

Guidance & Notes for Irrevocable Letters of Credit

1. Standby Trust Fund Agreement:

- Standby Trust Fund Agreement Form - 62-701.900(5)(h) must be submitted as required when using a letter of credit.

2. Letter of Credit Cover Letter:

- The cover letter is to be filled out by the Owner or Operator. The letter of credit form is completed by the bank.
- The FDEP I.D. number for solid waste facilities is the facility "WACS" number. Used oil facilities use an EPA I.D. number. For assistance, try the appropriate Facility List (see links at the end of this web page) or contact FDEP using the contacts on the [Forms web page](#).
- Facility name on the cover letter needs to match name on the FDEP permit application.
- The site address is the address of the physical location of the facility; this address cannot be a P.O. Box.
- "Required Action" – Check "Closing" if the cost estimate includes a closing cost estimate and check "Long-term Care" if the cost estimate includes a long-term care cost estimate.
- "Facility Amount" – include specific facility amounts only when more than one facility is covered by this letter of credit.
- Do not include separate closing and long-term care amounts when both are covered.
- Signatory for the owner or operator should be the president of a corporation, managing member of an LLC, or equivalent for entity type. If the name of the president (or equivalent) is not found on the Florida Division of Corporations website ([Sunbiz](#)), or if anyone else signs, additional documentation will be required. See [Delegation of Authority Letter](#) for specific requirements. The signatory's title must match the title as given on the Florida Division of Corporations web site or other documentation.

3. Letter of Credit:

- Letter of credit must be on FDEP Form 62-701-900(5)(a) unless following [Banks Printing Letters of Credit on Security Paper](#) guidance. Banks wishing to use institutional letterhead may reduce the form's size to fit the stationery's available space.
- Name of Issuing Institution identified in the Letter of Credit must be the legal name of bank as identified by [FDIC](#) or other regulating agency. Use of fictitious or trademark names on our forms is not allowed. If letterhead identifies only the trademark name, include the legal name also.
- Check the Closing, Long-term Care and/or Corrective Action box(es) for which there is a corresponding required action amount (cost estimate) listed on the cover letter. Obtain this information from the Owner or Operator or contact FDEP using the contact list on the [Forms web page](#).
- Owner or Operator name must match (including punctuation and abbreviations) legal entity name as identified on the Florida Division of Corporations website ([Sunbiz](#)). Use the Sunbiz link to verify the Owner or Operator is a legal business entity with "Active" status and that the name is entered exactly as listed. (The Owner or Operator name does not, however, need to be written in all capital letters.) If Owner or Operator is a sole proprietor, name must match the FDEP permit application.

- The date the credit will automatically renew on (i.e., "Date" [blank] on the second line of paragraph that starts "This letter of credit is effective as of...") must be the same date identified as "Date at Least One Year Later."
- The wording that follows "This credit is subject to" may be more specific than either option offered, and may not include both options.
- The FDEP Letter of Credit is an evergreen document; therefore, submission of a letter of credit with the same document number as previously submitted is not appropriate. We recommend the use of the [Letter of Credit Amendment](#) example to increase the aggregate amount or for annual updates for banks wishing to document the automatic extension of the instrument.

4. Amendment to Letter of Credit:

- Amendments may only change items that are "blanks" on the FDEP form, and cannot change other wording of the Letter of Credit. The use of the [Letter of Credit Amendment](#) example may prevent problems. We recommend draft amendments be sent for [courtesy review](#) prior to signing.
- Contact information for the bank signatory must include a typed or legibly printed name of the person. A telephone number or an e-mail address for the bank must be included.
- Evidence of cost estimate approval is NOT authorization to reduce the aggregate amount of a letter of credit. The Owner or Operator may send a request to an FDEP [financial contact](#) to reduce the aggregate amount when a cost estimate decreases. Although a request may precede cost estimate approval, authorization to reduce the aggregate amount will not be sent to the bank prior to the lower cost estimate being approved by the permitting office or a facility's closure being certified and Department approved.
- To reduce the aggregate amount, the bank MUST receive prior written permission from the FDEP Tallahassee Office in order to comply with FDEP regulations. Authorization will be addressed to the bank and will specify the letter of credit to be changed.
- Send original signature copies of all amendments, even ones considered "internal bank use only." Each amendment should have a consecutive unique number.