White Paper on Task 2: Review of Mechanisms

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. A core set of effectiveness criteria could include the following:

Deleted: ICF has developed and/or applied for federal, state, and foreign agencies a variety of specific criteria for assessing the overall effectiveness of financial assurance mechanisms.

- 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 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).

- Timely Availability -- term of the security/financial instrument; adequacy of the period of cancellation or termination notices; and ability to convert security or financial instruments to cash value during the termination or cancellation notice period, if there is no acceptable replacement financial instrument to substitute within the period of the notice

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Deleted: Alternatively, we can use as our criteria safety, security, and timely availability of funds, as noted in the RFP, after agreeing on their definitions. ICF and CIWMB staff developed the following definitions:¶
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<#>Safety = Inviolability and Adequacy of value, which means there are no potential limits to the full amount of coverage provided by a demonstration, which could result from exclusions, sublimits, and other terms and conditions affecting pay-out amounts¶
. ¶
<#>Security = Certainty of availability and Stability of provider means that FA demonstrations contain no provisions that would impair the availability of required funds, such as unacceptable cancellation, termination, non-renewal, voiding, or other conditions, and overly broad exclusions. Certainty also is affected by the criteria used to determine who is eligible to provide assurance mechanisms.¶
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<#>Timely Availability = Liquidity of funds means the degree to which the demonstration can be readily converted to cash or otherwise made to fulfill obligations on a timely basis.¶

The deliverable for this step will be the agreed list of evaluative criteria and their definitions. After reviewing the above, the CIWMB Contract Managers _____ _____[additional text to be provided after receiving further directions or comments]_____.

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

ICF's analysis shall 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:

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§§ 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 CA)
§22247	Corporate Guarantee (Not CA)[1]
§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. We can add to the existing list any new or alternative demonstrations of interest to CIWMB staff, such as annuities (another form of insurance) and guaranteed investment contracts (GICs), another insurance product. ICF is not aware of any additional form of financial demonstration (e.g., catastrophe bonds) we would recommend as appropriate for 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.

At the conclusion of this step, the CIWMB Contract Manager and ICF will agree on the list of demonstrations to be evaluated. In response to the above material, the CIWMB Contract Managers approved the list of demonstrations and agreed that ICF's report should address annuities and GICs. [further text here contingent on further comments or directions] _____ _____. As a result, ICF ___[added text will depend on comments/directions received]_____ _____.

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 following an outline and format approved by the CIWMB Contract Manager. We typically conduct this type of assignment 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 usually are 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 obligations such as Post 30-PCM and CA, 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 acceptable to the CIWMB Contract Manager. ICF is prepared to answer any questions and clarify the draft as needed to secure the Contract Manager's approval.