the Environment First Fund to reimburse commissioners. HF 808 appropriated the same amount for the same purpose fo FY 05-06 but HF 882 reduced that amount by \$50,000. SF 2012 was subsequently introduced on January 10, 2006 and provides a supplemental appropriation of \$150,000 from the general fund to IDALS for FY 05-06. SF 2012 was not voted out of committee prior to the funnel deadline.

HF 2540 was passed by the House Appropriation Committee on February 22, 2006 and includes an increase of \$50,000 (from \$200,000 to \$250,000) "[f]or purposes of reimbursing commissioners of soil and water conservation districts for administrative expenses including but not limited to travel expenses, technical training, and professional dues" for FY 07. As of March 8, HF 2540 was assigned to a Senate Appropriations Subcommittee.

¹² The *Commissioner Handbook* was written "in joint cooperation" by IDALS, DSC, NRCS and CDI. It is available on CDI's website at <http://www.cdiowa.org/resources.html>. Accessed March 20, 2006

trees/shrubs. These products and services are discussed in further detail in Section 3 of this document, *Services Offered by SWCDs to Cooperators and Authority to Compete*.

c) USDA Service Centers

IDALS, each SWCD, and the United States Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) have signed a "Cooperative Working Agreement" to supplement an existing "Mutual Agreement" defining their relationship and responsibilities. The DSC's 2003 Conservation Program Summary describes the arrangement between the government agencies as follows:

Iowa's Unique Conservation Partnership

Iowa's 100 Soil and Water Conservation Districts (SWCDs), USDA's Natural Resources Conservation Service (NRCS), and the Iowa Department of Agriculture and Land Stewardship's Division of Soil Conservation (DSC) have been working on conservation and environmental issues since the 1940's. This Conservation Partnership works with rural landowners and operators to reduce erosion, enhance production and improve water quality. Voluntary efforts protect the landscape and prevent millions of tons of sediment from reaching Iowa's waterways. Urban conservation programs reduce the impacts from construction and stormwater runoff.

Iowa's partners jointly share the responsibility for providing tools and resources needed to implement conservation programs. The Conservation Partnership is able to effectively and efficiently implement programs working through local SWCDs. Created in Iowa Code Chapter 161A, SWCDs provide the strong, local structure needed to meet the growing challenges and demands on Iowa's soil and water resources.

NRCS staff and SWCD staff share the same secretary (whose salary is paid by IDALS) and the same office space; the NRCS District Conservationist (DC) is the office coordinator. In addition to the office space and administration, the NRCS provides technical staff, vehicles, utilities and sets project standards. NRCS staff in each county provides technical assistance for both the state and federally funded programs and administers applications for three federally funded cost-share programs. The DC certifies all design standards and specifications for all federally and state funded projects.

USDA's county Farm Service Agencies (FSA) receive applications and are responsible for approving federally funded conservation projects, including, but not limited to, the Conservation Reserve Program (CRP) and the Wetlands Reserve Program (WRP). NRCS administers the Environmental Quality Incentive Program (EQIP). These federal programs provide the majority of the cost-share funding in each county potentially utilizing seed, drilling and nursery stock. FSA, NRCS and SWCD occupy the same buildings in each county. In some instances, the FSA offices are not separated from the combined NRCS/SWCD office by any physical barrier, such as a door. Two of the four SWCD offices the Ombudsman visited share the same customer service counter with FSA. And in many of the SWCD offices the Ombudsman contacted by phone, the USDA Service Center phone tree

only identifies NRCS and FSA as the two choices but choosing the NRCS option will connect the caller to the SWCD office.

Findings and Conclusions

The working arrangement between the FSA, NRCS, DSC and SWCDs may be set out in statute, rule, policy and/or contractually but to the cooperator, the lines of authority and responsibility are not clear. Each agency and individual within that agency has their own duties but it appears their job responsibilities intertwine in many areas.

The SWCDs are not limited to cooperative arrangements with NRCS and the DSC. Iowa law¹³ gives SWCDs the authority to advise, consult and enter into agreements with political subdivisions for erosion control projects.

There is also the co-existence of agencies with similar names and missions: Soil and Water Conservation Districts and IDALS' Division of Soil Conservation and County Conservation Boards¹⁴ and Levee and Drainage Districts¹⁵ and Soil Conservation and Flood Control Districts¹⁶ - each with its own statutory authority.

Given the complexity of the relationship among these agencies, the cooperator cannot be expected to understand everyone's role or to be able to identify the person's employer in the funding application process. This is relevant to the extent it impacts the cooperator's decision making process for selecting a service and product supplier. Comments from cooperators regarding their decision to utilize SWCD services and products can be found in Section 6 of this document.

2) Funding Application Process

There are a variety of state and federal programs through which funding is available to cooperators for installing and maintaining conservation practices. The cost-share available to the cooperator varies from program to program. For specifics, see the brochure identified as Appendix A, *A Guide to Conservation Programs for Iowa Landowners*, published in January 2005 by the NRCS.

¹³ Multiple sections of the Iowa Code, including §161C.3, §161D.11 and §161E.3, afford SWCDs the authority to advise, consult and enter into agreements with political subdivisions for erosion control projects.

¹⁴ Chapter 350

¹⁵ Chapter 468

¹⁶ Chapter 161F

a) Federal Cost-Share Funding

The following is a list of federally funded programs as identified by DSC:¹⁷

- Conservation Reserve Program (CRP)
- Environmental Quality Incentive Program (EQIP)
- Wildlife Habitat Incentive Program (WHIP)
- Wetland Reserve Program (WRP)
- Conservation Security Program (CSP)

Applications for the CRP program are approved at the FSA office located in the USDA Service Center adjacent to the county SWCD office. The SWCDs' role in the CRP process is limited to updating the conservation/farm plan for the affected piece of property; the decision for approving a CRP application rests with FSA.

NRCS receives applications at the local level for the EQIP, WHIP, WRP and CSP programs and provides technical assistance for all programs. Eligibility requirements and application approval are determined at either the local, state or federal level, depending on the program. The SWCDs' role in these four programs is limited to the SWCD commissioners (possibly) approving the contract and updating the conservation plan. The SWCD secretary may provide administrative functions associated with these programs. SWCD commissioners and secretaries describe their role in this process as "rubber stamping"; rarely is a project discussed.

b) State Cost-Share Funding

The following is a list of state funded programs available to cooperators as identified by DSC:¹⁸

- State Cost Share (IFIP)¹⁹
- Resource Enhancement and Protection (REAP)²⁰
- Watershed Protection (WSPF)²¹
- No-Interest Loans²²
- Local Water Protection Program – SRF (LWPP)²³
- Conservation Reserve Enhancement Program (CREP)²⁴
- Agriculture Drainage Well Closure²⁵

¹⁷ Memo provided by Jim Gillespie, Bureau Chief, IDALS' DSC Field Services Bureau. Appendix B.

¹⁸ Memo provided by Jim Gillespie, Bureau Chief, IDALS DSC Field Services Bureau. Appendix B.

¹⁹ 27 IAC 10 IFIP stands for Iowa Financial Incentive Program.

²⁰ 27 IAC 12 and 27 IAC 21

²¹ 27 IAC 21

²² 27 IAC 11

²³ 27 IAC 21 SRF stands for State Revolving Fund

²⁴ §466.5 (no administrative rules) This program is limited to 37 counties in North Central Iowa.

²⁵ 27 IAC 30

Funding allocations for some of the programs are set forth in the Iowa Administrative Code (IAC). The eligibility varies for each program. The applications (for cost-share funding) through these programs are made by the landowner and if applicable, the farm operator,²⁶ at the local SWCD office. Specific application requirements are set forth in the rules of the DSC. Cost-share rates - the percentage of the project that the funding will pay for – and the maximum allowable cost per acre for each practice also varies by program. Projects may be ranked based on priorities established at the local SWCD office. For example, 27 IAC 10.83 allows SWCD commissioners to designate which soil and conservation practices in their district will be eligible for funding from the IFIP program. If funding availability is an issue, higher ranked projects will get priority for funding over lower ranked projects. SWCDs are not required to utilize every available funding program.

Although most of the programs potentially fund projects (excluding Agriculture Drainage Well Closure) involving drilling, seed and tree planting, the programs that are most likely to involve projects of this nature are IFIP, REAP and WSPF. The application process, as it applies to these three specific programs, requires a completion of a specific application. Once eligibility is determined and an application is approved by the local SWCD commissioners, funds are obligated (from the funding source) for the project. At the point the SWCD commissioners approve or reject an application, the SWCD commissioners usually do not know if the cooperators has selected a contractor to complete the work; the cooperators may or may not have arranged for a contractor prior to receiving notice of the approval of their application. (The cooperators is notified via mail after the SWCD commissioners have approved their application.) In other words, the SWCD commissioners usually have no information regarding the cooperators's choice of contractors at the time the commissioners vote to approve the application.

The important exception is when a SWCD commissioner is involved in some aspect of selling seed or trees or providing a service utilized to complete the project (such as earthmoving or drilling) and has been contacted by the cooperators prior to approval of the application. This scenario is applicable in the Dallas County SWCD and will be discussed further beginning on page 33 of this document.

A SWCD or NRCS technician then designs and lays out the “proposed conservation practices...” and “the certifying technician of the district shall be responsible for determining compliance with applicable design standards and specifications.”²⁷ The certifying technician²⁸ is the NRCS DC. So for example, if a project establishing a waterway requires earthmoving, a technician in the office (could be a federal, state, district or county technician) inspects the project after the grading has been completed. At the point the technician inspects the project, the seeding may or may not have been completed. And if the seeding has been completed, the seed may have yet to emerge. This means that payment to the cooperators does not rely on the technician's approval of the seeding. It should be noted that subsequent status inspections (conducted after a cooperators has been reimbursed for

²⁶ Collectively referenced as “cooperators” in this document.

²⁷ 27 IAC 10.74(2)(a)

²⁸ “Certifying technician” is defined in 27 IAC 10.20 as “the district conservationist of the soil conservation service or the district forester of the department of natural resources.”

his/her portion of the cost share) may require reseeding at the cooperator's expense. Hence, it is important to use proper equipment and quality seed in the beginning when the cost share dollars are paying for a portion of the project.

The cost of seed will vary depending on the type of seed a project utilizes. Whether a cooperator chooses to use brome versus native prairie grass may affect the funding priority (ranking) of a project. IDALS' administrative rules, paragraph 10.81(7)(a), requires that seeding be performed in "accordance with seeding specifications referenced in rule 10.84 (161A.312)..." These seeding specifications reference a variety of USDA-NRCS-IOWA Field Office Technical Guides (Guide). Depending on the practice, the Guide may include technical standards for seed specifications, planting dates, fertilizer recommendations, planting depth and seed population requirements. Some types of seed require special drilling/seeding equipment for optimum results and therefore the type of drills and seeding equipment owned and utilized by SWCDs and contractors may have an impact on the service the cooperators choose to use.

The cooperator subsequently submits a signed claim voucher and all bills for the project to the local SWCD. (If the cooperator has provided any materials or labor, the cooperator must itemize both on a signed "Proof of Expense" form to be attached to the claim voucher.) The SWCD commissioners are then required by rule²⁹ to review the DC's "Certificate of Practice" prior to approving the voucher. Once approved, the voucher is submitted to the DSC for payment. The check is written to the cooperator but mailed to the local SWCD, at which point the SWCD secures the appropriate signatures verifying payment, and if necessary, also secures signatures for maintenance and performance agreements.

Findings and Conclusions

The concern was raised by contractors that cooperators are choosing to utilize SWCD services and products because they believe it will impact the approval of some aspect of the project. Understanding how the process works – beginning from the application to the final disbursement of funds –as well as everyone's role in that process is relevant to confirm or dispel this argument. The approval and payment process, as detailed above and as confirmed and reviewed multiple times with multiple DSC, SWCD employees and commissioners, should not be affected by the cooperator's choice of contractor. The only exception may be when the SWCD commissioner or employee is involved in the seeding or sale of product and has been contacted prior to the SWCD's monthly meeting (at which the application is approved). This exception is applicable to one of the four counties that the Ombudsman focused on and will be addressed in more detail later in the report.

Even though the application and payment process for both federally and state funded cost-share programs is likely not affected by the cooperators choice of contractors, the Ombudsman realized that cooperators may not perceive that to be the case. For this reason, the Ombudsman contacted cooperators who utilized SWCD services in Dallas, Guthrie and Jasper County to determine why they chose the services and products offered by their local SWCD. The results can be found beginning on page 26 of this report.

²⁹ 27 IAC 10.74(4)(b)

3) Services Offered by SWCDs to Cooperators and Authority to Compete

SWCDs are defined in §161A.3(6) as a “governmental subdivision of this state, and a public body corporate and politic, organized for the purposes and, with the powers, and subject to the restrictions in this chapter set forth.”

Iowa Code Chapter 23A governs non-competition by government. According to §23A.2(1), a “state agency or political subdivision shall not, unless specifically authorized by statute, rule, ordinance or regulation...engage in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distribution, or advertising of goods or services to the public which are also offered by private enterprise unless such goods or services are for use or consumption exclusively by the state agency or political subdivision.” State agencies subject to the provision of this chapter include “a state department, board, commission or other unit of state government regardless of whether moneys are appropriated to the agency.”³⁰ “Political subdivisions” are defined in §23A.1(1) as a city, county or school corporation. SWCDs do not meet the definition of a political subdivision and, based on the definition of an SWCD in §161A.3(6), SWCDs do not qualify as a “unit of state government.” For this reason, it is not clear whether Chapter 23A applies to SWCDs.

It is, however, irrelevant whether Chapter 23A applies to SWCDs because there is a provision in statute granting SWCDs the authority to sell or lease goods or services to the public. Specifically, §161A.7(6) states:

To make available on such terms as it shall prescribe, to landowners or occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, lime, and such other material or equipment as will assist such landowners or occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion and for the prevention of erosion, floodwater, and sediment damages.

The statutory provisions in §161A.7(6) allow SWCDs (and their employees) the authority to compete with private business in the sale of goods and services, including the sale of seed and nursery stock, as well as the leasing of a drill and operator. Thirty-two SWCDs in Iowa have chosen not to provide products and services.

Operational funding provided directly to the SWCDs through the DSC is limited to salaries for district technicians (if requested) and approximately \$2000 to reimburse SWCD commissioners for administrative expenses, including, but not limited to, travel expenses, technical training and professional dues. For this reason, if a local SWCD chooses to sponsor scholarships, demonstration projects, poster contests, Envirothon teams, etc, the SWCD is responsible for identifying funding. Some SWCDs also use proceeds from funding efforts to send out newsletters. Potential sources of funding include:

³⁰ §23A.1(3)

- County government.
- Grants.
- Donations.
- Selling trees/shrubs.
- Selling seed.
- Selling (marking) flags, intake pipes, or erosion-control fabric.
- Providing equipment services such as a mower, tree planter and a drill. The service may or may not include an operator.

According to a 2004 SWCD survey conducted by the DSC, 68 of the 100 SWCDs provided one or more of the following services³¹ or products: drill/seeder, tree planter, mower, fabric check, seed, trees/shrubs. Of those 68 SWCDs:

- 42 offered a drill/seeder for rent
- 10 sold seed
- 7 offered a tree planter for rent
- 5 offered a mower for rent
- 9 sold fabric check³²
- 36 sold trees/shrubs³³

Of the 100 SWCDs, only 38 provide only a single service or product; 15 sold only trees/shrubs; three sold only seed; 16 rented only a drill/seeder; one provided only a tree planter and three sold only fabric check. There are many variables, including but not limited to, cooperator interest, topography, watershed locations and program eligibility that make it difficult to determine whether funding expenditures for state or federally funded programs are directly impacted by whether a SWCD offers products or services for sale. The decision to expand and support the sale of services and products must be approved by the governing body, the SWCD commissioners, which is an elected body.

To the Ombudsman's knowledge, seed, fabric check and trees currently sold by SWCDs in Iowa are purchased from Iowa businesses and resold to cooperators.

Deb Ryun, executive director of the Conservation Districts of Iowa (CDI),³⁴ noted that some districts do not profit from the sale of products and services but these districts continue to

³¹ The survey did not identify whether an operator was provided with the rental of the drill/seeder, mower or tree planter.

³² "Fabric check" is a fabric placed in waterways and other areas for erosion control. The survey did not differentiate between the sale of fabric check and the rental of the machine used to install the fabric check. The Ombudsman is aware of one SWCD that provides the machine free with the purchase of the fabric check.

³³ Deb Ryun, executive director of Conservation Districts of Iowa, said that to her knowledge, tree/shrub and native plant sales are only a one-time annual event/promotion; the sale of these products does not occur year round at SWCDs.

³⁴ "Conservation Districts of Iowa, CDI, is a nonprofit 501(c) 3 organization devoted to providing educational programs on the conservation of soil, water, and other natural resources." <http://www.cdiowa.org/aboutus.html> Accessed March 20, 2006

provide the services as a “convenience” and “service” to their customers. The subject of offering products and services was also addressed in CDI’s January 2006 newsletter. The article, *Does Your SWCD Offer Services to Producers?*, states, in part, the following:

...Iowa leads the nation in buffers. This didn’t happen by chance. Governor Vilsack and the Iowa legislature had the foresight to create the Buffer Initiative to promote buffers and other watershed protection measures. The SWCD stepped up to the plate investing in native plant drills and other services that were newer technology and rarely offered from the private sector. There continues to be a need for these services. Farmers operate on very slim profit margins. To induce them to put in some of those much needed buffers, we work with landowners to make it simple for them; practices need to be installed at the lowest cost possible. The SWCD mission has always been to promote natural resource protection. Much public good comes from districts offering equipment use and services to their constituents. ...

However, the article also cautions SWCDs against intentionally competing with private business:

...do remember that it’s very important to not intentionally compete with private industry. Private foresters and landscape restorationists deserve your full support. They can offer more complete services, and many times your customer needs much more than just to borrow/rent your no-till native seed drill. Our tree and plant fundraising sales support local businesses, many of them small and struggling to survive. Remember to buy local; supporting Iowa’s rural businesses is key to keeping small town Iowa alive.

DSC requires SWCDs to maintain an alphabetical listing of contractors that offer seed, trees or conservation services in the district and make it readily available to cooperators. The contractors are responsible for notifying the SWCD of their desire to be included on the list.

The remainder of this section and the subsequent sections of this document address the current practices of the SWCDs in Dallas, Greene, Guthrie and Jasper County, specifically as it applies to the sale of services and products as delineated below. These SWCDs own the equipment used to provide services and/or rented to cooperators.

a) Dallas County SWCD

Dallas County SWCD offers drilling services and sells seed. The drill operator is currently a Dallas County SWCD commissioner. The commissioner utilizes the minutes of the monthly SWCD meetings to identify cooperators whose plans or applications have been approved. He then contacts these individuals and offers SWCD’s services.

Eleven contractors on Dallas County SWCD’s contractor list indicate they provide “seeding, grasses, legumes, and/or forb.”

b) Greene County SWCD

Greene County SWCD has two drills to rent to individuals; an operator is not provided and they do not sell seed. They also sell “fabric check” and supply a machine to lay the fabric.

A non-profit organization, Environmental Habitat Corporation (EHC), was formed in 2000. Two SWCD commissioners were on EHC's original board of directors. In 2004, Greene County SWCD donated the balance of their seed to EHC as EHC had agreed to take over the custom seeding that had already been contracted by the Greene County SWCD.³⁵ EHC continues to rent one of Greene County SWCD's drills and provides an operator and seed for cooperators requesting EHC's services. EHC's employee, a local farmer, works for the Greene County SWCD when projects and funding are available. This individual is also listed as a treasurer and director of EHC. EHC's president is an assistant Greene County SWCD commissioner³⁶ and two of EHC's five board members currently serve as Greene County SWCD commissioners. EHC's biennial report (for an Iowa nonprofit corporation) filed with the Iowa Secretary of State's office on January 6, 2005, identifies the address of EHC's registered office as 1703 N. Elm, Ste. 3. This is the address of the Greene County SWCD office.

Six contractors on Greene County SWCD's contractor list indicate they provide "seeding, grasses, legumes, and/or forbs."

c) Guthrie County SWCD

Guthrie County SWCD offers a broadcast seeder for rent; an operator is not provided. They also sell native grass seed.

Five contractors on the Guthrie County SWCD's contractor list indicate they provide "seeding, grasses, legumes, and/or forbs."

d) Jasper County SWCD

Jasper County SWCD offers drilling and mowing services. They also offer a broadcast seeder for rent and sell seed. One of two operators, both SWCD employees, operates all the equipment. In the future, the Jasper SWCD may harvest and sell seed native to Iowa.

Seven contractors on the Jasper County SWCD's contractor list indicate they provide "seeding, grasses, legumes, and/or forbs."

e) Other SWCDs

The Ombudsman contacted six SWCDs who do **not** engage in sales to determine how they raise money for projects. Aside from selling marking flags (which does not generate significant income), the responses included:

³⁵ Per Greene County SWCD letter attached to monthly financial statements, Greene County SWCD discontinued tree sales and custom drilling operations as advised by DSC and CDI. The local chapter of Future Farmers of America assumed the tree sales.

³⁶ Assistant SWCD commissioners may be appointed by SWCD commissioners to assist with the activities of the district. Assistant commissioners may be reimbursed for actual expenses incurred while performing their duties but cannot assume the duties of commissioners. This means assistant commissioners cannot make motions or vote at commissioner meetings.

- No fundraising
- Donations
- Grants
- County funding

County funding is unique in Pottwattamie County. There are two SWCDs in Pottwattamie County; east and west. Each receives 5% of the one cent local option sales tax. This amounts to about \$10,000 per month. The original sales tax referendum requires the funding be used for capital improvements. This restricts their ability to use these monies for many things, including employee salaries.

Some county SWCDs receive an annual appropriation from their county government. For example, Black Hawk County SWCD receives \$2000, Chickasaw County SWCD receives \$10,000 and Story County SWCD receives \$5000 from their respective counties.

CDI has also provided SWCDs with monies from a variety of sources in the past, including the federal government, for specific projects and tasks.

Findings and Conclusions

Iowa law gives SWCDs the authority to offer equipment, products and labor to cooperators for conservation efforts. Over half of the SWCDs in Iowa have chosen to do so. An SWCD's decision to offer a particular service or product may include a number of factors:

- The desire or need to provide a service (which may or may not be available from other sources) or convenience for cooperators.
- To carry out the powers and projects authorized under statute.
- To make implementation of erosion control projects cost-effective, thereby increasing the number of these projects.
- To raise funds for other activities and projects.

Since seed, trees, erosion control materials and the equipment utilized by the SWCDs are purchased from private businesses, the argument can be made that there are businesses profiting from the activities of the SWCDs. And in all cases, a SWCD cannot engage in the sale of products and services without the formal approval of the locally elected SWCD commissioners.

No one disputes that the specialized drills for planting certain seed have not always been readily available. According to Prairiesource.com^{TM37}:

Rangeland drills are wonderful pieces of equipment and, provided you operate them correctly, provide the most cost efficient and reliable means of establishing native grasses. Unfortunately, not everyone has access to a native grass drill. If one is available, it will most likely be available through your state fish & game agency, local Soil and Water Conservation District or Quail Unlimited chapter. Creating additional concern is

³⁷ “An information resource for all things regarding prairie, native grasses, wildflowers and related topics.” Prairiesource.com is based out of Clinton, Missouri. <http://prairiesource.com/>. Accessed March 20, 2006.

the new CRP which has dramatically increased the demand for such equipment and even if a rangeland drill is available locally, it may be a challenge trying to schedule its use.

The Ombudsman spoke to John Hodges, the author of Prairieesource.com. Mr. Hodges is also a private contractor in the business of selling seed and drilling services. Although he admitted he had not updated his website in some time, Mr. Hodges said he believes the availability of drills remains a problem. He said that many of the SWCDs he deals with in Missouri and surrounding states offer drills for rent and sell related products. Mr. Hodges noted that non-profit groups, such as Pheasants Forever, Quail Unlimited and Ducks Unlimited, are also in the business of selling seed and offering drilling services. This competition by non-profits has been referenced by contractors interviewed by the Ombudsman.

And the Ombudsman learned that not every contractor or SWCD offers seeding services or equipment appropriate for every seeding situation. For this reason, the availability of a contractors' list or the number of contractors on the list may not accurately reflect the availability of contractors in any one area. This statement also applies to SWCDs without any contractors on their contractor's list. As noted earlier in this document, contractors are responsible for notifying SWCDs of their desire to be included on the contractor list. IDALS' website contains a list indicating the availability of contractors by county. On the list, 16 SWCDs responded that "no private contractors had asked to be listed at the time the survey was taken." Of these 16, seven did not offer products or the sale of services in IDALS' 2004 survey. Somebody – cooperators, individuals or contractors – must be doing the work because these counties spent over a million dollars of state funding to implement conservation practices since July 1, 2005.

The Ombudsman was not able to identify a data source that reflected whether project costs and program participation were adversely affected by the availability of contractors.

There are also other factors to consider regarding the availability of drills/seeders. Participation in these programs are voluntary – which means cost can be a factor. While contractors may offer a broader range of services, such as consulting and specialized seed mixtures, some cooperators are going to make their choice strictly on the lowest cost. The Dallas County SWCD and Jasper County SWCD drilling rates are comparable to those of the contractors the Ombudsman contacted.

There is also a limited window of time to complete seeding projects. There are three different seeding periods, weather and ground conditions permitting: "frost seeding" in March³⁸; the primary seeding period is April 1 to July 1 (earlier cut off dates may be applicable for cool season grasses and legumes); the fall seeding period begins around November 15 and continues until the ground freezes or weather conditions prohibit seeding. Weather plays a factor in all of these time periods. One of the contractors the Ombudsman contacted said the SWCD will contact him if they have more jobs than they can complete in this narrow window of time.

Aside from the service and convenience aspect of SWCD services, projects such as the one being undertaken by the Jasper County SWCD - to grow and sell "eco-type" seed native to Iowa - require funding. Such projects also provide a direct benefit to the cooperators.

³⁸ In 2006, some frost seeding was possible in February due to ground conditions and weather conditions.

Taking all these factors into consideration, including the fact that SWCDs have the legal authority to compete, the Ombudsman cannot conclude the sale of products and services by SWCDs is unreasonable. Having said this, the Ombudsman also believes that the SWCDs clearly have an inherent advantage in the sale of products and services. Section 7, *Are the SWCDs Profiting From the Sale of Products and Services?*, provides information on the profitability of these four SWCDs.

4) SWCD Secretary Involvement in the Sale of Services and Products

The secretaries located in the SWCD offices are employed and paid by the DSC, which is a "state agency" as defined under section 23A.1(3). As stated before, §23A.2(1), a "state agency or political subdivision shall not, unless specifically authorized by statute, rule, ordinance or regulation...engage in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distribution, or advertising of goods or services to the public which are also offered by private enterprise unless such goods or services are for use or consumption exclusively by the state agency or political subdivision." In addition, §23A.2(1)(b) prohibits offering the sale of goods or services to the public or through another state agency or political subdivision by intergovernmental agreement unless specifically authorized by statute, rule, ordinance or regulation.

The first question to address is whether the secretaries are assisting the SWCDs in the sale of goods and services. The contractual agreement between IDALS, the NRCS and the SWCDs requires IDALS to provide "secretarial and technical assistance" to the SWCDs and NRCS "to carry out natural resources conservation programs." IDALS website lists the types of services provided by both the state-employed secretaries and the SWCD employees. It says secretaries "generally provide the following types of services":

- **Provide support services to district commissioners**
- Serve as the state agent implementing Iowa financial incentive programs
- **Perform office administrative tasks**
- Assist with preparation of the district annual work plan, annual report, and solid and water resource conservation plan
- **Assist district commissioners with fund raising activities**
- Assist with district educational programs
- Assist with district field days and tours
- Develop financial and progress reports for various programs
(Emphasis added.)

The Ombudsman found that the secretaries in the Dallas, Greene, Guthrie and Jasper County SWCDs deposit and account for the monies from the sale of services and products. The secretary may or may not be involved in scheduling or invoicing. (This information is delineated by county in the table found on page 28 of this document.) These activities could be interpreted as assisting the SWCDs in the sale of products and services.

The second question then is whether the secretaries are authorized by law to assist in the sale of goods and services. It is the Ombudsman's opinion that section 161A.4(4) provides the statutory

authority to exempt the secretaries from the prohibition in chapter 23A. That subsection states the following in relevant part:

4. In addition to other duties and powers conferred upon the division of soil conservation, the division has the following duties and powers:
 - a. To offer assistance as appropriate to the commissioners of soil and water conservation districts in carrying out any of their powers and programs.
 - ...
 - f. To render financial aid and assistance to soil and water conservation districts for the purpose of carrying out the policy stated in this chapter.

Findings and Conclusions

It is the Ombudsman's opinion that the provisions in §161A.4(4) provide the statutory authority for the secretaries – and IDALS - to assist the SWCDs in providing services and products “for the conservation of soil resources and for the prevention and control of soil erosion and for the prevention of erosion, floodwater, and sediment damages.”

5) Compliance with Provisions of DSC Policy Regarding the Sale of Services and Products

The DSC Policies and Procedures Manual contain the following document dated December 1998 regarding sales of services and products by SWCDs.

MEMORANDUM RE: SWCD-B&F-4-3
SUBJECT: District Sales of Nursery Stock, Plat Books, Etc.

Soil and water conservation districts have the authority to make sales under Iowa Code Chapter 161. It is recommended that districts should not sell any materials through the district office that will place the district in direct competition with local dealers or merchants. If there is a demand for the materials and there is no local market for the materials, the district is permitted to make the materials available. Prior to making the decision to sell materials, the district should canvass the county and surrounding areas to ensure the district would not be in direct competition with any dealer or merchant.

Districts selling materials must obtain a state sales tax permit from the Iowa Department of Revenue and Finance.

In addition to the sales tax permit, districts selling nursery stock must obtain a nursery dealer permit. The permit is issued by the Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319 Contact Entomology – 242-5180.

This memorandum was revised in September of 2003. This document slightly modifies the first paragraph of the 1998 memorandum and adds three new paragraphs:

Soil and Water Conservation Districts have the authority to make sales and provide equipment using “such terms as it shall prescribe” under Iowa Code Chapter 161A.7(6). It is recommended that districts should not sell products or offer services through the district office that will place the district in direct competition with local dealers or merchants. If there is a demand for the products and services for which there is not sufficient number of local providers, the district is encouraged to make the products and services available.

Districts shall update and maintain a list of contractors that agree to provide conservation products and services to district landowners. The district shall update its list at least on an annual basis. If the District offers products and services, it can be included on the list as well. The list shall be posted in the District office and a copy of the list shall be made available to cooperating landowners and interested members of the public. It shall be the responsibility of independent contractors to notify the District of their desire to be placed on the list.

It is the responsibility of state secretaries to handle the day-to-day business of the Soil and Water Conservation District. In this capacity, the secretary and other state employees may handle the business of selling products and offering services to district cooperators. It is not appropriate for state employees to recruit business for the district to the detriment of private contractors that have requested to be listed for similar work within the District. Further, all product and service providers shall be given fair and equal treatment. No one’s product or service shall be given preferential treatment over another. All contractors, including districts, shall be required to provide products and services that meet the appropriate standards and specifications.

Districts selling materials must obtain a state sales tax permit from the Iowa Department of Revenue and Finance.

In addition to the sales tax permit, districts selling nursery stock must obtain a nursery dealer permit. The permit is issued by the Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319 Contact Entomology – 242-5180.

Complaints that may result from the implementation of this policy by any district should first be leveled, in person or in writing, to the SWCD commissioners at any of their regular meetings. If the aggrieved finds no satisfaction at the district level, a complaint may be directed to the Director of the Division of Soil Conservation.

On March 9, 2004, William A. Ehm, DSC Director at the time, issued an interoffice communication (Appendix C) to SWCDs advising them that his office had been in discussion with the Iowa Legislature regarding the role of state employees in local SWCD business enterprises. Mr. Ehm specifically defined business enterprises as “the sale of trees, seed, and services, including the rental of equipment and the custom operation of equipment.” Mr. Ehm’s interoffice communication states, in part, the following:

There is a strong belief among legislators and Iowans as a whole that services and products provided by private entrepreneurs should be promoted by those of us in state government whenever those entrepreneurs are available. ... As the private sector steps forward to assume responsibility for the installation of the programs the partnership promotes, we should recognize that entrepreneurial spirit and encourage it to take root.

Mr. Ehm also referenced the 2003 DSC memorandum as it pertained to the appropriateness of state employees recruiting business for SWCD business enterprises. He then proceeded to provide additional guidance and clarification to the SWCDs as listed in the left column in the Ombudsman’s table beginning below and continuing on the next two pages. The Ombudsman independently gathered information regarding the specific county practices through visits to the Dallas, Greene, Guthrie and Jasper County SWCD offices and through conversations with the secretaries at these offices. A “Ü” denotes the practice was observed or confirmed in some manner by the Ombudsman.

| | Dallas | Greene | Guthrie | Jasper |
|---|--|---|--|--|
| Each District is to maintain an alphabetical list of contractors that offer seed, trees or conservation services in the district and make it readily available to cooperators. It is the responsibility of the contractor to inform the District of his/her desire to be included on the list. | Ü | Ü | Ü | Ü |
| Because the products and services offered vary so widely (no-till drills for soybeans vs. drills for native grass seeding vs. fan seeders) it is suggested that the list briefly describe what the contractor has to offer. The Division will supply a template in the very near future. ³⁹ | Ü | Ü | Ü | Ü |
| 1. It is highly recommended that no private contractor price lists be maintained in District offices. Pricing should be a matter to be discussed between the cooperator and the contractor. 2. State employees should encourage cooperators to contact multiple contractors on the District list. [Note: Notification letters are sent by SWCDs to cooperators after SWCD commissioners have approved a state funded project.] | 1. Ü 2. Contractor list sent with plan from technician. | 1. Ü 2. Include contractor’s list in notification letter to cooperators. | 1. Ü 2. Asks cooperators to obtain a signed bid from a contractor of choice in the notification letter. | 1. Ü 2. Language in notification letter and Cost Share Fact sheet encourages cooperators to seek more than one bid. |

³⁹ A template is available on CDI’s website at <http://www.cdiowa.org/resources.html>. Accessed March 20, 2006

| | Dallas | Greene | Guthrie | Jasper |
|---|--------|---|--------------|--|
| <p>The District should not post any signs, business cards, price sheets, or other forms of advertising on the District office premises that offer District products and services that would create a competitive advantage for the District.</p> <p>[Note: The Ombudsman also checked web sites.]</p> | Ü | Ü | Ü | Ü |
| | Ü | Ü | No web site. | Posts SWCD services and prices on web site but also contains link with complete contractor list. |
| <p>The Division is aware of several Districts that have established a separate company to handle its products and services. The state employee's role is to assist in the activities and programs of the conservation partners. In this case the business enterprise is no longer a District function and state employees are expressly barred from any activities associated with the business, including scheduling, pricing, handling of money, serving as board members, etc.</p> | N/A | Environmental Habitat Corporation (EHC), a non-profit corporation, rents one drill to do custom seeding. The secretary appears to have had a role in assisting the non-profit at one point but that does not appear to be the case now. | N/A | N/A |
| <p>No state employee is to transport or operate District equipment, such as drills, seeders, fabric machines, tree planters, etc.</p> | Ü | Ü | Ü | Ü |

| | Dallas | Greene | Guthrie | Jasper |
|--|---|--|---|---|
| The names of individuals who have been approved for cost-share or have had a CRP contract approved in a District meeting open to the public, should be made immediately available upon request, to the public, including private contractors. | üIn minutes | üIn minutes | üIn minutes | üIn minutes but do not provide contractors with this information for five days after the meeting so cooperators can receive notice prior to receiving solicitations |
| Districts should not place their products or services on the contractor lists of adjoining Districts. [Note: The Ombudsman only checked whether the contractor lists of these four counties listed products or services of adjoining counties. The Ombudsman did not identify whether the other 96 SWCDs in Iowa had these four SWCDs on their contractor list.] | Has Madison Co. SWCD on the tree and shrub contractor list. | ü | ü | ü |
| It is not appropriate for Districts to utilize mailing lists and free postage and printing provided by government agencies that would otherwise be unavailable to private contractors. [Note: Annual reports and newsletters are sent to landowners in the county, usually utilizing an FSA mailing list.] | Lists fund-raising services in office brochure. | Annual report references services that are provided by the SWCD in the “Resources Report” section. | Annual report identifies sale of native seed grasses and seeder rental as means of raising funds. | Services identified in newsletter but SWCD also sells advertising space to contractors in the newsletter. |

In addition, the memos from the DSC Policies and Procedures Manual referenced earlier in this section contain the following statement:

Districts selling materials must obtain a state sales tax permit from the Iowa Department of Revenue and Finance.

DSC provided documentation⁴⁰ identifying which counties currently have a sales tax permit. This information was provided to the DSC by the Iowa Department of Revenue and Finance.

⁴⁰ Memo provided by Jim Gillespie, Bureau Chief, Field Services Bureau within the DSC of IDALS. Appendix B

The document indicates the following regarding the status of the sales tax permit for these counties:

- Dallas County SWCD – “Yes, but cancelled”
- Greene County SWCD – “Yes”
- Guthrie County SWCD – “Yes”
- Jasper County SWCD – “No”

Findings and Conclusions

Under §161A.4(4), the DSC can offer assistance to the SWCDs and their commissioners in carrying out their powers, programs and policies. In addition, the DSC can coordinate the programs of SWCDs “so far as this may be done by advice and consultation.” The advice in Mr. Ehm’s memo self-admittedly was an attempt to address concerns about SWCD competition with cooperators.

The SWCDs appear to be in compliance with the majority of DSC’s suggestions and mandates applicable to state employees (secretaries) as listed in the Ombudsman’s table. The Ombudsman did identify several areas where the availability of products and services was publicized in documents disseminated to the public using SWCD funds and internal or FSA mailing lists. However, it may be difficult to distinguish between sharing public information with citizens (in printed material) and publicizing the availability of that service or product. For example, is identifying the income from these services in the SWCD’s annual report utilizing postage and printing that is not available to private contractors even though the SWCD’s financial resources is public information?

Public Records

As noted, the Jasper County SWCD does not provide contractors with copies of minutes for five days after the meeting so cooperators can receive notice prior to receiving solicitations from contractors. The secretary recalled one instance where she declined to provide the minutes to a contractor for this reason. Such a delay would be a violation of public records law if the minutes were available.

Sales Tax

The Ombudsman found that the Dallas, Greene, Guthrie and Jasper County SWCDs have not been charging sales tax for the sale of seed or equipment rental. In addition, the Ombudsman contacted several retail sources for seed and found that they also are not charging sales tax. The reason given by all these entities or individuals is that these products and services are exempt because they are used in agriculture.

The Ombudsman has been in discussions with the Iowa Department of Revenue (DOR) and DSC regarding the applicability of sales tax to the sale of products and services by the SWCDs. It is DOR’s position that because terraces, buffer/filter strips and CRP do not produce crops, these practices are indirectly related to agricultural production, “[t]herefore, sale or rental of

machinery and receipts from enumerated services used in those areas are not exempt.”⁴¹ This means that the SWCDs should be charging sales tax for these products and services.

DOR has informed the Ombudsman it will determine the best way to handle this problem and follow up accordingly.

6) Cooperators’ Comments Regarding Their Decision to Utilize SWCD Services and Products

DSC provided documentation⁴² accounting for the sale of products and services to cooperators by the Dallas and Guthrie County SWCDs. The Ombudsman obtained similar documentation from the Greene and Jasper County SWCDs. The Ombudsman then contacted 26 individuals from Dallas, Guthrie and Jasper Counties who had purchased seed or rented the drill/seeder from the local SWCD. These individuals were chosen from the lists provided by the respective counties. The Ombudsman does not have a list of cooperators that utilized EHC’s services. Seventeen cooperators returned calls or were willing to answer our questions. The relevant portions of their comments are as follows:

- Rented the drill and purchased seed from the SWCD for a CRP project of 33 acres. The federal ASCS [FSA] office provided him with the name of county commissioner who did the seeding.
- Chose to purchase seed from the county because he had had trouble with the quality of the seed purchased from a private source on a previous project. Installed filter strips.
- 8 acres. The county was on the contactor list. Did not contact anyone else. Figured if he had the county do it, there would be no question about compliance. It was a CRP project.
- Cooperator is deceased but daughter’s recollection is that FSA arranged everything; “did the calling and made the appointment.”
- Wildflower plot. “NRCS was suggested at the [FSA] office; that they [SWCD] had the right drill.” Purchased the seed from a private contractor.
- 14.2 acres CRP. “I know it was done right then.” One of the people in the FSA office told him the county had a drill.
- “Convenience.” Appreciated the fact he could get it all done at one spot. Didn’t bother getting quotes from any private contractors.
- Son-in-law suggested that they utilize the county seed, “[t]hen USDA would know they bought the seed.” Fellow farmer did the drilling.
- Was a project that needed re-seeded. He asked who could do it and he was given a contractor’s list. Asked them to do it as it was convenient.
- Quail seeding filter strip. He knew the county offered this service. He had had trouble in the past with a private contractor. He noted SWCD made it clear to him that he would gain no advantage by having them provide the seed and drilling.
- Individual was former chair for SWCD: “I’m not the person to ask.”
- NRCS told him that SWCD could do it. By having them do it, he knew it would meet specifications.
- “Less hassle.” FSA told him that SWCD could do the job.

⁴¹ Email dated March 21, 2006, from Don Cooper, Administrator of DOR’s Compliance Division.

⁴² Memo provided by Jim Gillespie, Bureau Chief, Field Services Bureau within the DSC of IDALS. Appendix B

- Bought only seed from the SWCD. His neighbor was going to drill the seed but couldn't get a drill so he had someone who his neighbor knew do it.
- "Simpler" to work with just one group of people. He checked and their prices were competitive. It is common knowledge that the SWCD rents a drill.
- "Easier" dealing with one group. "They" told him they offered the service but he could not identify whether it was an NRCS, SWCD or FSA employee.
- Got a bid from a private contractor that "purportedly" included additional services but the price was "ridiculous" so he went with the local SWCD.

Findings and Conclusions

It would appear from the responses that convenience is a prevalent factor in the decision making process for cooperators. While several responses indicated that using SWCD services or products would mean there would be no question about meeting specifications, there was no indication that SWCD staff or the secretary stated or suggested this. Federal FSA staff were mentioned repeatedly as the source of referral to SWCD services and products. The fact that contractors can offer specialized services was only mentioned once but the cooperator determined the extra services were too costly.

The Ombudsman's inquiries with SWCD staff and commissioners noted two additional reasons that SWCD services are utilized in some situations. First, absentee landowners may not have any experience with the private contractors and trust that SWCD staff has the experience to do the job correctly. It is also a matter of convenience for absentee landowners and other cooperators, especially when the SWCDs services and products are competitively priced. Secondly, SWCD (as well as NRCS and FSA) employees live and work in these communities and counties. While this may also be true of some of the contractors that provide services in those counties, the strength of the personal connection cannot be discounted. Short of eliminating the SWCDs' authority to provide equipment, labor and products as authorized in §161A.7(6), the inherent advantage which SWCDs have as the result of the convenience factor and these relationships may be difficult for a newcomer or out-of-county business to overcome. The Ombudsman's analysis is supported by the practices implemented by an out-of-state contractor the Ombudsman contacted. This business has successfully contracted with private individuals and contractors in counties to establish that personal connection.

7) Are the SWCDs Profiting From the Sale of Products and Services?

Aside from incidental sales, such as the sale of marking flags, the table on the following page identifies the **net** profit⁴³ in each calendar year for each of the four central Iowa SWCDs from the sale of services and products. The net profit is for calendar years 2004 and 2005, unless otherwise noted:

⁴³ Net profit was derived from gross sales less expenses.

| | | 2004 | 2005 |
|---|---|-----------------------|---|
| <u>Dallas</u> Rents drill with operator. Sells seed. | SWCD commissioner handles the orders, operates the drill, orders the seed and collects the monies. SWCD (state) secretary deposits the monies and pays bills for seed and expenses. | \$7439.58 | \$1336.01 (plus approx. \$3000 in seed inventory) |
| <u>Greene</u> Two drills for rent but does not provide an operator. Sells fabric check and supplies machine to lay the fabric. | SWCD (state) secretary schedules the renting of the drills and handles the monies. | -\$57,535.85 (FY 04)* | \$8170.67 (FY 05)** |
| <u>Guthrie</u> Rents a broadcast seeder but does not provide an operator. Sells seed. | SWCD (state) secretary schedules the seeder, takes seed orders, bills and deposits monies for all activities. | \$3395.86 | \$1372.40 |
| <u>Jasper</u> Rents one of two drills or a broadcast seeder. These services include an operator. Sells seed and provides mowing services. | SWCD (state) secretary provides a form if the cooperator wants to use their services. An SWCD employee schedules the service. SWCD employees order the seed. Secretary bills and deposits monies. | \$58,443.28*** | -\$77,857.78*** |

* Discontinued selling seed and providing an operator for the equipment. Excess seed was given to Environmental Habitat Corporation, a non-profit corporation. A local Future Farmers of America organization assumed tree sales.

** Greene County SWCD purchased seed and resold it to Environmental Habitat Corporation during this period because SWCD could purchase the seed at a discounted rate.

***In 2004, expenses included preparation work for building construction and a deposit on a building (to store equipment) for a total of \$15,465 and the purchase of another drill for \$24,250. Gross sales from the sale of seed and drilling or mowing services in 2004 were \$242,697.29. In 2005, a net loss was due to construction of building, \$40,759.57, and purchase of equipment, \$31,683.21. Gross sales from sale of seed and drilling or mowing services in 2005 were \$58,568.39.

The amount of profit varies dramatically between these four SWCDs. Profit – and even gross sales – may not accurately reflect the percentage of total available projects/business in any one county. For these reasons, the Ombudsman reviewed multiple documents in an attempt to identify what percentage of the projects are utilizing SWCD services or products in Dallas, Greene, Guthrie and Jasper County.

a) State Funded Projects – IFIP, REAP and WSPF

As noted earlier, the state funds multiple programs that offer cost-share funding for conservation practices. The Ombudsman focused on three state funding programs, the IFIP, REAP and WSPF programs, because they provide the majority of the funding for projects potentially involving the planting of trees, seeding or drilling of the seed. The application and approval process for these programs was explained on pages 9 through 12 of this document. Of relevance in that explanation is the following:

The cooperator subsequently submits a signed claim voucher and all bills for the project to the local SWCD. (If the cooperator has provided any materials or labor, the cooperator must itemize both on a signed “Proof of Expense” form to be attached to the claim voucher.) The SWCD commissioners are then required by rule⁴⁴ to review the DC’s “Certificate of Practice” prior to approving the voucher. Once approved, the voucher is submitted to the DSC for payment.

This means that the vouchers, along with all the bills, for every project funded by one of these programs is on file at the DSC. The Ombudsman reviewed 209 vouchers and the attached bills for fiscal years 2003-2004 (FY04) and 2004-2005 (FY05) to identify the amount of state funds expended by these programs for drilling/seeding, seed and trees. (The Greene County SWCD sold trees in FY04 but none of the four SWCDs the Ombudsman focused on currently sells trees.) The Ombudsman believes the numbers on the following page provide an estimate of the portion of the projects utilizing SWCD services or products. Some bills/invoices from private businesses attached to vouchers were difficult to decipher so there is a margin for error.

Collectively for Dallas, Greene, Guthrie and Jasper Counties, total project costs for conservation practices implemented through the IFIP, REAP and WSPF programs in FY04 and FY05 exceeded one million dollars. These monies were spent on excavation, (including terraces, waterways and ponds), tiling, trees, seed and/or labor. The monies went to cooperators (if the cooperator completed part of the work), other farmers/individuals and businesses or contractors in those counties. Of the monies spent on seed, drilling and trees, the vouchers identified the following amounts as eligible for cost-share dollars:

⁴⁴ 27 IAC 10.74(4)(b)

- Ø \$18,694.10 to purchase seed.
 - \$ 2,261.45 purchased from SWCDs (12.1%)
 - \$ 50.00 purchased from Environmental Habitat Corp. (.3%)
 - \$16,382.65 purchased from cooperators, individuals or businesses or contractors (87.6%)

- Ø \$3,379.50 for drilling/seeding.
 - \$ 927.50 paid to SWCDs for drilling or seeding services (27.4%)
 - \$2,452.00 paid to cooperators, individuals or businesses or contractors (72.6%)

- Ø \$22,092.02 to purchase trees.
 - \$ 1,510.50 purchased from the DNR⁴⁵ nursery (6.8%)
 - \$ 3,426.74 purchased from SWCDs⁴⁶ (15.5%)
 - \$17,154.78 purchased from cooperators, individuals or businesses or contractors (77.7%)

These same numbers apportioned by SWCD (rather than by product or service) for the total combined sales of services or products - \$44,165.62 - is as follows:

| | |
|-----------------------|--------------------------|
| Ø Dallas County SWCD | \$ 180.00 |
| Ø Greene County SWCD | \$3,426.74 ⁴⁷ |
| Ø Guthrie County SWCD | \$ 0 |
| Ø Jasper County SWCD | \$ 3,008.95 |
| Ø EHC | \$ 50.00 |

These numbers, when compared to the gross sales of services and products by each of these SWCDs, indicate that federally funded projects, rather than state funded projects, are responsible for the bulk of seed sales and drilling services.

b) Federally Funded Projects – CRP

The numbers in the preceding section confirm what the SWCDs and the contractors told the Ombudsman - the federal CRP, EQIP and WRP programs provide the majority of cost-share funding for projects that would potentially utilize seed and drilling services. These federally funded projects also usually entail more acres and hence, more potential for profit.

The Ombudsman chose to focus on identifying the amount of federal funds expended for drilling and seed for only the CRP program because our research indicated that the CRP program is the largest potential source of projects utilizing these services and products. There are two types of CRP; continuous and general sign-ups. Continuous sign-ups take place for qualified projects as long as funding is available where as general sign-ups are not conducted every year. The size of CRP projects will vary from fractions of an acre to hundreds of acres but general sign-ups are usually larger projects. Most of the monies reported as coming to Iowa each year for CRP are actually in the form of annual payments

⁴⁵ Department of Natural Resources

⁴⁶ Tree purchases were exclusive to the Greene County SWCD office. They discontinued selling trees in 2004.

⁴⁷ \$1,042.39 of trees were purchased from the Greene County SWCD for a project in Guthrie County for which the Guthrie County SWCD paid cost-share.

for keeping ground in CRP, not for the installation of new conservation practices. And as with the state funded programs, some CRP practices are more likely to entail drilling or the purchase of seed. All these factors combined made it a challenge to identify a fair representation of the potential projects and expenditure of funds in any one period of time.

The 26th (general) CRP occurred in 2003. The Ombudsman noticed that a large number of CRP projects were presented to the SWCD commissioners (for updating the conservation plans) in October 2003. The work would have been completed between that time and the end of 2004. For this reason, the Ombudsman requested information from the four SWCDs identifying CRP projects forwarded by the FSA to the respective SWCDs for the period between October 2003 and December 2004.⁴⁸ The Ombudsman compared cooperators identified in the minutes for the Dallas, Greene and Jasper County SWCDs that had been approved for CRP with the names on the correlating SWCD sales lists for seed and drill rental/drilling. The Guthrie County SWCD provided a listing of CRP participants. The results are listed in the following table.

| COUNTY | NUMBER OF CRP PROJECTS | NUMBER OF PROJECTS THAT PURCHASED SEED, RENTED A DRILL, OR HIRED THE SWCD. | PERCENTAGE OF COOPERATORS UTILIZING SWCD SERVICES FOR THEIR CRP PROJECT | COMMENT |
|----------------|------------------------|--|---|---|
| Dallas | 92 | 23 | 25% | |
| Greene | 51 | 2 | 3.9% | Environmental Habitat Corporation, (EHC), spent \$6800 in FY 04 and \$5250 in FY 05 to rent the drill from the Greene County SWCD. At \$12.50/acre, this means EHC seeded 744 acres in FY 04 and FY 05. EHC's president estimates "EHC does majority of the business in Greene County." ⁴⁹ |
| Guthrie | 39 | 3 | 7.7% | |
| Jasper | 133 | 78 | 58.6% | An NRCS employee estimated the SWCD does between 50 and 75 percent of the available business in the county. |

⁴⁸ As noted earlier in the document, CRP applications are forwarded to the SWCD commissioners to update the conservation plan for that piece of property. The SWCD has no control over when it receives an application from FSA and therefore some 2004 CRP applications may not have been forwarded (to the SWCD for approval) until 2005. For this reason, the Ombudsman also reviewed the 2005 SWCDs' sales lists.

⁴⁹ Dan Towers, EHC's president, said NRCS suggested he obtain permission from the cooperators before turning EHC's customer list over to the Ombudsman. Mr. Towers agreed to be quoted as saying "EHC does the majority of the business in Greene County." For this reason and due to time constraints, the Ombudsman chose not to exercise his subpoena authority to compel EHC to produce a customer list.

It should be noted that the size of the project was not available and therefore not taken into consideration; the size of the project would impact the distribution of the monies. So even though it may appear that specific SWCD's services were utilized frequently, if the SWCD's services were only utilized for small projects, the SWCD may not have received the bulk of the cost-share dollars available for the CRP projects in their county. There is also the potential for error [in the Ombudsman's review of the cooperators utilizing SWCD services in each county] in the situations where the person renting the drill or purchasing seed was not the same person identified on the CRP contract as approved by the respective SWCD commissioners. Regardless, the numbers reflected what the Ombudsman expected to see based on our review and understanding of the situations in the respective SWCDs. Specifically, there appears to be a direct correlation between the services and products offered and how they are promoted to an SWCD's profit and the percentage of CRP projects utilizing one of the SWCD's services or products.

For example, the Jasper County SWCD has two drills, provides operators and seed (if requested), identifies the availability of products and services on a website and in their newsletter. As a result, they either drilled or provided seed to 58.6% of the CRP projects in Jasper County.

In Dallas County, the SWCD commissioner utilizes the minutes to contact potential customers and had sales to 25% of the CRP projects in the county. In Greene County, EHC rents the drill from the Greene County SWCD and EHC's employee also utilizes the minutes to contact potential customers. (CDI and the Ombudsman also identified contractors that acquire the minutes from SWCDs to identify potential customers.) EHC estimates they do the majority of the business in Greene County. And the Guthrie County SWCD offers only seed and a broadcast seeder without an operator. They only received income from 7.6% of the available CRP projects.

The Ombudsman made a request to FSA on February 2, 2006 for the amount of funds expended in Dallas, Greene, Guthrie and Jasper Counties for new continuous CRP contracts in calendar years 2004 and 2005. We have yet to receive this information.

Findings and Conclusions

The four SWCDs in Dallas, Greene, Guthrie and Jasper Counties provided a variety of levels and services for examination. The Guthrie County SWCD offers only a broadcast seeder and seed; everything is handled by the state-employed secretary and there are minimal sales. The Dallas County SWCD has attempted to distance the provision of services from the office by having a SWCD commissioner handle the orders, drilling and billing from his own home. The Greene County SWCD has also attempted to distance itself from the provision of services; a non-profit corporation with close ties to the SWCD has assumed offering the services. And lastly, the Jasper County SWCD has invested significant monies in equipment and buildings to provide services to its cooperators, grossing over \$242,000 from the sale of services and products in one year.

The state funded projects, IFIP, REAP and WSPF, spent between 12% and 27% of the available funding for SWCD products or services in these counties. CRP projects, on the other hand, appear to have utilized SWCD products and services at a much higher percentage. Analyzing each SWCDs' unique situation reveals the following:

Dallas County SWCD – The SWCD commissioner takes orders for drilling and seed and serves as the drill operator. By utilizing the monthly minutes to identify cooperators, he has garnered 25% of the available CRP seedings in the county.

Greene County SWCD – Although only 3.9% of the names on their rental list can be identified as CRP projects, the relationship between the Greene County SWCD and EHC cannot be overlooked. EHC's president stated EHC does the majority of the business in the county.

The large amount of seed that the Greene County SWCD gave EHC in 2004 gives EHC advantage over contractors operating for profit. In 2005, the Greene County SWCD purchased seed and resold it to EHC for the benefit of EHC. Albeit the Greene County SWCD has not violated any laws and could give the seed to or purchase seed for resale for any organization they chose,⁵⁰ EHC's close ties with the SWCD gives the perception it has an unfair advantage.

Guthrie County SWCD – The Guthrie County SWCD only owns a broadcast seeder. This piece of equipment is not conducive to seeding the native prairie grasses utilized by many of the CRP projects so it is not surprising that the bulk of their income from CRP projects is from the sale of seed. The smaller percentage of cooperators purchasing seed from the Guthrie County SWCD supports the Ombudsman's research that seed is available from numerous sources, including the local grain elevator, seed corn salesman/companies, etc. But if both drilling and seed are offered as one service – as illustrated in the other counties – the numbers show the SWCDs do more projects.

Jasper County SWCD – The Jasper County SWCD has purchased over \$55,000 worth of equipment since July of 2003. In addition, they expended the same amount of money for the construction of a building to store equipment and seed. The profits from their sale of services and products are funding this expansion.

Conflict of Interest

Dallas County SWCD – The SWCD commissioner provides drilling services for the SWCD as an independent contractor. There is no written contract between the SWCD commissioner and the SWCD; their working arrangement is only reflected in minutes of commissioner meetings. The SWCD commissioner told the Ombudsman he has been contacted by cooperators prior to the approval of their application by the SWCD commissioners. He indicated he does not

⁵⁰ §161A.7(5) affords SWCDs the authority “[t]o obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; and to sell, lease or otherwise dispose of any of its property or interests therein in furtherance of the purposes and provisions of this chapter.”

abstain from voting because he does not influence the cooperator's decision on which contractor to choose. Nor does he abstain from voting on approving the vouchers.

Iowa Code § 68B.2A(1), pertaining to conflicts of interest, states that a "person who serves . . . a political subdivision of the state shall not engage in any outside employment or activity which is in conflict with the person's official duties and responsibilities." Paragraph "c" of that section further states that a conflict exists if the "outside employment or activity is subject to the official control, inspection, review, audit, or enforcement authority of the person, during the performance of the person's duties of office or employment."

Since the SWCD commissioner's provision of drilling services and seed for a cooperator is subject to review and payment by the commissioners, this would appear to be a conflict of interest.

When the outside employment meets this criteria, according to §68B.2A(2), the SWCD commissioner shall take one of two courses of action:

- a. Cease the outside employment or activity.
- b. Publicly disclose the existence of the conflict and refrain from taking any official action or performing any official duty that would detrimentally affect or create a benefit for the outside employment or activity. For purposes of this paragraph, "official action" or "official duty" includes, but is not limited to, participating in any vote, taking affirmative action to influence any vote, granting any license or permit, determining the facts or law in a contested case or rulemaking proceeding, conducting any inspection, or providing any other official service or thing that is not available generally to members of the public in order to further the interests of the outside employment or activity.

This would include refraining from voting on any aspect of a project or conservation plan.⁵¹

Greene County SWCD – EHC's corporation summary⁵² identifies Dan Towers, an assistant commissioner, as the registered agent and president, with the address of the Green County SWCD. In addition, a local farmer who works for the Greene County SWCD, (when projects and funding are available), is also employed by EHC. This individual is listed as treasurer and a director of EHC. Depending on the individual's responsibilities as a SWCD employee, there is the possibility the individual's outside employment relationship with EHC violates §68B.2A(1)(c) pertaining to conflict of interest.

Guthrie County SWCD – The Guthrie County SWCD does not offer an operator for the broadcast seeder. For this reason, it is not necessary to address whether any violations of §68B.2A(1) exist.

⁵¹ The Ombudsman discovered that a Madison County SWCD commissioner is a contractor. In situations where this commissioner has been contacted to do the work before the application approval, the commissioner abstains from voting. Doing so is an appropriate method of handling a conflict of interest per the provisions of §68B.2A(2)(b).

⁵² Corporation information can be accessed on the Iowa Secretary of State's website at http://www.sos.state.ia.us/corp/corp_search.asp. Accessed March 20, 2006

Jasper County SWCD – One of the two SWCD employees operating the drill is also a part-time SWCD employee; the other individual is employed only as an equipment operator. Because both employees' job duties involve being equipment operators, there is no outside employment and therefore, no violation of §68B.2A(1).

SUMMARY AND RECOMMENDATIONS

The complexity of the funding programs and relationship between the FSA, NRCS, SWCD and DSC cannot be understated. Each has its own job responsibilities yet they cannot perform these duties without each other in many instances.

SWCDs receive no direct funding aside from approximately \$2000 (to reimburse expenses), a state-employed secretary and possibly a district soil technician paid for through a combination of funds, including the DSC's Buffer/District Initiative.

SWCDs are authorized by statute to sell products and services. The Ombudsman believes the SWCD secretaries can legally assist with the sale of products and services even though they have been advised not to do so by the DSC. Offering products and services for sale not only is a convenience for cooperators, but a source of revenue to support the SWCD conservation efforts and enhance attainment of sound conservation practices in the state. Not all SWCDs provide products or services; SWCD commissioners, locally elected officials, must approve doing so. Taking all these factors into consideration, the Ombudsman cannot conclude the sale of products and services by SWCDs is unreasonable.

The Ombudsman found that the four SWCDs which were the focus of review, Dallas, Greene, Guthrie and Jasper, are competing in widely varying degrees with contractors.

There is a perception by some of the cooperators interviewed by the Ombudsman that if the SWCD does the work, it will meet specifications. The Ombudsman found inherent advantages exist for SWCDs that choose to sell seed or services: the cooperators are neighbors and friends of the employees in these counties; the monies returned to the SWCDs (through the sale of services and products) potentially benefits these same cooperators; the convenience of conducting all aspects of the project in one office. The inherent and perceived advantages the SWCDs have in the sale of products and services may be difficult for a contractor to overcome, especially if the SWCD has already acquired a significant portion of the market as is the case with a couple of the SWCDs the Ombudsman reviewed. Regardless of these inherent advantages, the success of SWCD ventures, just like that of contractors, hinges on program participation and funding, quality work, dedication, and promotion.

With 100 SWCDs in Iowa, each with their own elected commissioners and each with different practices, priorities and fundraising activities, the Ombudsman's findings as they relate to these four counties may not be applicable to all the SWCDs in Iowa. For this reason, the Ombudsman cannot conclude that all SWCDs are profiting and/or have the largest share (due to inherent advantages) of the sale of services and products in their respective counties. It is also impossible to speculate whether the cost of implementing conservation practices would increase significantly if SWCDs were prohibited from providing services or selling products because of the numerous variables related to topography, voluntary cooperation and eligibility issues. The

Ombudsman's research indicates that the practice of offering services and products for sale is not exclusive to Iowa; SWCDs in neighboring states are also engaging in the sale of services and products.

Ultimately the decision to offer products and services for sale is made by locally elected SWCD commissioners. Change can take place at the local level or at the state level. The monetary investment made by some SWCDs and contractors means that either status quo or passage of SF 180, (prohibiting SWCDs from providing services or products if the project is financed by state or federal monies⁵³), has the potential to adversely impact one or the other financially. Prohibiting SWCDs from selling services and products will not address competition from the creation and proliferation of non-profit groups offering the same services and products.

The Ombudsman recommends the following actions be taken to safeguard public monies and to bring SWCDs in compliance with existing laws.

If the General Assembly chooses to make no changes to SWCDs' statutory authority to compete:

- 1) The General Assembly should consider adding provisions in Chapter 11 of the Code of Iowa governing audits when the amount of gross revenue exceeds a specific amount. The Auditor of State should be consulted as to what level of income necessitates an audit on a regular basis. For example, Minnesota SWCDs are subject to audits under the oversight of the Office of the State Auditor. Most Minnesota districts are audited once every two years; the districts with smaller budgets are usually audited every four years.
- 2) The Dallas and Greene County SWCDs should address the violations of conflict of interest identified in this report by taking either course of action identified in §68B.2A(2).
- 3) After consultation with DOR, DSC should advise and consult with the SWCDs to bring them into compliance with Iowa's sales tax laws.

Regardless of whether any action is taken by the General Assembly to SWCDs' statutory authority to compete:

- 4) The SWCDs and state employees who work in those offices should ensure their policies and practices are in compliance with Iowa's Public Records Law (Chapter 22 of the Code of Iowa). They should obtain and utilize available resources that include:

⁵³ Section 1. Section 161A.7, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. The commissioners shall not furnish labor, machinery, seed or other plant materials, required to install a soil and water conservation practice or an erosion control practice, if the installation is financed by state or federal moneys, including but not limited to cost=share moneys and other financial incentives as provided in division V, part 2, of this chapter. The commissioners may provide a list of private contractors who are available to furnish such labor, machinery, seed or other plant materials, for landowners or occupiers within the district. This subsection shall not limit the commissioners from providing other assistance to landowners or occupiers as provided in this chapter, including planning or engineering services, or from making inspections of a practice being installed or after the practice is installed.

- “Iowa Open Meetings, Open Records Handbook” published by the Iowa Freedom of Information Council⁵⁴ for staff and commissioners.
- The Iowa Attorney General's bulletins called "Sunshine Advisories" that inform citizens and government officials about their rights and responsibilities regarding Iowa Open Meetings Law and Public Records Law. These bulletins are available at http://www.state.ia.us/government/ag/Sunshine_adv/sunshine.html.
- “Public Records 101: Basic Training”, a videotape created by the Iowa State Association of Counties, the Citizens’ Aide/Ombudsman, and the Attorney General’s Office regarding Public Records Law. Copies are available from the Iowa State Association of Counties at 515-244-7181.
- Consultation with available attorney or legal representative if question or doubt remains after considering other resources.

⁵⁴ <http://www.drake.edu/journalism/foi/foi1.html> Accessed March 20, 2006

Appendices, Replies and Comments

APPENDIX A - A Guide to Conservation Programs for Iowa Landowners
(Internet download of NRCS Brochure)

A Guide to Conservation Programs for Iowa Landowners

Your quick reference to financial and technical assistance for conservation on private lands.

Conservation Technical Assistance

Purpose: To assist land users to plan and install resource management systems that will improve and protect natural resources on their land.

Systems: Includes many different practices to reduce soil erosion; improve soil, water, and air quality; improve and restore wetlands; enhance fish and wildlife habitat; improve pasture and rangeland; reduce upstream flooding; and improve woodlands.

Eligibility: All land users may receive technical assistance from the NRCS. Land users are encouraged to work through their local Soil and Water Conservation District (SWCD) to become district cooperators.

Contract: Contracts vary by programs and practices.

Contact: NRCS, SWCDs

Wetlands Reserve Program (WRP)

Purpose: To develop and implement a conservation plan for restoration of wetlands previously altered for agricultural use.

Practices: Wetland restoration and wildlife habitat establishment.

Eligibility: Land that has been owned for one year and that could be restored to wetland conditions.

Contract: Landowners may restore wetlands with permanent easements, 30-year easements or 10-year contracts. Permanent easements pay 100% of the agricultural value of the land and 100% cost-share for restoration; 30-year easements pay 75% of the agricultural value and 75% cost-share for restoration; 10-year contracts pay 75% cost-share of restoration only. Permanent or 30-year easements are recorded with property deeds. Ten-year contracts are not recorded with deeds.

Contact: NRCS, SWCDs

Environmental Quality Incentives Program (EQIP)

Purpose: To provide technical and financial assistance to landowners to develop and implement conservation plans that address specific natural resource concerns.

Practices: Livestock manure management, grazing land management, soil erosion control, and water quality improvement practices are eligible for cost-share statewide.

Eligibility: Agricultural producers on agricultural land are eligible. Projects are selected based on environmental benefits.

Contract: Up to 10 year contracts. Agricultural producers may be eligible for up to 75% cost-share, and up to \$450,000 for all contracts for the length of the 2002 Farm Bill.

Contact: NRCS, SWCDs, FSA

Conservation Reserve Program (CRP)

Purpose: To reduce erosion, increase wildlife habitat, and improve water quality through the application of conservation plans (landowner sets aside cropland with annual rental payments).

Practices: Tree planting, grass cover, small wetland restoration, prairie restoration, and others.

Eligibility: Varies by soil type and crop history. For general signups, land is accepted into the program if the offer qualifies. Continuous signup is open for buffers, waterways, and environmental practices at all times. The living snow fence practice is now paying for 100-foot wide snow catch area with a match for areas near state highways, non-floodplain wetlands restoration initiative, and northern bobwhite quail habitat initiative.

Contract: 10-15 years depending on the type of practice. Transferable with change in ownership.

Contact: FSA, SWCDs

Forest Land Enhancement Program (FLEP)

Purpose: Assist landowners to develop and implement a forest management plan.

Practices: Forest stand improvement, tree planting, site preparations for natural regeneration, agro forage, watershed protection, wildlife habitat improvement, invasive species control, savanna restoration and forest stewardship planning.

Eligibility: Landowners with two or more acres.

Contract: Agree to maintain practices for estimated life span. A management plan is required. Up to 75 percent.

Contact: DNR

Wildlife Habitat Incentives Program (WHIP)

Purpose: To develop or improve fish and wildlife habitat on privately owned land through the application of a conservation plan.

Practices: Seeding, tree and shrub plantings, fencing, instream structures, and prairie restoration.

Eligibility: Almost any type of land is eligible, including agricultural and non-agricultural land, woodlots, pastures, and streambanks.

Contract: Usually 5-10 years to install and maintain the habitat. Up to 60% of restoration costs, to a maximum of \$25,000. Other organizations may provide the remaining 40% cost-share.

Contact: NRCS, SWCDs

Conservation Security Program (CSP)

Purpose: To reward farmers and landowners for past conservation work and provide technical and financial assistance to help develop conservation plans that address specific natural resource concerns and complete more conservation work.

Practices: Existing and new stewardship practices and activities.

Eligibility: Most agricultural land in Iowa will be eligible, except for land in WRP, CRP and GRP. Signup is open on a watershed-by-watershed basis.

Contract: 5-10 year contracts in three different tiers of participation. The maximum annual payment ranges from \$20,000 to \$45,000 per year.

Contact: NRCS, SWCDs, FSA

State Cost-Share

Purpose: To provide cost-share or incentives on permanent and management conservation practices to control erosion and reduce sediment.

Practices: SWCDs set priorities for practices to fund. Examples include terraces, waterways, and structures.

Eligibility: Any landowner who is a district cooperator and enters into a voluntary agreement with the district to install and maintain an approved conservation practice.

Contracts: Up to 50% cost-share and up to a 20-year maintenance agreement.

Contacts: DSC, SWCDs, NRCS

Note: DSC funds are administered through local SWCDs.

State Watershed Protection Practices

Purpose: Resource Enhancement and Protection (REAP) funds and Iowa Watershed Protection Program (WSPF) provide cost-share or incentives to address local water quality protection needs.

Practices: Each SWCD sets priorities for practices. Examples include tree plantings, windbreaks, land use conversion practices, and traditional erosion control practices.

Eligibility: Landowners who are SWCD cooperators and enter into voluntary agreements with the district to install and maintain approved conservation practices contained in a conservation plan.

Contracts: Up to 75% cost-share and up to a 20-year maintenance agreement.

Contacts: DSC, SWCDs, NRCS

Note: DSC funds are administered through local SWCDs.

Iowa Water Protection Fund (REAP)

Purpose: To provide funding for water quality improvement practices in watersheds above priority lakes and streams, and to protect ground water.

Practices: Land treatment and nutrient management practices, such as terraces, waterways, grade stabilization, stream bank stabilization, manure management, integrated crop management, etc.

Eligibility: SWCDs, landowners, and operators in approved Water Quality Projects.

Contract: Permanent practices require 20-year maintenance agreements. Management practices require performance agreements.

Contacts: DSC, SWCDs, NRCS

Iowa District Initiative

Purpose: To provide funding to accelerate the implementation of federal conservation programs to protect water quality and fragile land.

Practices: All of the practices available through EQIP, WHIP, WRP, and continuous CRP, including buffer strips, waterways, riparian buffers, contour buffer strips, shallow water areas for wildlife, wellhead protection, etc.

Eligibility: Landowners with land that qualifies for federal conservation programs.

Contract: 10-15 years, the length of the CRP contract.

Contact: DSC, SWCDs, NRCS

State Loan Program

Purpose: To provide no interest loans to eligible landowners for the construction of permanent soil conservation practices contained in a conservation plan.

Practices: SWCDs set priorities for practices to fund. Examples include terraces, waterways, and structures.

Eligibility: Landowners must be able to secure the loan, be capable of repaying the loan, and be a cooperator with the SWCD.

Contracts for conservation practices: Cooperators may borrow up to \$10,000 for a 10-year period and sign a 20-year maintenance agreement.

Contracts for livestock program: Minimum loan of \$10,000; Lifespan not to exceed 20 years and plans must be approved by the DNR.

Contacts: SWCDs, DSC, NRCS

Note: DSC funds are administered through local SWCDs.

Local Water Protection Loan Program

Purpose: Provide loans for permanent soil conservation practices that are designed to improve water quality and to prevent surface water runoff from open feedlots.

Eligibility: Under federal guidelines, loan funds cannot be used for projects in concentrated animal feed operations (CAFOs).

Contacts: SWCDs, DSC, NRCS

On-site Wastewater Assistance Fund

Purpose: To provide low interest loans to repair or replace on-site septic systems.

Eligibility: Landowners must be able to secure the loan, be capable of repaying the loan and be approved by the county.

Contracts: Landowners may borrow from \$2,000 to \$10,000 for up to 10 years.

Contacts: County, DNR

Conservation Reserve Enhancement Program

Purpose: Provide incentives to landowners to establish wetlands for water quality improvement in the tile-drained regions of Iowa.

Practices: Wetland restoration and adjacent buffer establishment.

Eligibility: Enrollment is on a continuous basis. Eligible land must be in one of thirty-seven counties in North-Central Iowa, and must meet the basic eligibility requirements for USDA's

Conservation Reserve Program. Eligible lands must be in landscape positions to intercept significant tile flow while not obstructing normal drainage.

Contract: Landowners will enter a 15-year contract with USDA as under the Continuous CRP. State funds will be used for additional one-time, up-front incentive payments to encourage participating landowners to enter into a required additional 15-year agreement or permanent easement. USDA and State funds will provide for 100% cost-share.

Contact: SWCDs, DSC, FSA, NRCS

Shelterbelt Program

Purpose: To provide funding for tree and shrub planting for energy conservation and wildlife habitat.

Practices: Funding to establish new or expand existing tree and shrub shelterbelts around farmsteads or feedlots for energy conservation benefits.

Eligibility: Statewide. Plantings must be around occupied farmsteads and feedlots.

Contract: Iowa DNR provides up to 75% of total cost, not to exceed \$200 per row, for 8- to 14-row shelterbelts. Trees and shrubs must be planted around farmsteads or feedlots for energy conservation benefits.

Contacts: DNR

Farm Pond Program

Purpose: To provide quality fishing opportunities for licensed anglers.

Eligibility: DNR will provide fish free of charge if ponds meet the following criteria: new or renovated and free of fish; surface area of at least 1/2 acre; maximum depth of at least 8 feet; fenced to exclude livestock with a 60 foot minimum buffer between pond edge and fence.

Contract: Landowner signs agreement to follow recommendations regarding management of the pond and adjacent wildlife area.

Contacts: DNR

EPA Section 319 Program

Purpose: To provide funding for watershed-based water quality projects that demonstrate and implement conservation practices to protect priority water bodies from agricultural and other nonpoint pollution sources.

Practices: Funds can be used for a variety of traditional and innovative conservation practices that provide water quality benefits.

Eligibility: Individual landowners and legal entities such as non-profit organizations and communities participating in U.S. Environmental Protection Agency (EPA) Section 319 water quality projects.

Contract: Funding for conservation practices is typically administered through contracts with local SWCDs.

Contacts: Iowa DNR, SWCD, EPA

Debt Cancellation Conservation Contract (Debt for Nature)

Purpose: To provide opportunity to cancel a portion of indebtedness in exchange for a conservation contract.

Eligibility: Landowner must owe the FSA and have marginal croplands or other environmentally sensitive lands for conservation, recreation, and wildlife purposes.

Contract: 10, 30 or 50 years.

Contacts: FSA, FWS

FWS Programs

The FWS offers two types of programs to Iowa landowners, including land acquisition and technical assistance. For more specifics contact the Iowa Private Lands Coordinator, P.O. Box 399, Prairie City, IA 50228, phone, 515.994.3400.

Where to Go for Assistance

The NRCS, DSC, and local SWCD staff are located at the local USDA Service Center in every county in Iowa. They provide free technical assistance on a voluntary basis to landowners to help them conserve and protect the soil, water, wildlife, and other natural resources on their land.

The Iowa DNR Forestry Bureau has 13 district forestry offices that provide free technical assistance to landowners in establishing new tree and riparian buffer strip plantings, and in woodland management planning and timber stand improvements. Landowners may purchase select seedlings at cost from the State Forest Nursery at 1-800-865-2477. Iowa DNR biologists also provide conservation assistance to landowners throughout the state.

Numerous other organizations and agencies provide conservation assistance or programs, including local Pheasants Forever Chapters, Ducks Unlimited, the Nature Conservancy, the Iowa Natural Heritage Foundation, Iowa State University Extension, and Resource Conservation and Development offices. Contact your local NRCS office for ideas and local contact information.

Abbreviations of Conservation Agencies

NRCS—USDA Natural Resources Conservation Service
www.ia.nrcs.usda.gov

SWCDs— Soil and Water Conservation Districts
(See DSC website)

DSC—Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation
www.agriculture.state.ia.us/soilconservation.html

FSA—USDA Farm Service Agency
www.fsa.usda.gov/ia

Iowa DNR—Iowa Department of Natural Resources
www.iowadnr.com

FWS—U.S. Fish and Wildlife Service
www.fws.gov

APPENDIX B - Memo provided by Jim Gillespie, Bureau Chief, IDALS' DSC Field Services Bureau

**INFORMATION ABOUT SOIL AND WATER CONSERVATION DISTRICTS
PROVIDING EQUIPMENT AND MATERIALS
GOVERNMENT OVERSIGHT COMMITTEE
FOLLOW-UP TO MEETING JANUARY 24, 2006
Jim Gillespie, IDALS-Division of Soil Conservation**

Some Soil and Water Conservation Districts (Districts) sell supplies (i.e. seed, trees, shrubs, fabric check cloth, etc.) to landowners and applicants for the installation of conservation practices. Some districts also rent equipment (i.e. no-till seed drills and seeders, fabric check machines, tree planters, etc.) to landowners and applicants to install conservation practices. These projects range in size from tenths of an acre to some larger than 50 acres. But most practices installed are less than 5 acres in size. Listed below you will see the different state and federal programs and dollars available to landowners, operators, and applicants for installing and maintaining conservation practices.

STATE FUNDING

❖ **State Cost Share (IFIP):**

Districts receive \$5.5 million allocated based on resource needs to install conservation practices on private land.

❖ **Resource Enhancement and Protection (REAP):**

Districts receive about \$1 million to install conservation practices, forestry, and native vegetation. They also receive about \$1 million to implement water quality projects.

❖ **Watershed Protection (WSPF):**

Districts receive \$2.7 million to implement watershed projects and currently there are 57 projects.

❖ **No-Interest Loans:**

Currently \$400,000 is available for new loans annually from these funds for installation of practices.

❖ **Local Water Protection Program - SRF:**

Districts currently have \$4 million loaned or applications on file for installation of practices.

❖ **Conservation Reserve Enhancement Program (CREP):**

37 districts in north central Iowa have \$1.5 million available to install wetlands to provide nitrate filtration of water.

❖ **Agriculture Drainage Well Closure:**

There is \$500,000 available to provide alternative drainage that allows drainage wells to be closed.

❖ **Buffer/District Initiative:**

Districts receive \$2 million to promote the Conservation Reserve Program (CRP) and help implement federal farm programs.

❖ **Commissioner Expenses (1M):**

District commissioners receive \$200,000 to cover their expenses in helping to administer local, state and federal programs.

FEDERAL FUNDING

❖ **Conservation Reserve Program (CRP):**

Iowa received about \$195 million dollars in federal fiscal year 2005. Most of that was for rental payments, but some was for installing continuous CRP practices.

❖ **Environmental Quality Incentive Program (EQIP):**

Iowa received about \$21 million to implement conservation practices in federal fiscal year 2005.

❖ **Wildlife Habitat Incentive Program (WHIP):**

Iowa received \$450,000 to install these conservation practices in federal fiscal year 2005.

❖ **Wetland Reserve Program (WRP):**

Iowa received about \$11 million to install and provide easements for wetlands on environmentally sensitive areas in federal fiscal year 2005.

❖ **Conservation Security Program (CSP):**

Iowa paid out about \$84 million to landowners that have done a good job of protecting our resources in federal fiscal year 2005.

If you have questions about any of the material provided, please contact me at (515)281-7043 or by e-mail at jim.gillespie@idals.state.ia.us

| According to 2004 District Survey | Drill/Seeder | Tree Planter | Mower | Fabric Check | Seed | Trees/Shrubs |
|-----------------------------------|--------------|--------------|-------|--------------|------|--------------|
| Adair | X | | | | | |
| Adams | | | | | | X |
| Allamakee | X | | | | | |
| Appanoose | | | | | | |
| Audubon | X | | | | | X |
| Benton | | | | | | |
| Black Hawk | | | | | | |
| Boone | X | | | X | | |
| Bremer | | | | | X | |
| Buchanan | | | | X | | X |
| Buena Vista | | X | | | | X |
| Butler | | | | | | |
| Calhoun | X | X | | | | X |
| Carroll | | | | | | |
| Cass | X | | | | | X |
| Cedar | | | | | | X |
| Cerro Gordo | | | | X | | |
| Cherokee | | | | | | X |
| Chickasaw | | | | | | |
| Clarke | | | | X | | |
| Clay | | | | | | X |
| Clayton | X | | | | | |
| Clinton | | | | | | X |
| Crawford | X | | | | | |
| Dallas | X | | X | | X | |
| Davis | | | | | | |
| Decatur | | | | | | |
| Delaware | | | | | | X |
| Des Moines | | | | | | |
| Dickinson | | | | | | |
| Dubuque | X | | | | | X |
| Emmet | X | | | | | X |
| Fayette | | | | X | | X |
| Floyd | | | | X | | |
| Franklin | | | | | | X |
| Fremont | | | | | | |
| Greene | X | X | | X | X | X |
| Grundy | | | | | | X |
| Guthrie | X | | | | X | |
| Hamilton | X | | | | | |
| Hancock | X | | X | | | |
| Hardin | | | | | | |
| Harrison | X | | | X | | X |
| Henry | | | | | | |
| Howard | | | | | | X |
| Humboldt | | | | | | |
| Ida | | X | | | | |
| Iowa | X | | | | | X |
| Jackson | | | | | | X |

| | | | | | | |
|--------------------|---|---|---|---|---|---|
| Jasper | X | | X | | X | |
| Jefferson | | | | | | |
| Johnson | X | X | | | X | X |
| Jones | | | | | | |
| Keokuk | | | | | | |
| Kossuth | | | | | | |
| Lee | | | | | | |
| Linn | | | | | | |
| Louisa | X | | | | X | X |
| Lucas | X | | | | | |
| Lyon | | | | | | X |
| Madison | X | | | | | X |
| Mahaska | | | | | | |
| Marion | | | | | | X |
| Marshall | | | | | | |
| Mills | X | | | | | |
| Mitchell | | | | | | |
| Monona | X | | | | | |
| Monroe | | | | | | |
| Montgomery | X | | | | | |
| Muscatine | | | | | X | |
| O'Brien | X | | | | | |
| Osceola | X | X | | | | X |
| Page | X | | | | | |
| Palo Alto | X | X | | | | |
| Plymouth | | | | | | |
| Pocahontas | | | | | | |
| Polk | | | | | | |
| Pottawattamie East | X | | | | | |
| Pottawattamie West | X | | | | | |
| Poweshiek | | | | | | |
| Ringgold | | | | | | |
| Sac | | | | | | X |
| Scott | | | | | | X |
| Shelby | X | | | | | |
| Sioux | X | | | | | X |
| Story | | | | | | |
| Tama | X | | | | | X |
| Taylor | | | | | | |
| Union | | | | | X | |
| Van Buren | X | | | | | |
| Wapello | | | | | | X |
| Warren | X | | | | | X |
| Washington | X | | | | | |
| Wayne | X | | | | | |
| Webster | X | | | X | | X |
| Winnebago | X | | X | | | |
| Winneshiek | | | | | | |
| Woodbury | | | | | | X |
| Worth | X | | X | | X | X |
| Wright | X | | | | | |

| SWCDs with an Iowa Nursery Dealer License 1-06 | |
|--|---|
| Adair | |
| Adams | X |
| Allamakee | |
| Appanoose | |
| Audubon | |
| Benton | X |
| Black Hawk | X |
| Boone | |
| Bremer | |
| Buchanan | |
| Buena Vista | X |
| Butler | X |
| Calhoun | |
| Carroll | X |
| Cass | |
| Cedar | X |
| Cerro Gordo | X |
| Cherokee | |
| Chickasaw | X |
| Clarke | |
| Clay | |
| Clayton | X |
| Clinton | |
| Crawford | |
| Dallas | X |
| Davis | |
| Decatur | |
| Delaware | |
| Des Moines | X |
| Dickinson | |
| Dubuque | |
| Emmet | X |
| Fayette | X |
| Floyd | X |
| Franklin | |
| Fremont | X |
| Greene | |
| Grundy | X |
| Guthrie | |
| Hamilton | |
| Hancock | |
| Hardin | |
| Harrison | |
| Henry | X |
| Howard | |
| Humboldt | X |
| Ida | |
| Iowa | X |
| Jackson | |
| Jasper | X |

| | |
|--------------------|---|
| Jefferson | |
| Johnson | X |
| Jones | X |
| Keokuk | |
| Kossuth | |
| Lee | |
| Linn | X |
| Louisa | X |
| Lucas | |
| Lyon | |
| Madison | X |
| Mahaska | |
| Marion | X |
| Marshall | |
| Mills | |
| Mitchell | |
| Monona | |
| Monroe | |
| Montgomery | |
| Muscatine | X |
| O'Brien | X |
| Osceola | X |
| Page | |
| Palo Alto | X |
| Plymouth | |
| Pocahontas | |
| Polk | |
| Pottawattamie East | |
| Pottawattamie West | |
| Poweshiek | |
| Ringgold | |
| Sac | X |
| Scott | X |
| Shelby | |
| Sioux | X |
| Story | |
| Tama | X |
| Taylor | |
| Union | |
| Van Buren | |
| Wapello | X |
| Warren | X |
| Washington | X |
| Wayne | X |
| Webster | X |
| Winnebago | |
| Winneshiek | |
| Woodbury | X |
| Worth | X |
| Wright | |
| | |

Spreadsheet
sent over
from Revenue

| | Sales Permit |
|---------------------------------------|-------------------|
| ADAIR CO SOIL WATER CONSV DIST | Yes |
| ALLAMAKEE COUNTY SWCD | No |
| APPANOOSE COUNTY SWCD | Yes issued 1/1/06 |
| AUDUBON CO SOIL & WATER CON DIST. | Yes |
| BENTON CO SOIL & WATER CNSRVTN | Yes |
| BLACKHAWK SOIL & WATER CONSERVATION | Yes |
| BLACKHAWK SOIL SERVICE INC | Yes |
| BOONE CO SOIL & WATER CSRVTN DSTC | Yes |
| BREMER CO SOIL & WATER CONS DIST | Yes |
| BUCHANAN COUNTY SOIL & WATER | Yes |
| BUENA VISTA COUNTY SWCD | Yes |
| BUTLER CTY SOIL & WATER CONS DIST | Yes |
| CALHOUN COUNTY SOIL WATER CNSRVTN | Yes |
| CARROLL CO SOIL AND WATER | Yes but cancelled |
| CEDAR COUNTY SOIL & WATER CONSERV | Yes |
| GERBO GORDO SOIL & WATER CONS DIST | No |
| CHEROKEE COUNTY SWCD | No |
| CHICKASAW CO SOIL & WATER CONS DIST | No |
| CLARKE COUNTY SOIL & WATER CONSERVE | Yes but cancelled |
| CLAY CTY SOIL & WATER CONS DIST | Yes |
| GLAYTON COUNTY SOIL & WATER | No |
| CLINTON CO SOIL & WATER CONSERV | Yes |
| CRAWFORD SOIL & WATER CONS DIST | Yes |
| DALLAS SOIL & WATER CONSERV DIST | Yes but cancelled |
| DAVIS SOIL & WATER CONSERVATION DIS | No |
| DELAWARE CO SOIL & WTR CNSVTN DIST | Yes |
| DES MOINES CO SOIL CONSERVATION DIST | Yes but cancelled |
| DICKINSON COUNTY SWCD | Yes |
| DUBUQUE CO SOIL & WATER CONSERVATIO | Yes |
| East Pottawattamie Soil Const Dist | Yes |
| EMMET CO SOIL & WATER CONS DIST | Yes |
| FAYETTE CO SWCD | Yes |
| ELOYD COUNTY SOIL & WATER CONSERV | Yes |
| FRANKLIN CO SOIL & WATER CONS DIST | Yes |
| FREMONT CO SOIL & WATER CONS DIST | No |
| GREENE COUNTY SOIL & WATER CONSERVA | Yes |
| GRUNDY CO SOIL & WATER CONSERV DIST | Yes but cancelled |
| GUTHRIE CO SOIL & WATER CONS DIST | Yes |
| HAMILTON SOIL CONSERVATION DIST | Yes |
| HANCOCK SOIL & WATER CONSERV DIST | Yes but cancelled |
| HARRISON SWCD | Yes |
| HENRY CO SOIL & WATER CONS DIST | Yes |
| HOWARD CO SOIL & WATER CONS DIST | Yes |
| HUMBOLDT CO SOIL & WATER CONS DIS | Yes |
| IDA GROVE SOIL & WATER CONSERV DIST | Yes |
| IOWA COUNTY SOIL & WATER CONS DIST | Yes |
| JACKSON CO SOIL & WATER CONSER | Yes |
| JASPER CO SOIL WATER CONSERV DIST | No |
| JEFFERSON COUNTY SWCD | Yes |
| JOHNSON CO SOIL WATER CONSERV DIST | Yes |
| JONES CO SOIL & WATER CONSERV DIST | Yes |

not an SWCD

| | |
|-------------------------------------|-------------------|
| KEOKUK CO SOIL & WATER CONS DIST | No |
| KOSSUTH SWCD | Yes |
| LEE SOIL & WATER CONSERVATION DIST | No |
| LINN COUNTY SOIL CONSERVATION DST | Yes |
| LOUISA SOIL CONSERVATION DISTRICT | Yes |
| LUCAS COUNTY SOIL & WATER | No |
| LYON SOIL & WATER CONSERV DIST | Yes |
| MADISON CO SOIL WATER CONSERV DIST | Yes |
| MAHASKA CO SOIL WATER CNSVRTN DST | Yes but cancelled |
| MARION SOIL & WATER CONSERV DIST | Yes |
| MILLS COUNTY SOIL & WATER | Yes |
| MITCHELL CO SOIL WATER CONS DIST | Yes |
| MONONA CO SOIL & WATER CONS DIST | Yes |
| MONROE CO SOIL&CONSERVATION DIST | No |
| MONTGOMERY SOIL&WATER CONSER DIST | Yes but cancelled |
| MUSCATINE CO SOIL & WATER | Yes |
| OBRIEN CO SOIL CONSERVATION DIST | Yes |
| OSCEOLA SOIL&WATER CONSERVE DIST | Yes |
| PAGE CO SOIL&WATER CONSERVATION DIS | No |
| PALO ALTO CO SOIL WTR CONSERV DST | Yes |
| PLYMOUTH SWCD | No |
| ROCAHONTAS SWCD | Yes |
| POLK CO SOIL & WATER CONS DISTRICT | No |
| POWESHIEK CO SOIL & WATER CONS DIST | No |
| RINGGOLD CO SOIL CONSERV DIST | No |
| STORY COUNTY SOIL CONSERVATION DIS | No |
| TAMA CO SOIL & WATER CONS DIST | Yes |
| TAYLOR COUNTY SOIL & WATER CON | Yes |
| UNION CO SOIL & WATER CONSERV DIST | Yes |
| VAN BUREN CO SOIL&WATER CONS DIST | Yes |
| WAPELLO CO SOIL CONSERVATION DIST | Yes |
| Warren County SWCD | Yes |
| WASHINGTON CO SWCD | Yes |
| WAYNE CO SOIL & WATER CONSER DIST | No |
| WEBSTER CO SOIL & WATER | Yes |
| WEST POTTAWATTAMIE SOIL & WATER | Yes |
| WINNEBAGO SOIL & WATER CONSERVE | Yes but cancelled |
| WINNESHIEK CO SOIL & WATER CONS DIS | No |
| WOODBURY CO SOIL & WATER CONS DIST | Yes |
| WRIGHT CO SOIL WATER CONSV DIST | Yes but cancelled |

| | |
|----------|-------------------|
| Adams | Yes |
| Cass | Yes |
| Decatur | No |
| Hardin | No |
| Marshall | Yes but cancelled |
| Sac | Yes |
| Scott | Yes |
| Shelby | Yes |
| Sioux | Yes |
| Worth | Yes |

GREAT PLAINS DRILL
F.Y. '04

Audubon SWCD

| DATE | | | DEPOSITS | EXPENSES |
|----------|---------------------|--|-----------|-----------|
| 07/01/03 | | | | |
| 08/05/03 | Rental | | \$ 60.00 | |
| 09/30/03 | Rental | | \$ 530.00 | |
| 11/04/03 | Rental | | \$ 250.00 | |
| 11/21/03 | Rental | | \$ 299.00 | |
| 12/02/03 | Repairs (tire) | | | \$ 300.60 |
| 01/05/04 | Repairs | | | \$ 249.22 |
| 02/25/04 | Wrenches | | | \$ 23.75 |
| 03/26/04 | Grease | | | \$ 19.94 |
| 03/30/04 | Repairs (Southside) | | | \$ 149.20 |
| 04/05/04 | Rental | | \$ 200.00 | |
| 04/15/04 | Rental | | \$ 887.00 | |
| 04/28/04 | Repairs (Iron Shop) | | | \$ 11.20 |
| 04/28/04 | Repairs (Southside) | | | \$ 17.50 |
| 05/14/04 | Rental | | \$ 30.00 | |
| 05/26/04 | Repairs (Vetter) | | | \$ 6.43 |
| 06/07/04 | Rental | | \$ 908.00 | |
| 06/30/04 | Rental | | \$ 430.00 | |
| | | | | |
| | | | | |
| | | | 3,594.00 | 777.84 |

District Profit = \$ 2,816.16

GREAT PLAINS DRILL
F.Y. '05

Audubon SEED

| DATE | | | DEPOSITS | EXPENSES |
|----------|-------------------|---------|----------------------|-------------|
| 07/01/04 | | | | |
| 07/27/04 | Rental | | \$ 127.00 | |
| 09/10/04 | Rental | | \$ 36.00 | |
| 10/06/04 | Rental | | \$ 279.00 | |
| 10/27/04 | Rental | | \$ 87.00 | |
| 11/15/04 | Rental | | \$ 40.00 | |
| 12/30/04 | Rental | | \$ 142.00 | |
| 02/08/05 | Rental | | \$ 200.00 | |
| 04/04/05 | Rental | | \$ 590.00 | |
| 04/14/05 | Rental | | \$ 609.00 | |
| 04/18/05 | Rental | | \$ 38.00 | |
| 04/25/05 | Rental | | \$ 231.00 | |
| 04/27/05 | Vetter Equipment | Bearing | | \$ 13.88 |
| 05/09/05 | Rental | | \$ 365.00 | |
| 05/17/05 | Rental | | \$ 346.00 | |
| 05/24/05 | Vetter Equipment | Upkeep | | \$ 1,507.42 |
| 05/25/05 | Lindeman Tractor | Bearing | | \$ 34.94 |
| 06/06/05 | Rental | | \$ 165.00 | |
| 06/13/05 | Southside Welding | Labor | | \$ 68.60 |
| 06/16/05 | Rental | | \$ 50.00 | |
| 06/28/05 | Rental | | \$ 530.00 | |
| 06/29/05 | Vetter Equipment | Repairs | | \$ 43.96 |
| 06/29/05 | Virgil Sorensen | Repairs | | \$ 13.28 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | 3,835. ⁰⁰ | 1,682.08 |

District Profit = \$ 2,152.92

DISTRICT ENTERPRISE

| | Spring Work 2004 | Drill | Seed | Mowing | Labor | Other | PROFIT/LOSS |
|----------|-----------------------------|-------------------|-------------------|---------------|---------------------|---------------------|-------------------|
| 11/13/03 | Bryan - advance | | \$3,990.00 | | | | |
| 11/13/03 | Moran - advance | | \$320.00 | | | | |
| 11/13/03 | Knoll (L. Davis) - advance | | \$252.30 | | | | |
| 11/25/03 | Dixon - advance | | \$667.50 | | | | |
| 11/25/03 | Forret - advance | | \$1,170.00 | | | | |
| 11/25/03 | Friar Farms - advance | | \$154.00 | | | | |
| 12/4/03 | Allendan Seed | | (\$1,225.58) | | | | |
| 2/18/04 | Leslie Helmssoth - advance | | \$112.50 | | | | |
| 2/18/04 | Jessen Farms - Max Phillips | \$583.00 | \$1,537.50 | | | | |
| 3/29/04 | Darrell Hughes - advance | \$276.80 | \$2,629.60 | | | | |
| 4/5/04 | Fullers Petroleum | | | | | | |
| 4/8/04 | Donald Hill - advance | | \$231.80 | | | (\$250.42) | |
| 4/8/04 | General Casualty | | | | | | |
| 4/14/04 | Ken Hykes - advance | | | | | (\$767.00) | |
| 4/14/04 | Allendan Seed Company | | \$1,611.60 | | | | |
| 4/19/04 | Sam Davis - advance | | (\$13,722.05) | | | | |
| 4/21/04 | Leo Klockentager | \$141.00 | \$173.25 | | | | |
| 4/21/04 | Loren Davis | \$501.40 | | | | | |
| 4/22/04 | Moss Brothers | | | | | | |
| 4/27/04 | Allendan Seed | | (\$108.00) | | | (\$39.89) | |
| 5/4/04 | Max Phillips | \$57.20 | \$165.00 | | | | |
| 5/4/04 | Friar Farms | \$97.80 | | | | | |
| 5/4/04 | Jeff Dixon | \$281.40 | | | | | |
| 5/4/04 | Farmers National | \$122.80 | \$172.20 | | | | |
| 5/4/04 | Allendan Seed - refund | | \$1,225.58 | | | | |
| 5/5/04 | Darrell Hughes | \$672.80 | | | | | |
| 5/5/04 | Fullers Petroleum | | | | | | |
| 5/13/04 | Sam Davis | \$1,323.98 | | | | (\$350.86) | |
| 5/18/04 | Allendan Seed Company | | (\$4,298.67) | | | | |
| 5/27/04 | Kelth Hogan | \$419.20 | \$213.00 | | | | |
| 5/27/04 | Michael Simpson | \$180.00 | | | | | |
| 5/27/04 | Robert Bryan Jr. | \$1,433.20 | | | | | |
| 5/27/04 | Raymond Forret | \$489.28 | | | | | |
| 5/28/04 | Suzanne Moran | \$180.00 | | | | | |
| 6/2/04 | Leslie Helmssoth | \$245.00 | | | | | |
| 6/2/04 | Donald Hill | \$180.00 | | | | | |
| 6/4/04 | Larry Schultz | \$180.00 | \$114.00 | | | | |
| 6/9/04 | Nevin Harmon | \$1,173.20 | \$3,283.20 | | | | |
| 6/16/04 | Renshaw Brothers | \$58.80 | \$88.00 | | | | |
| 6/21/04 | Jerry Lage | | \$300.00 | | | | |
| 6/28/04 | Don Crammer | | | | (\$3,618.00) | | |
| 6/28/04 | Don Crammer | | | | | | |
| 7/8/04 | Ken Hykes | \$512.16 | | | | (\$118.43) | |
| 7/12/04 | Raccoon Acres | \$265.80 | \$839.10 | | | | |
| | TOTALS: | \$9,374.80 | \$2,978.83 | \$0.00 | (\$3,618.00) | (\$1,526.60) | \$7,211.03 |

DISTRICT ENTERPRISE

| | Fall Work 2004 | Drill | Seed | Mowing | Labor | Other | PROFIT/LOSS |
|----------|-------------------------------|-----------------|-----------------|---------------|-------------------|-------------------|-----------------|
| | Crossroads Ag | | | | | | |
| 11/16/04 | Nancy Kunce | \$180.00 | | | | | |
| 11/24/04 | Larry Griggs (fuel) | | | | | | |
| 11/24/04 | Larry Griggs | | | | | (\$49.80) | |
| 11/24/04 | Don Cramer | | | | (\$216.00) | | |
| 11/24/04 | Allendan Seed Company | | (\$302.25) | | (\$112.00) | | |
| 12/6/04 | Robert Summerson | \$234.60 | \$328.60 | | | | |
| 12/10/04 | Earl Sande | \$180.00 | \$87.40 | | | | |
| 12/22/04 | Terrl Grigge (administration) | | | | | | |
| | TOTALS: | \$594.60 | \$111.75 | \$0.00 | (\$328.00) | (\$149.80) | \$228.55 |

Dallas
DISTRICT ENTERPRISE

| | | Drill | Seed | Mowing | Label | Other | Customer |
|-------------------------|-----------------------------------|-------------------|-------------------|---------------|---------------------|---------------------|-------------------|
| Spring Work 2005 | | | | | | | |
| 3/28/05 | General Casualty - Insurance | | | | | (\$673.00) | (\$673.00) |
| 4/20/05 | Deposit - Robel | \$294.50 | \$390.00 | | | | \$684.50 |
| 4/20/05 | Deposit - Robel | \$230.00 | \$343.15 | | | | \$573.15 |
| 4/20/05 | Crossroads Ag | | (\$569.75) | | | | (\$569.75) |
| 4/20/05 | Allendan Seed | | (\$3,450.00) | | | | (\$3,450.00) |
| 4/20/05 | Don Cramer - tire repair | | | | | (\$131.80) | (\$131.80) |
| 4/20/05 | Larry Griggs - repairs | | | | | (\$85.29) | (\$85.29) |
| 4/20/05 | Don Cramer | | | | (\$334.00) | | (\$334.00) |
| 4/20/05 | Larry Griggs | | | | (\$611.20) | | (\$611.20) |
| 5/5/05 | Troy Grosklags | \$180.00 | | | | | \$180.00 |
| 5/11/05 | Crossroads Ag | | \$27.00 | | | | \$27.00 |
| 5/19/05 | Bill Knoll | \$252.80 | \$589.68 | | | | \$842.48 |
| 5/19/05 | Ed Harney | \$180.00 | | | | | \$180.00 |
| 5/31/05 | Darrell Hughes | \$180.00 | | | | | \$180.00 |
| 6/1/05 | Allendan Seed | | (\$1,750.00) | | | | (\$1,750.00) |
| 6/2/05 | Don Cramer | | | | (\$1,272.00) | (\$125.00) | (\$1,397.00) |
| 6/2/05 | Larry Griggs | | | | | (\$71.86) | (\$71.86) |
| 6/7/05 | Darlene Coleman | \$482.00 | \$1,224.00 | | | | \$1,706.00 |
| 6/8/05 | Tim Forret | \$1,283.00 | \$3,439.80 | | | | \$4,722.80 |
| 6/21/05 | Lee Doldge | \$512.20 | \$1,468.40 | | | | \$1,980.60 |
| 6/21/05 | Keith Roach | \$312.60 | | | | | \$312.60 |
| 7/7/05 | John Volk | \$338.00 | \$765.00 | | | | \$1,103.00 |
| 5/10/05 | Kent Frederickson | \$642.80 | | | | | \$642.80 |
| | Profit / Loss Spring 2005: | \$4,897.80 | \$2,477.28 | \$0.00 | (\$2,217.20) | (\$1,086.95) | \$4,071.00 |

DISTRICT ENTERPRISE

| Fall Work 2005 | | | | | | | |
|---|-----------------|----------|--------------|------------|-----------|--------------|---------------|
| | | | | | | | \$0.00 |
| 10/18/05 | Purchased flags | | | | (\$5.50) | (\$5.50) | (\$5.50) |
| 11/2/05 | Advertising | | | | (\$97.92) | (\$97.92) | (\$103.42) |
| 12/1/05 | Allendan | | (\$2,957.80) | | | (\$2,957.80) | (\$3,081.02) |
| 12/1/05 | Larry Griggs | | | (\$140.00) | | (\$140.00) | (\$3,201.02) |
| 12/5/05 | Frank Geneser | \$466.00 | | | | \$466.00 | (\$2,735.02) |
| Ground froze up before scheduled projects could be seeded. | | | | | | | |
| Grass seed for these projects have been purchased and are sitting in Larry's shed to be seeded next spring. | | | | | | | |

Guthrie SWCD

Drill Rental

| Customer | Date rented | Rental \$ |
|--|-------------|--------------|
| Matt Herring | 4/29/2005 | 50.00 |
| Dave Deardorff | 5/26/2005 | 50.00 |
| Roger Howell** | 11/22/2005 | <u>50.00</u> |
| Total | | 150.00 |
| **Vicon returned broken Cost of part \$60.00 | | |

Seed Program

| 2005 Seed Program | |
|--------------------------|------------------|
| Customer Name | Seed Sale Amount |
| Doug Carstens | \$889.20 |
| Jack Bucklin | \$102.60 |
| Delbert Hughes | \$210.00 |
| Melissa Craft | \$14.60 |
| Gary & Linda Thompson | \$1,012.32 |
| Bernard & Helen Corrigan | \$7,920.72 |
| Merle Peterson Jr. | \$485.64 |
| Total Sales | \$10,635.08 |
| | |
| SWCD Seed Purchases | \$9,482.68 |
| | |
| District profit | \$1,152.40 |

APPENDIX C – Interoffice communication issued March 9, 2004 by William A. Ehm, Director, IDALS’ Division of Soil Conservation

Iowa Department of Agriculture and Land Stewardship

INTEROFFICE COMMUNICATION

TO: Division Field Office Staff
FROM: William A. Ehm, Director
DATE: March 9, 2004
RE: District Sales of Products and Services

In recent weeks the Division of Soil Conservation has been involved in discussions within the Iowa Legislature having to do with state employees and their role concerning the business enterprises of Soil and Water Conservation Districts. The business enterprises to which I refer includes the sale of trees, seed, and services including the rental of equipment and the custom operation of equipment. There is a strong belief among legislators and Iowans as a whole that services and products provided by private entrepreneurs should be promoted by those of us in state government whenever those entrepreneurs are available.

To this end the Division issued a policy statement concerning “**District Sales of Products and Services**” (SWCD-B&F-4-3 (09/03)) in September of 2003. That policy recommends “that districts should not sell products or offer services through the district office that will place the district in direct competition with local dealers or merchants”. The policy further states that “districts shall update and maintain a list of contractors that agree to provide conservation products and services to district landowners”.

Of critical importance to state employees is the portion of the policy that deals with the conduct of state secretaries and technicians in regard to District business enterprises. The Division’s policy states that “it is not appropriate for state employees to recruit” commercial business for the district. This memo is intended to add some further definition to what is expected by the policy.

- Each District is to maintain an alphabetical list of contractors that offer seed, trees, or conservation services in the district and make it readily available to cooperators. It is the responsibility of the contractor to inform the District of his/her desire to be included on the list.
- Because the products and services offered vary so widely (no-till drills for soybeans vs. drills for native grass seeding vs. fan seeders) it is suggested that the list briefly describe what the contractor has to offer. The Division will supply a template in the very near future.

- It is highly recommended that no private contractor price lists be maintained in District offices. Pricing should be a matter to be discussed between the coöperator and the contractor. State employees should encourage coöperators to contact multiple contractors on the District list.
- The District should not post any signs, business cards, price sheets, or other forms of advertising on the District office premises that offer District products and services that would create a competitive advantage for the District.
- The Division is aware of several Districts that have established a separate company to handle its products and services. The state employee's role is to assist in the activities and programs of the conservation partners. In this case the business enterprise is no longer a District function and state employees are expressly barred from any activities associated with the business, including scheduling, pricing, handling of money, serving as board members, etc.
- No state employee is to transport or operate District equipment such as drills, seeders, fabric machines, tree planters, etc.
- The names of individuals who have been approved for cost-share or have had a CRP contract approved in a District meeting open to the public, should be made immediately available upon request, to the public, including private contractors.
- Districts should not place their products or services on the contractor lists of adjoining Districts.
- It is not appropriate for Districts to utilize mailing lists and free postage and printing provided by government agencies that would otherwise be unavailable to private contractors.

As the private sector steps forward to assume responsibility for the installation of the programs the partnership promotes, we should recognize that entrepreneurial spirit and encourage it to take root:

Reply by Kenneth R Tow, Director, Iowa Department of Agriculture and Land Stewardship

MAR. 29. 2006 01:22PM

BY SOIL CON

NO. 0000 1. 2



PATTY JUDGE
SECRETARY OF AGRICULTURE

IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

March 29, 2006

William Angrick II
Citizen's Aide Ombudsman
Ola Babcock Miller Building
LOCAL

Dear Mr. Angrick:

The Division of Soil Conservation has reviewed your draft report to the Government Oversight Committee regarding soil and water conservation districts competition with small business. The following comments are offered:

1. In the acronym guide sheet on page 3, we believe that SRF is meant to refer to the "State Revolving Fund."
2. The last paragraph on page 8 implies that the EQIP and WHIP programs are administered by the Farm Service Agency (FSA). They are administered by the USDA's Natural Resources Conservation Service (NRCS).
3. We have concerns with the second paragraph on page 13. We agree that 161A.3(6) defines SWCD's as "governmental subdivisions of this state..." but have always believed that language to be synonymous with "political subdivisions". We believe that SWCD's are a governmental subdivision of the State of Iowa.
4. In the paragraph discussing the Greene County SWCD on page 34 of the report, statements in the paragraph inferring that the local farmer is or might be a DSC employee are incorrect. The only DSC employee in that office is our State Secretary.
5. In finding #1 on page 36 of the report, the fifth word – "considers" – should be "consider."

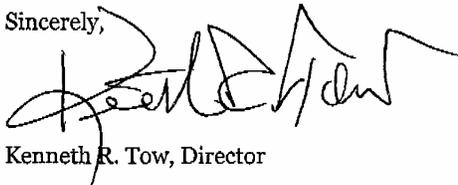
Henry A. Wallace Building • Des Moines, Iowa 50319 • 515-281-5321

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6. Also on page 36 of the report in finding #2, we believe that the statement incorrectly refers to the Jasper SWCD and should read "Dallas and Greene County SWCDs."

Thank you for the opportunity to review and comment on the report before you transmit it to the Government Oversight Committee.

Sincerely,



Kenneth R. Tow, Director

Division of Soil Conservation
(515) 281 - 6153
Ken.Tow@idals.state.ia.us

KRT\mdo

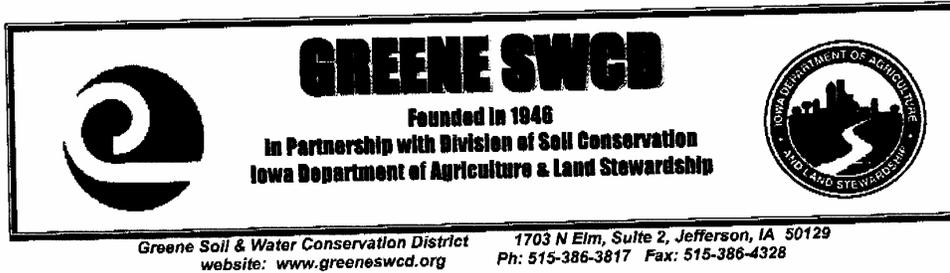
c.c.: Mary Jane Olney
James Gillespie

Henry A. Wallace Building • Des Moines, Iowa 50319 • 515-281-5321

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Reply by Alan M. Frederick, Chairperson, Green County Soil & Water Conservation District

FORM 507-2006 THU 07/01 HIT GREENE CO SERVICE CENTER FAX NO. 515 386 4328 P. 02



March 29, 2006

Citizen's Aide/Ombudsman
% William P Angrick II
1112 East Grand Ave
Des Moines, IA 50309

Dear Mr. Angrick and the Oversight Committee:

RE: Report to Government Oversight Committee

On page 10 under Federal Cost-Share Funding midway through the last paragraph of the report is the statement: "The SWCDs' role in these four programs is limited to the SWCD commissioners *approving the Contract and updating the conservation plan.*"

However, Greene SWCD DOES NOT write or approve contracts. Contracts are developed by NRCS federal staff, and funds are obligated from the NRCS (federal) state level. The SWCD does approve the conservation plans.

The employee hired by the district who also works with the Environmental Habitat Corp has not worked on any state or federal cost-sharing projects that involve seeding since EHC has taken over the custom seeding business in spring of 2004.

Dan Towers resigned his position as assistant commissioner at the March 28, 2006 meeting.

Greene SWCD commissioners were impressed with the thoroughness of this report.

Sincerely,

Alan M Frederick, Chairperson

**All programs and services are offered on a nondiscriminatory basis without regard to race, color, national origin, religion, sex, marital status or handicap.
An Equal Opportunity Employer**

Reply by Cathy Sheeder, State Secretary, Guthrie County Soil & Water Conservation District

Hirschman, Kristie [LEGIS]

From: Sheeder, Cathy - Guthrie Center, IA [Cathy.Sheeder@ia.nacdnet.net]
Sent: Friday, March 31, 2006 9:34 AM
To: Hirschman, Kristie [LEGIS]

Hello Kristie-

On behalf of the Guthrie SWCD I would like to thank you for your very thorough and unbiased research into the Soil and Water Conservation Districts, their partnerships, and their missions. We do what we can, with what we have, to educate the landowners and tenants that walk in our doors. Our ultimate goal is to get conservation practices on the land. Raising funds is a necessary element of accomplishing our missions. It only makes sense that the means by which we go about raising funds is related to the land and its' betterment. Somehow selling Soil and Water Conservation District pizzas or holding a Soil and Water Conservation District car wash confuses the message.

The Guthrie SWCD has no "formal" response to your report. Just our thanks for your efforts.

Cathy Sheeder
State Secretary
Guthrie Center, IA 50115
Ph:641-332-2812
E-mail: cathy.sheeder@nacdn.net

Ombudsman's Comments to Replies March 31, 2006

| Agency Reply | Ombudsman Comment |
|--|--|
| <p>IDALS</p> <ol style="list-style-type: none"> 1. In the acronym guide sheet on page 3, we believe that SRF is meant to refer to the "State Revolving Fund." 2. The last paragraph on page 8 implies that the EQIP and WHIP programs are administered by the Farm Service Agency (FSA). They are administered by the USDA's Natural Resources Conservation Service (NRCS). 3. We have concerns with the second paragraph on page 13. We agree that 161A.3(6) defines SWCD's as "governmental subdivisions of this state..." but have always believed that language to be synonymous with "political subdivisions." We believe that SWCD's are a governmental subdivision of the State of Iowa. 4. In the paragraph discussing the Greene County SWCD on page 34 of the report, statements in the paragraph inferring that the local farmer is or might be a DSC employ are incorrect. The only DSC employee in that office is our State Secretary. 5. In finding # 1 on page 36 of the report, the firth word – "considers" – should be "consider." 6. Also on page 36 of the report in finding #2, we believe the statement incorrectly refers to the Jasper SWCD and should read "Dallas and Greene County SWCDs." | <ol style="list-style-type: none"> 1. Agreed. Report changed to reflect this correction. 2. Agreed. Report changed to reflect this correction. 3. The definition or use of the term "political subdivisions" varies in the Code of Iowa. The SWCDs do not meet the definition of a "political subdivision" under §23A.1(1), which means only "a city, county, or school corporation." No change made to the report. 4. Agreed. Report has been changed to reflect that the local farmer is an SWCD employee. 5. Agreed. Report has been changed to reflect this correction. 6. Agreed. Report has been changed to reflect this correction. |

| Agency Reply | Ombudsman Comment |
|---|--|
| <p>Greene County SWCD</p> <ol style="list-style-type: none"> 1. On page 10 under Federal Cost-Share Funding midway through the last paragraph of the report is the statement: “The SWCDs’ role in these four programs is limited to the SWCD commissioners <i>approving the contract and updating the conservation plan.</i>” However, Greene SWCD DOES NOT write or approve contracts. Contracts are developed by NRCS federal staff; and funds are obligated from the NRCS (federal) state level. The SWCD does approve the conservation plans. 2. The employee hired by the district who also works with the Environmental Habitat Corp has not worked on any state or federal cost-sharing projects that involve seeding since EHC has taken over the custom seeding business in spring of 2004. 3. Dan Towers resigned his position as assistant commissioner at the March 28, 2006 meeting. | <ol style="list-style-type: none"> 1. The report does not indicate the SWCD has any role in writing the contracts. While the Greene County SWCD may not approve contracts, other SWCDs used the terminology “approving contracts” when interviewed by the Ombudsman. The word “possibly” has been added to the report in reference to approving the contract to address this issue. 2. Noted but no change made to the report. 3. Noted but no change made in the report. |
| <p>Guthrie County SWCD Received an email indicating the SWCD has no “formal” response to the report.</p> | |