Mitigation Bank Instrument Review Checklist Questions

The Mitigation Bank Instrument Review Checklist reflects the content of each element in the Mitigation Bank Instrument Review Workbook. For each element, the checklist asks whether the question was addressed (yes/no), whether the narrative is complete (yes/no), and the page numbers of the relevant narrative. A comment section for reviewer input is also included.

| **Review Elements**  Questions | **Addressed (Yes/No)** | **Complete (Y/N)** | **Page #(s)** | **Reviewer Comments** |
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| **Introduction** | | | | |
| Has the prospectus been reviewed? |  |  |  |  |
| Are there any components unresolved or unaddressed from the prospectus? |  |  |  |  |
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| 1. **Bank Goals and Objectives** |  |  |  |  |
| 1a. Does the instrument include a description of the resource type(s) and approximate amount(s) that will be provided? |  |  |  |  |
| 1b. Does the instrument identify functions and services to be provided by the bank site? |  |  |  |  |
| 1c. Does the instrument include the methods used for compensation? |  |  |  |  |
| 1d. Does the bank site address ecological resource needs within the watershed or landscape setting in which the bank site is located? |  |  |  |  |
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| 1. **Site Selection** |  |  |  |  |
| 2a. Is the bank site located within the watershed or landscape position where it is most likely to either replace lost functions and services or enhance existing, compromised functions and services as described in the draft instrument? |  |  |  |  |
| 2b. Does the bank site include areas that were formerly aquatic resources or are currently degraded aquatic resources? |  |  |  |  |
| 2c. Does the bank site include buffers that would protect it from its surroundings? Does it help buffer other conserved aquatic resources from potentially incompatible activities? |  |  |  |  |
| 2d. Is the bank site adjacent to other conserved aquatic resources or does it help establish or extend a conserved corridor? |  |  |  |  |
| 2e. Has the proposed bank site addressed ecological needs that have been identified within the project landscape/watershed such as chronic environmental conditions (flooding, impaired water quality, insufficient habitat for important aquatic species, etc.) (33 CFR 332.3(c)(3)/40 CFR 230.93(c)(3))? |  |  |  |  |
| 2f. Are there any apparent potential constraints and/or limitations to the proposed bank? Are any of these critical to successful bank establishment or operation? |  |  |  |  |
| 2g. Is this bank site ecologically suitable for providing the desired aquatic resource functions/services within the subject watershed or landscape position? |  |  |  |  |
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| 1. **Baseline Information** |  |  |  |  |
| 3a. Does the bank instrument include a description of the baseline watershed/landscape, and ecological characteristics of the proposed bank site? |  |  |  |  |
| 3b. Is the baseline data applicable and comparable to data that will be collected post construction (performance standards)? |  |  |  |  |
| 3c. Do the baseline conditions support the project’s goals and objectives? |  |  |  |  |
| 3d. Does the instrument include or reference a delineation of wetlands/waters? |  |  |  |  |
| 3e. Does the instrument include information related to at risk fauna and flora species and/or other regulated resources (cultural/archaeological)? |  |  |  |  |
| 3f. Does the instrument include the location and extent of any utilities and other infrastructure in the project vicinity? |  |  |  |  |
| 3g. Does the instrument include the location and information related to any existing easements, rights-of-way (ROW), or other property restrictions? |  |  |  |  |
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| 1. **Mitigation Work Plan** |  |  |  |  |
| 4a. Does the instrument or exhibit include the required work plan components? Do these components have detailed specifications and descriptions? |  |  |  |  |
| 4b. Are the work plan components reflective of the project’s goals and objectives? |  |  |  |  |
| 4c. Do the work plan components follow established best practices or provide an explanation discussing why the approach is appropriate? |  |  |  |  |
| 4d. Does the work plan consider the presence of any existing infrastructure (i.e., utilities) or easements? |  |  |  |  |
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| 1. **Financial Assurances** |  |  |  |  |
| 5a. Does the instrument include the basis for the financial assurance, either corrective action on the bank site, or replacement compensation at another site? Is this consistent with district/state requirements? |  |  |  |  |
| 5b. Does the instrument include an itemized list of work associated with construction, monitoring, and maintenance provided in support of the financial assurance estimate? Does the itemized list include all the component parts associated with the project? |  |  |  |  |
| 5c. Does the instrument include specific conditions for reduction/release of financial assurances? |  |  |  |  |
| 5d. Do the assurances identify a non-federal beneficiary in the event that a claim is made on the assurances? |  |  |  |  |
| 5e. Does the type of assurance provide for payment, performance, or both in the event that a claim is made? |  |  |  |  |
| 5f. Does the assurance include notification to the Corps at least 120 days before expiration/revocation of the assurances? |  |  |  |  |
| 5g. Does the instrument or associated exhibit specify that the Sponsor will provide a financial assurance mechanism prior to an initial release of credits? |  |  |  |  |
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| 1. **Site Protection Instrument** |  |  |  |  |
| 6a. Does the instrument include a proposed long-term site protection mechanism (conservation easement, declaration of restrictions, etc.)? Is the protection mechanism consistent with current district/state guidelines (including template instruments)? |  |  |  |  |
| 6b. Does the mechanism protect against interests/activities that are incompatible with the project’s goals and objectives? |  |  |  |  |
| 6c. Does the instrument list any other interests in the property (financial, mineral/timber, water rights)? Does the instrument (or exhibits/attachments to the bank instrument) include an explanation as to how those other interests may affect the bank site? |  |  |  |  |
| 6d. If the site is located on public lands is the Sponsor proposing additional long-term protection measures? Do they seem adequate? |  |  |  |  |
| 6e. Does the site protection mechanism include the requirement to provide the Corps with 60-days advanced notification if there is a proposed amendment or termination of the site protection mechanism? |  |  |  |  |
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| 1. **Geographic Service Area** |  |  |  |  |
| 7a. Does the bank instrument or associated exhibits include a clearly defined service area(s) for the bank? |  |  |  |  |
| 7b. Are there multiple service areas or service area types defined? Is this consistent with district, state, or local requirements? |  |  |  |  |
| 7c. Does the bank instrument or associated exhibits specify the watershed or landscape units used to define the service area? |  |  |  |  |
| 7d. Does the service area comply with local, district, and/or state requirements (scale, size, or resource type)? |  |  |  |  |
| 7e. Is the rationale for the location, size, and extent of the service area clearly documented in the instrument and/or exhibits? |  |  |  |  |
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| 1. **Credit Determination** |  |  |  |  |
| 8a. Is the Sponsor’s credit determination methodology consistent with the current district/state standards? |  |  |  |  |
| 8b. Is the proposed generation of credits consistent with district/state policy, and is it applied accurately? |  |  |  |  |
| 8c. Does the proposed number of credits reflect the difference between baseline and post-construction conditions? |  |  |  |  |
| 8d. Are any of the proposed credits based solely on preservation? |  |  |  |  |
| 8e. Are credits proposed for generation through restoration, enhancement, or preservation of riparian areas, buffers, or uplands? If so, are those riparian areas/buffers/uplands considered necessary to maintain the ecological viability of aquatic resources? |  |  |  |  |
| 8f.Does the instrument include a table identifying credits that will be generated by resource type, and is there a corresponding map identifying those locations? |  |  |  |  |
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| 1. **Credit Release Schedule** |  |  |  |  |
| 9a.Does the instrument or associated documents specify a credit release schedule? |  |  |  |  |
| 9b. Is the credit release schedule consistent with the mitigation type and resources being proposed? Does the instrument’s credit release schedule differentiate between mitigation methods and resource types? |  |  |  |  |
| 9c. Does the release schedule specify incremental milestones (e.g., construction completion, meeting performance standards) to be achieved for credit releases? |  |  |  |  |
| 9d. Will a significant amount of credits be withheld until all performance standards have been met? |  |  |  |  |
| 9e. Is the release schedule consistent with current/accepted practices in the district or state? |  |  |  |  |
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| 1. **Assumption of Mitigation Responsibilities** |  |  |  |  |
| 10a. Does the instrument include a provision stating that the Sponsor assumes the permittee’s mitigation liability? |  |  |  |  |
| 10b. Does the instrument include a provision stating that the Sponsor will notify the district of each transaction? |  |  |  |  |
| 10c. Does the instrument specify the timing at which the district is notified of a transaction? |  |  |  |  |
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| 1. **Accounting Procedures** |  |  |  |  |
| 11a. Does the document have a credit accounting procedure outlined? |  |  |  |  |
| 11b. Does the document indicate when transaction notifications will be provided to the Corps? |  |  |  |  |
| 11c. Does it indicate what information will be provided in the notification? |  |  |  |  |
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| 1. **Reporting Protocols** |  |  |  |  |
| 12a.Does the instrument specify requirements for submittal to the Corps such as:   * + - * Project monitoring reports?       * Annual ledger account reports or RIBITS ledger updates?       * Annual financial assurance and long-term management funding reports? |  |  |  |  |
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| 1. **Default and Closure Provisions** |  |  |  |  |
| 13a. Does the instrument (or associated exhibits) specify what is meant by default? |  |  |  |  |
| 13b. Does the instrument identify options available to address default? |  |  |  |  |
| 13c. Does the instrument (or associated exhibits) define bank closure? In the case of an umbrella banking instrument does it define closure for an individual bank site? |  |  |  |  |
| 13d. Does the instrument (or associated exhibits) identify what actions must be completed in order for the bank to close? |  |  |  |  |
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| 1. **Performance Standards** |  |  |  |  |
| 14a. Does the mitigation plan contain performance standards to evaluate attainment of project objectives? |  |  |  |  |
| 14b. Does the district have performance standards for the proposed aquatic resource(s)? If the district does not have performance standards, proceed to questions 14d-14h. If the district has performance standards, proceed to question 14c-14h. |  |  |  |  |
| 14c. Are the standards proposed by the Sponsor consistent with current district practices? |  |  |  |  |
| 14d. Are the performance standards ecologically based (e.g., entail comparison to reference sites/data, based on functional or condition assessment methodologies, and/or have measurements of hydrology or vegetation indices)? |  |  |  |  |
| 14e. Are the standards derived from the project’s goals and objectives? Are they verifiable and well-defined? Are the standards clear enough that a third party would understand them? |  |  |  |  |
| 14f. Do the Sponsor’s standards include three elements: attribute measured, level that defines success, and time period to achieve success? See example table above. |  |  |  |  |
| 14g. Do the standards evaluate incremental progress toward project objectives? |  |  |  |  |
| 14h. Do the performance standards compare project/site development to reference sites/data? |  |  |  |  |
| 14i. Where applicable, are there separate performance standards for different habitat or resource types? |  |  |  |  |
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| 1. **Monitoring Requirements** |  |  |  |  |
| 15a. How long will the site be monitored? |  |  |  |  |
| 15b. What parameters/criteria will be monitored? Are they sufficiently detailed to evaluate attainment of performance standards? |  |  |  |  |
| 15c. Does the instrument specify the content of the monitoring report? |  |  |  |  |
| 15d. Does monitoring include the use of reference sites or data to evaluate performance? |  |  |  |  |
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| 1. **Maintenance Plan** |  |  |  |  |
| 16a. Does the instrument contain a description and schedule of maintenance requirements to ensure the project remains viable once it has been constructed and throughout the monitoring period? |  |  |  |  |
| 16b. Does the description cover all relevant aspects of maintenance including ecological and infrastructure maintenance? |  |  |  |  |
| 16c. Does the description identify regular or recurring actions? |  |  |  |  |
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| 1. **Adaptive Management Plan** |  |  |  |  |
| 17a. Does the instrument or associated management plan document(s) include recommended general guidelines for adaptive management that encompass:   * Unforeseen circumstances, which may be defined at a national, state, or district level. * Coordination with the IRT? * The process for adjusting the project if it cannot be constructed according to plan? * How the project will be managed if it does not meet its performance standards or long-term management goals? |  |  |  |  |
| 17b. Do the monitoring and long-term management plans include provisions to determine whether any adaptive measures are needed? |  |  |  |  |
| 17c. Do the monitoring, management, or long-term management plans consider the potential for adaptive management as a result of climate change or sea level rise? |  |  |  |  |
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| 1. **Long-Term Management Plan** |  |  |  |  |
| 18a. Does the instrument include a long-term management plan (LTMP)? |  |  |  |  |
| 18b. Does the instrument or LTMP identify the party(ies) responsible for long-term management? Can the responsibility for long-term management be transferred to another party? |  |  |  |  |
| 18c. Does the LTMP include a complete itemization of long-term management tasks to be conducted periodically on a permanent basis? |  |  |  |  |
| 18d. Are the annual cost estimates for management activities broken down by task? Does the LTMP identify references for cost information used in the plan? |  |  |  |  |
| 18e. Does the LTMP provide information supporting how the total amount of long-term financing was determined? |  |  |  |  |
| 18f. Does the LTMP allow for periodic adjustments in management priorities? Does this include adjustments in spending? |  |  |  |  |
| 18g. Does the LTMP describe how the LTMP will be funded (lump sum, installments, prior to credit release, etc.)? Is that consistent with current practices in the district/state? |  |  |  |  |
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