

Wilmington District Mitigation Bank Prospectus Checklist

The goal of a mitigation bank prospectus is to provide the USACE and North Carolina Interagency Review Team (NCIRT) with a summary of information regarding a proposed bank at a sufficient level of detail to support informed public and IRT comment. The information contained in the prospectus and comments generated by the public review will be used to make an initial evaluation for the potential of a proposed bank to compensate for the loss of aquatic functions associated with Department of the Army (DA) permits. The Mitigation Rule, issued on April 10, 2008, identifies the specific information that must be contained within any mitigation bank prospectus (33 CFR Section 332.8(d)(2)), which are listed below:

- The objectives of the proposed mitigation bank or in-lieu fee program
- How the mitigation bank or in-lieu fee program will be established and operated
- The proposed service area
- The general need for and technical feasibility of the proposed mitigation bank
- The proposed ownership arrangements and long-term management strategy for the mitigation bank project sites
- The qualifications of the sponsor to successfully complete the type(s) of mitigation project(s) proposed, including information describing any past such activities by the sponsor
- The ecological suitability of the site to achieve the objectives of the proposed mitigation bank, including the physical, chemical, and biological characteristics of the bank site and how that site will support the planned types of aquatic resources and functions
- Assurance of sufficient water rights to support the long-term sustainability of the mitigation bank

The USACE seeks to make informed decisions as early in the bank review process as possible. In part, this is to prevent unnecessary effort and expense by both the bank sponsor and Federal and State agencies in the event that a bank is determined not to have potential to provide compensatory mitigation for activities authorized by DA permits. Because the prospectus is critical to this process, it is highly recommended that in addition to meeting the minimum requirements listed above, any mitigation bank prospectus submitted for consideration by the USACE Wilmington District should address all the information needs identified the following checklist.

The rule also allows for the submittal of a draft prospectus. This is highly encouraged by the District as a way to ensure that the final prospectus, which is evaluated by the USACE and NCIRT and used to generate public comment, contains all the necessary information to make an informed decision. Additionally, it is recommended to schedule a pre-application meeting in the field to discuss the proposed site in preparation of the draft prospectus. The prospectus review timeline established by Mitigation Rule is attached for reference.

Any information contained in a prospectus submitted to the USACE should be based on current District Guidance, and is subject to approval by the USACE, in consultation with the NCIRT. Current District Guidance referenced in this checklist can be found on the Wilmington District page of the Regional In-lieu Fee and Bank Information Tracking System (RIBITS) website, available at ribits.usace.army.mil.

Wilmington District Mitigation Bank Prospectus Checklist**Site Ownership Information**

- ☐ Name of mitigation bank and bank sponsor, including point of contact, address, phone, fax and e-mail address
- ☐ Name, address, and phone number of property owner(s) (If the bank site is not owned by the listed bank sponsor, an agent authorization form signed by the property owner must be provided that identifies the sponsor as an agent of the owner and provides the Corps with access to the site for the purposes of conducting an environmental investigation and making a jurisdictional determination. A valid property option that lists the sponsor as the beneficiary of the option may be provided instead, but the option must specify that the beneficiary has the right to conduct environmental investigations on the site.)
- ☐ A description of the bank sponsor's interest in the property (e.g., fee-simple ownership, lease, conservation easement, deed restrictions, etc.)
- ☐ The qualifications of the sponsor to successfully complete the type(s) of mitigation project(s) proposed, including information describing any past such activities by the sponsor

Existing Site Conditions

- ☐ Location of the proposed bank, including county, site coordinates (in decimal degrees), 8-digit USGS Hydrologic Unit (HUC) within which the proposed bank site is located, and directions to the site
- ☐ Size of the proposed bank, including acreage of all parcels to be included in the bank, as well as the approximate acreage to be preserved by the entire bank
- ☐ Pre-bank conditions describing location, acreage and linear footage, type and condition of existing jurisdictional waters of the U.S., including wetlands, open waters, and streams - wetland type and condition should be based on the most recent version of the North Carolina Wetland Assessment Method (NC WAM), available on the RIBITS website
- ☐ The ecological suitability of the site to achieve the objectives of the proposed mitigation bank, including the physical, chemical, and biological characteristics of the bank site and how that site will support the planned types of aquatic resources and functions
- ☐ How development of the bank will help meet identified watershed needs (review State-designated Priority Watersheds, Local Watershed Plans prepared by the North Carolina Ecosystem Enhancement Program, or other watershed plans to help in this evaluation.)

- ☐ Any known site limitations, such as:
 - Existing easements on the site
 - Utility corridors within the site (local utility corridors may not have easements)
 - Mineral or water rights issues (including possible hydrologic trespass)
 - Presence of extensive invasive species on or adjacent to the proposed site
 - Sites that are listed or eligible for listing on the National Register of Historic Places in the vicinity of the proposed bank, as required by Section 106 of the National Historic Preservation Act
 - State or federally listed plant or animal communities in the vicinity of the proposed bank, as required by Section 7 of the Endangered Species Act
 - Impoundments, culverts, or other conditions affecting hydrology flow on or off the site
 - Presence of beaver activity within tributaries on or adjacent to the site
 - Adjacent land uses such as pasture, agriculture, parks or golf courses, subdivisions or other extensive impervious surfaces draining to the site

Proposed Bank Conditions

- ☐ The objectives of the proposed mitigation bank
- ☐ Description of conceptual mitigation plan, including the location and types of activities proposed to generate credits (e.g., restoration, establishment, enhancement, and preservation)
- ☐ Proposed stream and wetland types to be developed and their target functions - based on the most recent version of NC WAM or other current District guidance
- ☐ A discussion of reasonably expected development for the surrounding area and for the bank site if bank activities are not implemented
- ☐ Location and description of reference ecosystems (streams and wetlands), if known

Bank Establishment and Operation

- ☐ Describe how the mitigation bank will be established and operated
 - Type of bank, including whether the bank will be a single-site bank or an umbrella bank, and the proposed user-type (combination public/private, private commercial, private non-profit, public commercial, or single-client)
 - Identify customers and source of anticipated credit demand
 - Expected credit types: stream, wetland, nutrient offset, riparian buffer, species conservation (For streams, credit types should be designated as cool, cold or warm water stream. For wetlands,

credit types should be designated as coastal, non-riparian, riparian riverine, or riparian non-riparian wetland.)

- Proposed wetland and/or stream credit composition and calculation (i.e., credit ratios), based on current District guidance
- Description of the crediting and debiting methodology and ledger management
- ☐ The proposed service area (include a description and map of the bank's proposed service area)
- ☐ The general need for and technical feasibility of the proposed mitigation bank or in-lieu fee program
- ☐ Proposed credit release schedule, based on current District guidance
- ☐ A brief description of proposed financial assurances, if known
- ☐ The proposed ownership arrangements and long-term management strategy for the mitigation bank project sites
 - A brief description of the plans for perpetual maintenance (e.g., conservation easement, deed restriction, etc.)
 - Responsible party for long-term management, if known
 - Mechanism (e.g., endowment) and amount of long-term funding, if known
 - Any proposed management activities (e.g., routine controlled burns, beaver management, or invasive control) and proposed funding mechanism and amount, if known
- ☐ Assurance of sufficient water rights to support the long-term sustainability of the mitigation bank

Required Maps and Figures (maps and figures should identify the location and boundary of the proposed bank site, and should include a legend, north arrow, scale, date of aerial photography)

- ☐ Site location map, identifying nearby towns and roads
- ☐ USGS 1:24,000-scale topographic map, or detailed topographic surveys, if available
- ☐ Light Detection and Ranging (LiDAR) map, showing the project and local vicinity
- ☐ Current large-scale aerial photography (include date of imagery)
- ☐ USDA soil survey (web soil survey maps can be generated for free at the NRCS website, found at <http://websoilsurvey.nrcs.usda.gov/app/>)
- ☐ Available historic aerial imagery and/or maps (to support proposed restoration activities)
- ☐ Existing Waters of the U.S., including any jurisdictional delineation boundaries, if available
- ☐ Map showing approximate proposed site conditions (e.g., stream and wetland restoration, establishment, enhancement, and preservation areas) and amounts in acres and linear feet

Compensatory Mitigation Rule Timeline for Bank or ILF Instrument Approval*

		Event	# of Days**						
Phase I		Optional Preliminary Review of Draft Prospectus	30		DE provides copies of draft prospectus to IRT and will provide comments back to the sponsor within 30 days.				
Sponsor Prepares and Submits Prospectus									
~DE must notify sponsor of completeness w/in 30 days of submission~									
Phase II	Day 1**	Complete Prospectus Received by DE							
		Public notice must be provided within 30 days of receipt of a complete prospectus	30						
	Day 30								
		30-Day Public Comment Period	30						
	Day 60								
	DE must provide the sponsor with an initial evaluation letter within 30 days of the end of the public comment period.	30	15	DE distributes comments to IRT members and sponsor within 15 days of the close of the public comment period.					
Day 90									
Sponsor Considers Comments, Prepares and Submits Draft Instrument									
~DE must notify sponsor of completeness w/in 30 days of submission~									
Phase III	Day 1	Complete Draft Instrument Received by IRT Members							
		30-day IRT comment period begins 5 days after DE distributes draft instrument to IRT members	30						
		DE discusses comments with IRT and seeks to resolve issues ~ # of days variable~	60	90	Within 90 days of the receipt of a complete draft instrument by IRT members, the DE must notify the sponsor of the status of the IRT review.				
	Day 90								
Sponsor Prepares Final Instrument									
~Sponsor provides copies to DE and all IRT members~									
Phase IV	Day 1	Final Instrument Received by DE & IRT							
		DE must notify IRT members of intent to approve/not approve instrument within 30 days of receipt.	30	45	IRT members have 45 days from submission of final instrument to object to approval of the instrument and initiate the dispute resolution process.				
	Day 30								
		Remainder of time for initiation of dispute resolution process by IRT members	15						
	Day 45								
INSTRUMENT APPROVED/NOT APPROVED, or DISPUTE RESOLUTION PROCESS INITIATED									

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Total Required Federal Review (Phases II-IV): ≤225 Days

*Timeline also applies to amendments

**The timeline in this column uses the maximum number of days allowed for each phase.