

## **Final White Paper on Task 2: Review of Mechanisms**

**Produced under contract by: ICF Consulting Services, LLC  
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### **for the California Integrated Waste Management Board Financial Assurance and Corrective Action Contracted Study**

For Task 2, ICF understands that the CIWMB is looking for a succinct overview of existing mechanisms and a discussion of new or alternative mechanisms, or ways that the current mechanisms can be modified to make the assurance last longer.

#### **Task 2, Step 1: Agree on Criteria to Use for Evaluation**

The effectiveness of financial assurance demonstrations stems from the effectiveness of their terms and conditions. ICF recommends using the following set of effectiveness criteria:

- Certainty that assured funds will be available --certainty of assurance requires that demonstrations contain no provisions that would impair the availability of required funds, such as unacceptable cancellation, termination, or other conditions, and overly broad exclusions. Certainty also is affected by the criteria used to determine who is eligible to offer assurance mechanisms.
- Adequacy of value (i.e., amount) of funds assured -- adequacy of value refers to potential limits to the full amount of coverage provided by a demonstration, which could result from exclusions, sublimits, and other conditions.
- Liquidity of funds -- liquidity refers to the degree to which the demonstration can be readily converted to cash (e.g., during the termination or cancellation notice period, if there is no acceptable replacement financial instrument to substitute within the period of the notice) or otherwise made to fulfill obligations on a timely basis.
- Administrative burden and cost on regulated parties, issuers, and administering agencies -- these burdens and costs may be inherent to a demonstration (e.g., collateral requirements for a surety bond) or may be influenced by how the financial assurance program is designed (e.g., required use of standardized wording for a mechanism reduces burdens, the nature and extent of filing/notice requirements can raise or lower burdens).

The deliverable for this step will be the agreed list of evaluative criteria and their definitions.

## Task 2, Step 2: Agree on List of Demonstrations to be Evaluated

ICF's analysis may include all the options for financial demonstrations for PCM and CA found in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

Allowable mechanisms for financial assurance demonstrations are listed in Chapter 6,

Subchapter 3:

§§ 22240 and 22225-6	Trust Fund
§§ 22241 and 22225-6	Enterprise Fund
§22242	Proceeds from Sale of Government Securities
§22243	Letter of Credit
§22244	Surety Bond
§22245	Pledge of Revenue
§22246	Financial Means Test (Not available for Corrective Action)
§22247	Corporate Guarantee (Not available for Corrective Action)
§22248	Insurance
§22249	Local Government Financial Means Test
§22249.5	Local Government Guarantee
§22250	Federal Certification
§22251	Liability Insurance (Liability coverage only)
§22252	Public Entity Self-Insurance and Risk Management (Liability coverage only)
§22253	Liability Insurance and Environmental Liability Trust Fund (Liability coverage only)
§22254	State Approved Mechanism

Mechanisms allowable solely for liability coverage will not be included in the review.

ICF will review new or alternative demonstrations of interest such as annuities and guaranteed investment contracts (GICs). ICF is not aware of any additional form of financial demonstration (e.g., catastrophe bonds) we would recommend as appropriate for PCM and/or CA at solid waste landfills. Problems with previously rejected mechanisms (e.g., escrows, security interests) have not changed; they continue to lack important security/certainty/ liquidity protections. ICF will provide a table summarizing reasons why other mechanisms have been rejected.

### **Task 2, Step 3: Perform Evaluation and Prepare the Task 2 Report**

Using the agreed criteria (Step 1) and list of demonstrations (Step 2), ICF will prepare the draft Task 2 report. This will be provided in tabular format, which makes it easier to compare and contrast. ICF envisions summary tables with our ratings on the demonstrations and our rationales. Ratings can be numerical, H/M/L, or other indications. Rationales and assumptions for the ratings will be offered in bullet form. To tailor ICF's assessment to the focus of this effort, we will specifically address the use of the demonstrations for long-term PCM and CA obligations, at both active and closed facilities.

ICF understands that the draft Task 2 report is to be submitted in both hard and electronic copies using Word format.