



Guidance Document

Letters of Credit for Financial Assurance for the State of Tennessee's Sewerage Systems Program

Before submitting a letter of credit in fulfillment of the requirements of T.C.A. 69-3-122, please review the checklist below.

Checklist

- The department must receive a signed original of the letter of credit.
- The letter of credit should be accompanied by a letter from the owner/operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the permit identification number, name, and address of the facility, and the amount of funds assured for the facility by the letter of credit.
- The letter of credit should use the language provided by the department. If you or the financial institution have concerns about a specific provision, please contact the Division of Financial Responsibility.
- The amount of the letter of credit must be at least equal to the amount of financial assurance required.
- The issuing institution must be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a Federal or State agency.

A note on foreign banks: In order to comply with Tennessee regulations, letters of credit issued by a foreign bank must be issued by a United States branch of that bank whose letter of credit operations are regulated and examined by a Federal or State agency. Letters of credit issued directly by a bank branch based in a foreign country do not meet this criterion and cannot be used.

A note on amendments to letters of credit: When making an adjustment to the amount of the letter of credit, the bank will usually send an amendment referencing the original letter of credit number and indicating the new amount rather than sending a completely new letter of credit. This is acceptable. In these cases, we will review the amendment for the following:

- The amendment should reference the correct original letter of credit number.
- The amendment must be a signed original.
- The amendment should indicate clearly that all other terms and conditions of the original letter of credit remain unchanged.

Note: *This checklist is provided only as a convenience in order to address some of the more common issues that we encounter when reviewing financial instruments. It is not intended as a complete representation of all applicable regulatory requirements. Please consult with your legal counsel and the TDEC Division of Financial Responsibility before submitting a financial instrument.*