



SPECIAL PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

BUILDING STRONG®

California Mitigation Bank Templates

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What: The Sacramento, San Francisco, and Los Angeles Districts of the U.S. Army Corps of Engineers (USACE), along with the U.S. Fish and Wildlife Service (USFWS), the California Department of Fish and Wildlife (CDFW), the California Resources Agency, the National Marine Fisheries Service (NMFS), the United States Environmental Protection Agency (EPA), the State Water Resources Control Board (State Water Board), and the Natural Resources Conservation Service (NRCS) as potential participants in Interagency Review Teams (IRT) have updated the standard Mitigation Bank Enabling Instrument (BEI) template, Bank Proposal Guidelines, Bank Proposal Checklists, and developed Sales Agreement Templates, for use with mitigation banks that are established within the State of California. This notice is to inform interested parties of the availability of the completed templates, checklists, and guidance.

SUBJECT: The attached templates, checklists, and guidance are for use in the development of mitigation and conservation banks that are within, or that propose service areas within the State of California. The Project Delivery Team (PDT) established by the [2011 interagency Memorandum of Understanding \(MOU\) concerning Mitigation and Conservation Banking and In-Lieu Fee Programs in California](#) developed these templates, checklists, and guidance, following the consideration of comments received in response to the 2020 public notice, and subsequent public meetings, and following input from the Bank Agency Management Team (BAMT), also established by the MOU. The attached templates, checklists, and guidance becomes effective for use for any new proposed mitigation bank, where a prospectus is received after June 30, 2021. Mitigation banks currently in process may, and are encouraged to, use the attached templates, checklists, and guidance, rather than earlier versions. The updated templates, checklists, and guidance will be used jointly by the USACE South Pacific Division's Sacramento, San Francisco, and Los Angeles Districts, along with the USFWS, the CDFW, the CNRA, the NMFS, the EPA, the State

Water Board, and the NRCS, as potential participants in IRT. As always, we will continue to discuss the experiences of mitigation bankers and others in using these templates, checklists, and guidance, to inform potential future changes to our templates, checklists, and guidance. This notice, as well as the original notice of the proposed updates, may be viewed at: <http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences.aspx>.

AUTHORITY: The templates, checklists, and guidance will be used in the development of mitigation banks, which provide mitigation for impacts from projects which have which have received authorizations to proceed under the authorities of Section 10 of the Rivers and Harbors Act of 1899 for structures or work in or affecting navigable waters of the United States and/or Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States. Additionally, these templates are to be used when those mitigation banks would also propose to provide mitigation for projects which have been required to provide mitigation by USFWS, CDFW, NMFS, the State Water Board, and/or NRCS. These agencies have committed through the above mentioned MOU to establishing a combined and coordinated approach to mitigation and conservation banking which includes the development of template documents for use throughout the State of California. These templates, checklists, and guidance reflect existing regulations, policies, and guidance and represent the way in which USACE, USFWS, NMFS, NRCS, EPA, the CNRA, the State Water Board, and CDFW intend to implement and provide a consistent approach to mitigation and conservation banking proposals.

If you have questions or need additional information please contact Tom Cavanaugh, 415-503-6574, Thomas.J.Cavanaugh@usace.army.mil.

If you are unable to access the documents via the links below, please cut and paste the URL address into your browser.

[CHECKLISTS20210520.PDF](https://media.defense.gov/2021/May/20/2002675323/-1/-1/1/CHECKLISTS%2020210520.PDF) <https://media.defense.gov/2021/May/20/2002675323/-1/-1/1/CHECKLISTS%2020210520.PDF>

[BEI 20210520.PDF](https://media.defense.gov/2021/May/20/2002675322/-1/-1/1/BEI%2020210520.PDF) <https://media.defense.gov/2021/May/20/2002675322/-1/-1/1/BEI%2020210520.PDF>

[PROPOSAL GUIDANCE 20210520.PDF](https://media.defense.gov/2021/May/20/2002675321/-1/-1/1/PROPOSAL%20GUIDANCE%2020210520.PDF) <https://media.defense.gov/2021/May/20/2002675321/-1/-1/1/PROPOSAL%20GUIDANCE%2020210520.PDF>

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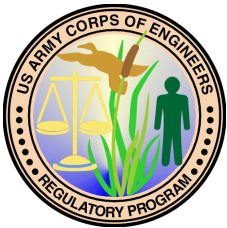
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Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

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