

Navigating the Mitigation Process: A Guide and Templates for Mitigation Site Proposals in the Kansas City District

Version 2026-01-28

Introduction and Purpose

This document provides guidance and standardized templates for developing a Compensatory Mitigation Bank or In-Lieu Fee (ILF) Program Instrument for submission to the U.S. Army Corps of Engineers (USACE), Kansas City District. It has been designed to assist sponsors by clearly outlining the information required by USACE Kansas City District and the Interagency Review Team (IRT) for a complete, thorough, and efficient evaluation.

The information provided below, and in the accompanying templates, should provide sponsors with most of the information and guidance needed to submit proposals and plan for participation in USACE Kansas City District's mitigation program. Adherence to the format and instructions contained herein is strongly recommended and is the most effective way to expedite the overall review and approval process. While sponsors may propose projects or instrument formats that do not entirely align with this guidance and accompanying templates, please be advised that such proposals will likely require additional justification and information, leading to extended review times. Substantial deviations from this guidance may ultimately affect the approvability of the project.

For questions or comments on this guidance, please contact Matt Shively or Danny DeAngelo at:

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Matthew.S.Shively@usace.army.mil

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816-389-3657

Daniel.T.Deangelo@usace.army.mil

How to Use This Template

This document contains a standardized template designed to streamline the creation of a Compensatory Mitigation Bank or In-Lieu Fee (ILF) Program Instrument. To ensure your submission is complete and can be reviewed efficiently, please adhere to the following instructions.

The template that follows this introductory guidance is composed of two distinct types of text:

- **Required Text (Black):** Text that appears in a standard black font is mandatory and must be included in your final submittal exactly as it appears in the template. This language has been standardized to meet regulatory requirements.
- **Guidance Text (*Blue Italics*):** Text that appears in blue italics is instructional. It serves as a description or guide, explaining what information is being asked for in that specific section. This instructional text is for your reference only and must be deleted and replaced with your project-specific information before you submit the instrument.

By following this structure, you will help ensure your proposal contains all the necessary information for a thorough and timely evaluation.

Getting Started

USACE Kansas City District strongly encourages a pre-application meeting to begin the process, prior to the formal submission of a mitigation proposal. This preliminary consultation is a critical step that provides significant benefits to the applicant. It allows USACE Kansas City District to help ensure you have identified all necessary information required for a complete application packet. More importantly, this meeting provides an early opportunity to assess the proposed site's ecological suitability for compensatory mitigation. This initial feedback can help you make informed decisions before committing substantial time and financial resources toward property acquisition and the development of detailed technical documents. We recommend this consultation be conducted as early as possible in your project planning, which can even occur prior to the purchase of a property.

You can initiate a request for a pre-application meeting through our Regulatory Request System (RRS) at www.rrs.usace.army.mil. The RRS is a web-based platform designed to streamline and simplify the USACE permitting and mitigation review process.

Application Submission

Following your pre-application consultation, the formal application package should be submitted directly to the Project Manager (PM) who conducted your pre-application meeting. This ensures continuity and allows the PM who is already familiar with your proposal to manage the review process. Applications should be submitted electronically to the PM's email. If the application package includes files that are too large to transmit electronically, you can request that the PM provide you with a link to the Department of Defense file sharing platform (DoDSAFE).

In the event a pre-application meeting was not conducted, please submit the complete application package to the appropriate email address based on the state where the proposed mitigation site is located:

- For sites in Kansas:
regulatory.kansasState@usace.army.mil

- For sites in Missouri:
regulatory.missouristate@usace.army.mil

It is important to note that the Regulatory Request System (RRS) does not currently support the initial submission of mitigation bank or in-lieu fee proposals. Therefore, applications must be submitted via one of the direct email methods described above.

Compensatory Mitigation Rule Timeline

The 2008 Compensatory Mitigation Rule (33 CFR Part 332) establishes a structured and predictable timeline for the review of proposed mitigation bank and in-lieu fee (ILF) program instruments. This timeline provides applicants clear expectations for review of mitigation proposals, and USACE Kansas City District prioritizes adherence to the timeline. Below are the distinct phases of the review process.

Phase 1 (Optional): Draft Prospectus Review (Goal: Within 30 days)

Before initiating the formal review process, a sponsor may submit a draft prospectus to USACE for preliminary feedback. This optional step is highly recommended as it allows for early coordination with USACE and the Interagency Review Team (IRT) before the official timeline begins. It provides an opportunity to identify and resolve potential issues early, which can save time and resources. The eight elements of a complete prospectus are described within 33 CFR 332.8(d)(2). A link for this information is included within the “Resources and Reference Materials” section below.

Phase 2: Formal Prospectus Review (Up to 90 days)

This phase marks the beginning of the formal instrument review process, starting on the date the Corps receives a *complete* prospectus.

1. Day 0: Official process begins with receipt of a complete prospectus. A complete prospectus should include an aquatic resources delineation. A cultural resources survey may also be required to begin our Section 106 NHPA review.
2. Within 30 Days: USACE will issue a public notice for the prospectus.
3. By Day 90: USACE provides formal comments to the sponsor based on feedback from the IRT and the public. If determined appropriate, USACE will then notify the sponsor to proceed with submitting a draft instrument.

Phase 3: Draft Instrument Review (Up to 90 days)

After receiving notification to proceed, the sponsor develops and submits a detailed draft instrument. The review clock for this phase begins upon receipt of a *complete* draft instrument. This document includes the comprehensive technical, legal, and financial details of the proposal.

1. Key Requirements: Detailed work plans, monitoring protocols, long-term management plans, credit release schedules, and draft real estate assurances. See 33 CFR 33 CFR 332.8(d)(6)(ii) as well for a complete list of all required information.

The state-specific Mitigation Banking Instrument Outlines linked in the “Resources and Reference Materials” section below also include relevant information on mitigation instrument requirements.

2. By Day 90: USACE provides consolidated comments on the draft instrument to the sponsor.

This guidance is accompanied by a USACE Kansas City District template for preparing draft instruments for mitigation bank and in-lieu fee proposals. The template includes detailed instructions and notes, and establishes USACE Kansas City District’s preferred format for submissions. Please review this template carefully. While not mandatory, your adherence to this template and its district-specific guidance will increase the likelihood of efficient review and achieving approval.

Phase 4: Final Instrument Review (Up to 45 days)

Once the sponsor has addressed all comments on the draft, a Final Instrument is submitted for a concluding review.

1. Key Requirements: Final versions of all plans, legal documents, and financial and real estate assurances.
2. By Day 45: USACE makes its final decision on whether or not to approve the instrument.

For more detailed guidance on these timelines, you can review the official memo on the topic: *Improving USACE Timeline Compliance with the 2008 Compensatory Mitigation Rule*, which can be found at <https://api.army.mil/e2/c/downloads/2024/09/18/9d098f4c/mitigation-rule-memo-16-sep-2024-pdf.pdf>.

Withdrawal Policy

To ensure the efficient and timely review of all proposals, it is the policy of USACE Kansas City District that a sponsor's failure to provide requested information or revised instruments within 120 days of a formal request will result in the project being withdrawn from active consideration. This policy applies to all mitigation proposals, irrespective of whether the project is in the prospectus, draft instrument, or final review phase.

Should the necessary information be provided after the 120-day deadline has passed, USACE Kansas City District may, at its discretion, resume its review of the proposal. However, resuming the review may necessitate a new public notice if a significant amount of time has elapsed, substantive new information is received, or site conditions have changed. This will ensure the public and all reviewing agencies have an opportunity to comment on the most current project information. In cases of lengthy delay, USACE Kansas City District may require the sponsor to submit a new proposal, thereby restarting the review process from the beginning.

External Agency Coordination

Approval of a mitigation bank or In-Lieu Fee (ILF) program is a federal action that requires compliance with federal regulations, including Section 106 of the National Historic Preservation Act (NHPA) and Section 7 of the Endangered Species Act (ESA). The USACE is responsible for ensuring this compliance, which involves coordination with other federal and state agencies. This section outlines the sponsor's responsibilities in facilitating this coordination.

Cultural Resources (Section 106 of the NHPA)

Under Section 106 of the NHPA, federal agencies must consider the effects of their undertakings on historic properties. As the lead federal agency, USACE is responsible for Section 106 compliance. Sponsors may be required to have a cultural resources survey performed for the proposed mitigation site.

Sponsors can choose to consult with the appropriate State Historic Preservation Office (SHPO) on their own in advance to gather information on the likelihood of potentially eligible historic properties within the project area. The topic of Section 106 compliance can also be discussed during the pre-application consultation with USACE.

While sponsors can initiate early consultation, the USACE ultimately has the authority to determine whether a project will affect cultural resources and to require a survey to make this determination. USACE will coordinate with the relevant SHPO and tribal governments on this determination.

Missouri SHPO Website – <https://mostateparks.com/page/state-historic-preservation-office/sec-106-review>

Missouri list of Archeology Consultants: <https://mostateparks.com/page/state-historic-preservation-office/archaeology-and-historic-preservation-consultants-list-and-professional-qualifications>

Kansas SHPO Website: <https://www.kansashistory.gov/p/archeology/19067>

Kansas List of Archeology Consultants: <https://www.kansashistory.gov/p/archeological-consultants/14593>

Endangered Species (Section 7 of the ESA)

Section 7 of the ESA requires federal agencies to ensure that their actions are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat.

Sponsors can use the U.S. Fish and Wildlife Service's (USFWS) Information for Planning and Consultation (IPaC) website (<https://ipac.ecosphere.fws.gov/>) to determine if endangered species or critical habitat may be present in their project area. This information can be included in the mitigation bank or ILF instrument.

Important: Sponsors should **NOT** request an official species list (OSL) from the USFWS. As the lead federal agency, the USACE will request the OSL. Sponsor-generated OSLs can result in duplicate project IDs with the USFWS and cause confusion and delays.

U.S. Fish and Wildlife Service (USFWS) Contact Information:

Kansas Ecological Services Field Office

website: <https://www.fws.gov/office/kansas-ecological-services>

Missouri Ecological Services Field Office

website: <https://www.fws.gov/office/missouri-ecological-services>

Financial Assurances

Financial assurances are required for all mitigation bank and In-Lieu Fee (ILF) projects to ensure their long-term success. These assurances guarantee that funds are available for the implementation, performance, and long-term management of the mitigation project, even if the sponsor is unable to fulfill their obligations. Both short-term and long-term financial assurances are required.

Short-Term Financial Assurances

Short-term financial assurances are required to cover the costs of construction, monitoring, and initial maintenance activities. The USACE Kansas City District accepts the following forms of short-term financial assurances:

1. Letters of Credit: An irrevocable letter of credit from a financial institution.
2. Casualty Insurance: A policy that covers damage to the mitigation site.
3. Performance Bonds: A bond from a surety company that guarantees the sponsor's performance.

The amount of the short-term financial assurance must be sufficient to cover the estimated cost of completing the project.

Long-Term Financial Assurances

Long-term financial assurances are necessary to fund the perpetual management and maintenance of the mitigation site after the initial monitoring period is complete. The USACE Kansas City District strongly prefers the use of an endowment as the long-term financial assurance mechanism. An endowment is a fund where the principal is invested, and the investment income is used for long-term management.

Sponsors who propose to use an alternate long-term financial assurance mechanism must provide a substantial demonstration that the alternate source will provide a perpetual and reliable source of funding for the long-term maintenance and management of the site.

All funds for financial assurances, both short-term and long-term, must be held in an FDIC-insured account.

For guidance on calculating the appropriate amount for an endowment, sponsors should refer to the following resources:

1. The Nature Conservancy's (TNC) FA Calculator: This tool helps in estimating the long-term management costs and the required endowment principal.
2. IWR White Paper on Financial Assurances: This document provides comprehensive guidance on financial assurances for mitigation projects.

Links to these resources are provided in the "Resources and Reference Materials" section of this document.

After Project Approval

Once a mitigation bank or In-Lieu Fee (ILF) program instrument is approved, the sponsor can begin the process of implementing the project and generating credits. This section outlines the basic expectations and sequence of events that follow project approval.

Project Implementation Sequence

The implementation of a mitigation project typically follows this sequence:

1. Recording of Site Protection: The first step after approval is to record the site protection instrument (e.g., a conservation easement) with the County Recorder of Deeds.
2. Establishment of Financial Assurances: The sponsor must establish the required short-term financial assurances.
3. Post-Approval Site Conditions Update: The sponsor must provide a Baseline Conditions Verification Statement to the USACE, affirming that the site conditions are consistent with what was approved in the instrument. The first credit release is contingent on these first three steps
4. Construction: The sponsor can then proceed with the construction and implementation of the mitigation activities as described in the approved work plan. **Note:** Small deviations from the approved work plan are common due to unforeseen on-site conditions. However, larger deviations from the original plan are not allowed without prior approval from the USACE. Failure to obtain this pre-approval may result in the as-built structure not being approved and/or the removal of credit generation from the unapproved deviations. Any deviation beyond minor adjustments, such as small wetland boundary changes or slight modifications to outflow structure locations, should be brought to the USACE for approval prior to construction. The USACE understands the burden that delays can bring during the construction phase and will work with the Sponsor to reach a resolution as quickly as possible.

5. **As-Built Report:** After construction is complete, the sponsor must submit an as-built report to the USACE for approval. The as-built report must provide a detailed account of the completed work, including any deviations from the original plan. It should include survey-grade data for features like stream channels and wetland boundaries to verify the constructed conditions against the design plans and to calculate the revised credit generation.
6. Once the As-built Report is completed, the sponsor must submit for approval the revised credit generation totals which reflect the completed work as detailed in the as-built report. The second credit release is contingent on steps 4, 5, and 6 being complete and approved.
7. **Monitoring:** A monitoring period, typically a minimum of five years, begins after the construction is complete. The sponsor must conduct annual monitoring to assess whether the project is meeting its ecological performance standards. Credit releases are contingent on the USACE receiving and approving the monitoring reports and ecological performance standards being met.
8. **Funding of Long Term Endowment Principal:** The sponsor is required to fully fund the initial endowment principal, as adjusted for inflation. The final credit release is contingent upon this principal being deposited and held in the designated endowment account for a minimum of one year. This holding period is required to ensure the endowment begins generating funds for long-term stewardship. While the sponsor has the discretion to make the deposit at any time after site protection is recorded (Step 1), this one-year funding requirement prior to the final release is mandatory for approval.
9. **Final Credit Release:** As the culminating step before the site transitions to long-term management, the final release of credits is contingent upon the fulfillment of both financial and ecological requirements. Firstly, the long-term endowment principal must be fully funded and held within its designated account for a minimum of one year. Secondly, following the successful completion of the monitoring period, the U.S. Army Corps of Engineers (USACE) must issue a formal approval of the final monitoring report. This approval is granted only after the USACE verifies that all ecological performance standards for both wetland and stream have been definitively met. Sponsors should anticipate that the final report approval process will typically include an end of monitoring site inspection, as this is a standard requirement for the USACE to validate the reported outcomes.

Credit Tracking in RIBITS

All mitigation credits are tracked in the Regulatory In-lieu Fee and Bank Information Tracking System (RIBITS). Sponsors are encouraged to track their credit releases and sales in RIBITS. However, please note that the USACE Kansas City District does not allow sponsors to edit

information in RIBITS directly. The USACE is responsible for recording all transactions. A link to RIBITS is provided in the "Resources and Reference Materials" section.

Important Templates and Requirements

- Conservation Easement Template: The Kansas City District provides a conservation easement template, which is included in Appendix D of the Instrument Template. The use of this template is strongly encouraged to expedite the review and approval process.
- Credit Sales Notification and Receipt Transmittal Template:
THE USE OF THE MOST RECENTLY APPROVED CREDIT SALES NOTIFICATION AND RECEIPT TRANSMITTAL TEMPLATE IS REQUIRED FOR ALL CREDIT TRANSACTIONS. THIS TEMPLATE MUST BE SIGNED AND DATED BY BOTH THE PERMITTEE AND THE MITIGATION SPONSOR.
- Monitoring Report Template:
SPONSORS ARE REQUIRED TO USE THE MOST RECENTLY APPROVED MONITORING REPORT TEMPLATE FOR ALL MONITORING REPORTS SUBMITTED TO THE USACE.

Long-Term Stewardship

The long-term success of a mitigation site depends on a well-defined long-term management plan and a designated long-term steward. The long-term steward is the entity responsible for the perpetual management of the site. It is required that the long-term steward be identified in prior to approval advance, if possible, during the instrument development process.

Resources and Reference Materials

The following resources are provided to assist applicants in navigating the mitigation development and application process. These links provide access to key district web pages, regulatory systems, and guidance documents relevant to your proposal.

Mitigation Instrument Template

The standardized Mitigation Instrument Template is available for download in Word format at the link below. This template is designed to streamline the creation of a Compensatory Mitigation Bank or In-Lieu Fee (ILF) Program Instrument.

https://publibrary.sec.usace.army.mil/api/download?id=cb5c7d9f-96dc-4633-9eba-8655f035b789&filename=2026-01-28_MitSOPCreditPurchaseReceiptTemplate.docx&token=&preview=true

Credit Sales Notification and Receipt Transmittal Template

The standardized Credit Sales Notification and Receipt Transmittal Template is available for download in Word format at the link below. This template is required for Sponsors and/or Applicants when notifying the USACE of a credit sale or purchase.

https://publibrary.sec.usace.army.mil/api/download?id=cb5c7d9f-96dc-4633-9eba-8655f035b789&filename=2026-01-28_MitSOPCreditPurchaseReceiptTemplate.docx&token=&preview=true

Mitigation Monitoring Report Template

The standardized Monitoring Report Template can be downloaded in Word format from the link below. This template must be used for all annual monitoring report submissions.

https://publibrary.sec.usace.army.mil/api/download?id=b80ac93e-6df8-4360-ad4d-d8be504206fc&filename=2026-01-28_MitSOPMonitoringRptTemplate.docx&token=&preview=true

Conservation Easements

Below are the most recently approved Conservation Easement templates.

Missouri: <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll11/id/2881>

Kansas: <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll11/id/2942>

U.S. Army Corps of Engineers, Kansas City District

This is the main website for the Kansas City District, offering a general overview of its missions, news, and various programs.

www.nwk.usace.army.mil

Kansas City District, Regulatory Division

This is the homepage for the Regulatory Division. It provides public notices, staff contacts, and specific information on permitting and enforcement. You will also find various links to mitigation-related information in the “Topics of Interest” section of the main page.

<https://www.nwk.usace.army.mil/Missions/Regulatory/>

33 CFR Part 332 (2008 Mitigation Rule)

These federal regulations describe USACE’s authority to require and approve compensatory mitigation for impacts to aquatic resources under the authority of the Clean Water Act and the Rivers & Harbors Act of 1899. The Mitigation Rule describes requirements for mitigation proposals and procedures for USACE approval. This document also establishes key concepts such as mitigation preference hierarchy, watershed approach, financial assurances, ecological performance standards, monitoring, and management.

<https://www.federalregister.gov/documents/2008/04/10/E8-6918/compensatory-mitigation-for-losses-of-aquatic-resources>

Improving USACE Timeline Compliance with the 2008 Compensatory Mitigation Rule

This is the official USACE memorandum that details the specific timelines, phases, and procedures for the mitigation instrument review process. This is the same as shown above.
<https://api.army.mil/e2/c/downloads/2024/09/18/9d098f4c/mitigation-rule-memo-16-sep-2024-pdf.pdf>

Regulatory Request System (RRS)

This is the web portal used for most regulatory actions. It should be used to request pre-application meetings for mitigation proposals.
<https://rrs.usace.army.mil/rrs>

Institute for Water Resources: Implementing Financial Assurance of Mitigation Project Success

This white paper serves as a reference guide on the use of financial assurances for mitigation projects, detailing different assurance instruments and implementation issues.
https://iwrlibrary.sec.usace.army.mil/api/download?id=94a4cc21-32d0-4065-fbf6-7da464177ddc&filename=Financial_Assurance%20IWR%20Report.pdf&token=&preview=true

Nature Conservancy Long-Term Stewardship Calculator

Calculator Handbook:

<https://www.conservationgateway.org/content/dam/tnc/conservation/cg-documents/l/o/long-term-stewardship-calculator-handbook.pdf>

Excel Document: https://www.nature.org/content/dam/tnc/conservation/cg-documents/s/t/Stewardship_Calculator.xlsx

1987 Delineation Manual and Regional Supplements

The delineation manual and regional supplements describe the required methodology to delineate wetlands.

1987 USACE Wetland Delineation Manual:

<https://usace.contentdm.oclc.org/digital/collection/p266001coll1/id/4532/>

Regional Supplements to Corps Delineation Manual:

https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/reg_supp/

RIBITS (Regulatory In-lieu Fee and Bank Information Tracking System)

RIBITS was developed by the U.S. Army Corps of Engineers to track mitigation banking and in-lieu fee (ILF) program activities across the United States. RIBITS includes information regarding banks and ILF program sites, associated documents, mitigation credit availability, service areas, and policies and procedures that affect bank and ILF program development and operation.

<https://ribits.ops.usace.army.mil>

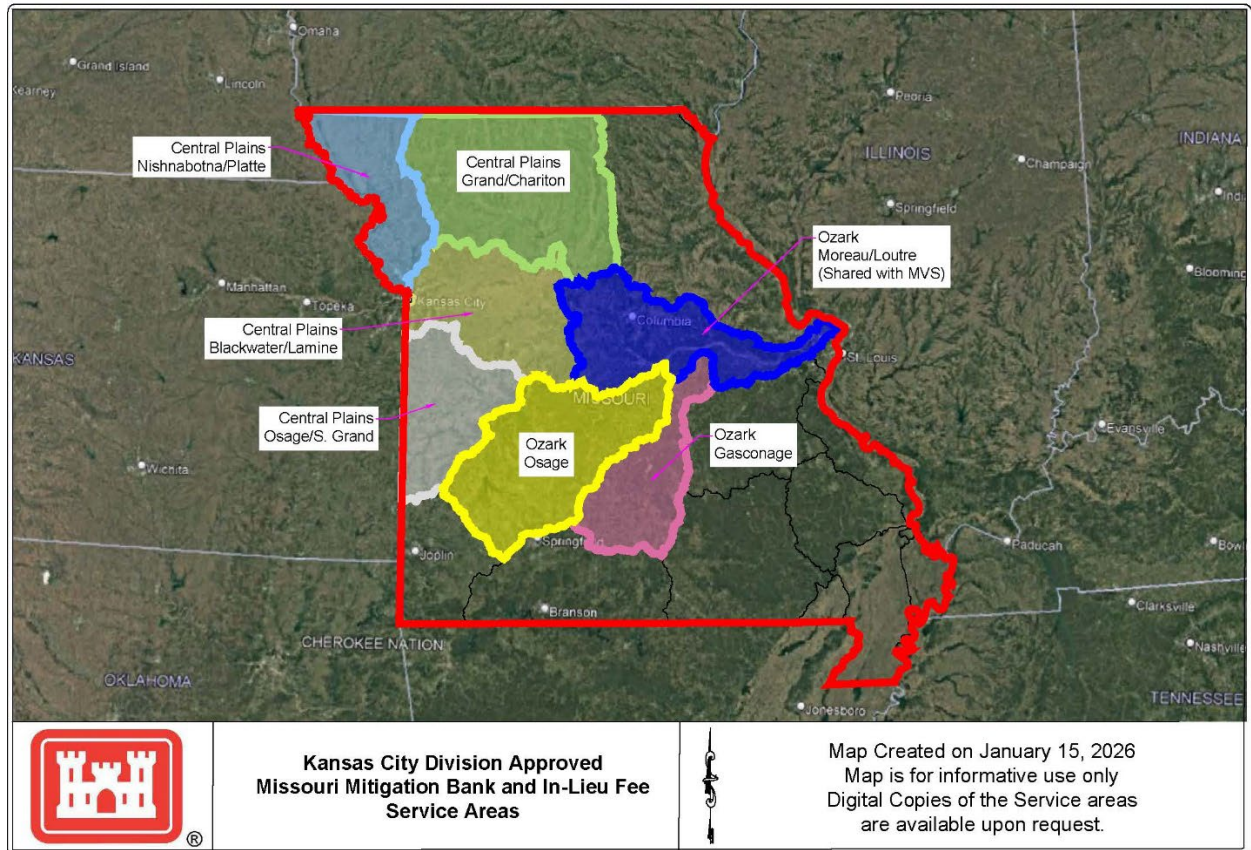
Consultants

This is a list of consultants who can conduct wetland and stream delineations and submit them to the Corps of Engineers for a jurisdictional determination. This list is not an endorsement by the Corps of Engineers. The Kansas City District provides this as a service to the public, and it is

not all-inclusive. There may be other qualified consultants not on this list. Anyone using this list is responsible for ensuring the chosen consultant is qualified.

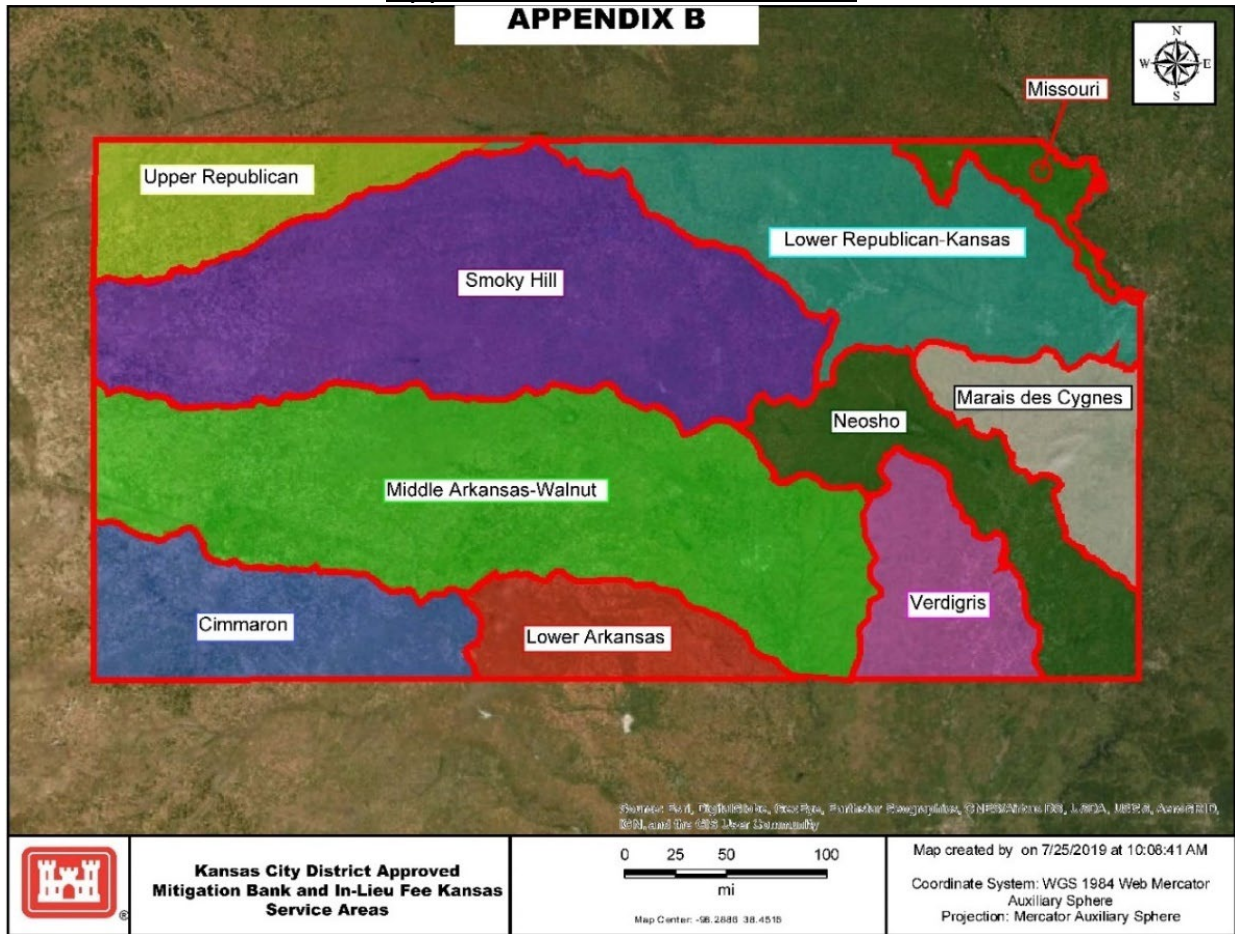
https://publibrary.sec.usace.army.mil/api/download?id=6b80a255-a95e-4256-ac15-7a16e9c8cf22&filename=2026-01-15_Consultants.pdf&token=&preview=true

Approved Missouri Service Areas



Approved Kansas Service Areas

APPENDIX B



Note: Service areas for both Kansas and Missouri can be provided electronically.

Compensatory Mitigation Rule Timeline for Bank or ILF Instrument Approval*

		Event	# of Days**		
Phase I	Day 1**	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			
	Day 30	Public notice must be provided within 30 days of receipt of a complete prospectus	30		
	Day 60	30-Day Public Comment Period	30		
	Day 90	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.
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			
	Day 30	30-day IRT comment period begins 5 days after DE distributes draft instrument to IRT members	30		
	Day 90	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.
Sponsor Prepares Final Instrument ~Sponsor provides copies to DE and all IRT members~					
Phase IV	Day 1	Final Instrument Received by DE & IRT			
	Day 30	DE must notify IRT members of intent to approve/not approve instrument within 30 days of receipt.	30	IRT members have 45 days from submission of final instrument to object to approval of the instrument and initiate the dispute resolution process.	
	Day 45	Remainder of time for initiation of dispute resolution process by IRT members	15		
	Day 45	INSTRUMENT APPROVED/NOT APPROVED, or DISPUTE RESOLUTION PROCESS INITIATED			

EPA/Corps draft 4/02/08

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.