

EDC Overview

It is a commonly held perception that it takes an average of 13 years to deliver a major highway project (from planning through completion). However, several opportunities exist in the current project delivery process where innovative approaches will improve project delivery times. Consequently, in the summer of 2010, Federal Highway Administrator Victor Mendez launched the Every Day Counts (EDC) Initiative. Specifically, this initiative is designed to identify and deploy innovation aimed at enhancing the safety of roadways and protecting the environment, while ultimately shortening the transportation project development process.

What is the In-Lieu Fees and Mitigation Banking Initiative?

This Every Day Counts initiative helps State departments of transportation (DOTs) and other agencies achieve significant time- and cost-savings during the permitting process established by the Clean Water Act. This tool expands the use of mitigation banking (MB), conservation banking, and in-lieu fees (ILF) to save time and expedite project delivery while protecting the environment.

Now, MB and ILF better support compensatory mitigation, which is an effective way to offset unavoidable environmental impacts of a project once all practicable avoidance/minimization effects are achieved. It includes wetland/stream restoration, preservation, and habitat protection for endangered species.

Contact Information

For training or more information on this Every Day Counts Initiative, please contact your local FHWA Divisions Office.

To learn more about EDC, visit:
<http://www.fhwa.dot.gov/everydaycounts>

About Every Day Counts

Every Day Counts is designed to identify and deploy innovation aimed at shortening project delivery, enhancing the safety of our roadway, and protecting the environment.



In-Lieu Fees and Mitigation Banking



U.S. Department
of Transportation
Federal Highway
Administration

What are In-Lieu Fees (ILF) and Mitigation Banking (MB)?

The MB and ILF programs are large-scale stream and wetland mitigation programs that provide an efficient way to meet environmental mitigation requirements.

A mitigation bank identifies a specific mitigation bank site in the MB Instrument. The Instrument is the agreement that outlines the credits, type of habitat, service area for selling credits, monitoring requirements, and long-term management plan for the specific site. ILF programs establish a similar agreement, but the sites are not always identified within the Instrument. ILF money is collected for an approved project. When the specified amount of money is in the account, the money can be released for that project. ILF programs typically include more than one site within a watershed.

Entities responsible for mitigation can purchase credits at an existing ILF program or MB, or they can establish their own program or bank for FHWA projects. Purchased before any impacts occur, these credits provide compensatory mitigation for any adverse impacts that occur in a proposed project.

How does the MB/ILF approach accelerate project delivery?

State departments of transportation (DOTs) can often fulfill their mitigation obligations by simply purchasing mitigation credits at an ILF or mitigation bank. Risk transfers to the bank or ILF sponsor (not including banks sponsored by State DOTs). Regulatory agencies often prefer banks and ILF programs because they protect and restore larger blocks of habitat, and they rarely award credits until good performance criteria are reached.

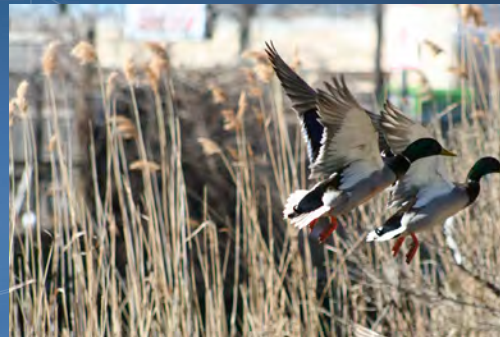
How are In-Lieu Fee and Mitigation Banks established, and how are fees collected?

State and local DOTs can establish an ILF program only for DOT projects, with the approval of an Interagency Review Team. Fees are collected in advance of impacts and distributed to organizations that develop wetland mitigation sites.

The DOTs can also establish single-client mitigation banks. After identifying and acquiring a mitigation site, the DOT develops a site-specific Instrument that outlines credits to be generated, lists habitat types to be created, establishes a service area, and provides other relevant information.

When is compensatory mitigation required?

Compensatory mitigation is required for projects that impact streams, wetlands, and other waters covered by the U.S. Environmental Protection Agency (EPA) and Army Corps of Engineers-issued regulations on mitigation, ILF programs, and mitigation banking. The FHWA authorizes mitigation under Executive Order 11990, which requires Federal agencies to avoid and/or minimize impacts to wetlands. It may also be required under the Endangered Species Act, State laws, or regulations.



Can Federal funds be used for MBs/ILF programs in advance of construction?

Yes. Federal-aid may be used to buy credits at a mitigation bank or an ILF program that satisfies the mitigation requirements. State DOTs may use National Highway System or Surface Transportation Program Federal aid funds. Activities may occur in advance of construction funded under Title 23 and before project-level environmental reviews are completed, provided they comply with all laws and regulations.

Who can buy credits at an MB or ILF?

Anyone (DOTs, local public agencies, private developers, etc.) can buy credits at a mitigation bank owned by a private party. If the State DOT establishes its own bank, the DOT may determine if it will allow local agencies with Federal-aid dollars to buy credits at the bank. It is possible to allow a local entity to utilize a DOT bank, but this should be outlined in the *Instrument*. The same recommendation applies to an ILF program: it should be outlined in the *Instrument*.

What are the Benefits of In-Lieu Fees and Mitigation Banks?

Buying credits at an ILF or mitigation bank simplifies mitigation requirements and reduces costs. There is no need to:

- secure a mitigation project site,
- legally protect the mitigation site in perpetuity,
- develop and implement a mitigation project plan, or
- monitor and maintain the mitigation.

The ILF or bank sponsor takes responsibility for implementing, monitoring, and maintaining the mitigation project site in perpetuity.