

National In-Lieu Fee Program Training Workshop

Session XI: Program Evaluation and Audits

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US Army Corps of Engineers
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ILF Program Account

33 CFR 332.8(i)

- ILF program account funds may only be used for:
 - ▶ *“selection, design, acquisition, implementation and management of ILF compensatory mitigation projects”*
 - ▶ Except for a *“small percentage”* that can be used for administrative costs (typically 8-27% of credit fees with the average being ~15%)
 - Amount approved by Corps in consultation with IRT
 - Specified in ILF Program Instrument
- *“The purpose of the program account is to ensure that the funds collected from permittees by the in-lieu fee program sponsor are used within a reasonable time period to provide compensatory mitigation for DA permits, instead of other activities.”* (Federal Rule Preamble)



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Tools and Templates for Program Reporting, Evaluation, and Audits

- **Seattle District ILF Instrument Program Accounts**
 - ▶ Service Area specific
 - ▶ Credit Fees and Land Fees
 - ▶ Credit fees divided into sub-accounts
 - Program Administrative Account (~10%)
 - Mitigation Project Accounts (~77%)
 - Contingency Fees (~10%)
 - Long-Term Management Fund (~3%)
 - Interest accrued divided between Contingency and LTM
- **Sales Agreement Template**
- **Spending Authority Template**
 - ▶ Requires a proposed budget for ILF Mitigation Sites
- **ILF Annual Report Template**



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ILF Program Reporting

- **Annual Reports (33 CFR 332.8(i)(3))**
 - Fees collected, funds expended
 - List of permits using ILF Program
 - Credit balances by service area
 - Account expenditures
- **ILF Sponsor and Co-Chair Quarterly Summit Meetings**
- **ILF Mitigation Site Monitoring Reports**
 - Must comply with *33 CFR 332.4(c) and 332.6 (Monitoring)*
- **Seattle District ILF Instruments also include a provision to track overall ILF Program Performance**
 - Allows sponsor to analyze overall performance to inform adaptive management of the ILF Program
 - Results reported on a biennial basis

ILF Program Reporting

Four questions related to tracking program performance:

- Are mitigation fees collected from applicants covering operating costs of the ILF Program?
- Is the program meeting regulatory requirements outlined in the federal rule in a timely and efficient manner? (e.g., is implementation of mitigation projects routinely occurring within three years from the time of impact?)
- How is the program affecting permit processing times relative to historical norms?
- In a given service area is the overall ecological function enhanced or degraded considering the balance of allowed impacts and resulting mitigation projects implemented by the ILF Program?

The biennial report will answer the questions above and examine the overall effectiveness of the ILF Program and if necessary, suggest revisions to improve the program.



ILF Program Administration Account

Seattle District ILF Instruments include the following allowable administrative expenditures:

- **Site selection and concept design**
- **Fee and Credit accounting**
- **Legal services**
- **Data management (e.g., Maintaining ILF Program Database; Credit Accounting, Tracking Program Performance)**
- **Reporting**
- **Correspondence and meetings with the IRT and other regulatory agencies**
- **Program development**
- **Other program administration duties as necessary *and determined to be appropriate by the Corps and Ecology, after consultation with the IRT***

Are any of the following expenditures from the Administrative Fund Account allowed?

- Using admin funds from one service area to fund site reconnaissance in another service area
- Purchasing a truck for ILF Program
- Attending a conference on restoration ecology
- Paying health insurance for ILF Program Manager
- Remediation assessment for asbestos removal
- Preparation of a PowerPoint presentation regarding the ILF for Regulators and Tribes

ILF Program Audits

33 CFR 332.8(i)(4)

- *“The district engineer may audit the records pertaining to the program account. All books, accounts, reports, files, and other records relating to the in-lieu fee program account shall be available at reasonable times for inspection.”*
- Why and when should ILF Programs be audited?
- Who performs the audit (above and beyond review of the annual report)?
- Who pays for the audit?
- How long should ILF sponsors keep paper records? Electronic?



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Questions?

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