



**US Army Corps
of Engineers®**

Galveston District
Regulatory Division

Special Public Notice

**Mitigation Banking
Instrument Template**

December 12, 2024

Galveston District Mitigation Banking Instrument Template

PURPOSE OF PUBLIC NOTICE: To inform you of a new U.S. Army Corps of Engineers, Galveston District (SWG) Mitigation Banking Instrument Template for which you might be interested. Additional information may be found on the District's web site located at: <http://www.swg.usace.army.mil/BusinessWithUs/Regulatory/>.

INTRODUCTION: The purpose of the SWG Mitigation Banking Instrument Template is to disseminate established required standards and preferential criteria to expedite the effective review and approval of mitigation bank and in-lieu fee proposals by the SWG and the SWG Inter-agency Review Team (IRT).

LOCATION: This Mitigation Banking Instrument Template will be applicable to all mitigation bank and in-lieu fee proposals within the boundaries of SWG.

SUMMARY: As outlined in 33 CFR Part 332, Compensatory Mitigation for Losses of Aquatic Resources; Final Rule, dated April 10, 2008, (Federal Register, Vol. 73, No. 70) (Mitigation Rule), the USACE and U.S. Environmental Protection Agency established a hierarchy for compensatory mitigation with a preference for mitigation bank credits. Pursuant to 33 CFR 332.8(b), the SWG IRT was established to review proposals submitted for the establishment and management of mitigation banks and in-lieu fee programs. The primary role of the IRT is to facilitate the establishment of mitigation banks and/or in-lieu fee programs through the development of mitigation banking or in-lieu fee program instruments. The IRT reviews the draft prospectus, complete prospectus, draft mitigation banking instrument (MBI), and final MBI with all associated documents (e.g. mitigation plan, long-term management plan, conservation easement, financial agreements, etc.), and provides comments to the Corps. SWG has received a large number of bank proposals, most of which have varied significantly in format, size, and approaches proposed. The SWG Mitigation Banking Instrument Template is intended to assist proponents of third-party mitigation projects in the development of technically sound, biologically successful compensatory mitigation projects. Providing the information in accordance with the template will help to get things to the Corps in a consistent manner which is intended to facilitate a smoother, more fast paced review process. The SWG Mitigation Banking Instrument Template was developed based on input from the IRT, along with elements of similar documents published by other Corps districts. It will serve to increase predictability and transparency for the public and allow for a more consistent and efficient SWG IRT review process.

CONCLUSION: By following the above guidelines for providing the level of documentation for each submittal required by 33CFR332.8 to the SWG IRT; and by including the requested information in the Appendices; sponsors will benefit from a streamlined and comprehensive review by the Corps and the IRT within a predictable timeframe. The SWG Mitigation Banking Instrument Template along with use of the SWG Checklist (found at:

<https://www.swg.usace.army.mil/Business-With-Us/Regulatory/>) will serve to increase predictability and transparency for mitigation banking activities, in addition to expediting the MB/ILF review process.

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