



DEPT. OF ENVIRONMENT AND ENERGY

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

05-175J

Revised September, 2021

Guidance Document for Irrevocable Standby Letter of Credit

A standby letter of credit is an instrument used by a bank or other financial institution (the issuer) in which the issuer on behalf of its customer (the owner/operator) agrees to honor demands for payment to the beneficiary (the State of Nebraska), usually upon presentation of the documents specified in the instrument and contingent upon a specified event occurring (failure to make payment or perform closure and/or post-closure care in accordance with an approved plan). The standby letter of credit specifies the documents necessary to establish the fact of the owner/operator's default, and the issuer must pay the beneficiary upon presentation of these documents.

A financial institution must have the authority to issue letters of credit and be regulated and examined by a Federal and State agency. Letters of credit are required to conform to Article 5 of the Uniform Commercial Code (UCC) or the most recent edition of the Uniform Customs and Practice for Documentary Credits (UCP), published by the International Chamber of Commerce.

An originally signed duplicate of the letter of credit must be submitted to NDEE once it has been approved. In addition to the original letter of credit, a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date must be submitted to NDEE. The letter should list the name and address of the facility, the legal description, and the amount of funds assured for closure, post-closure care, and, if appropriate, remedial action.

The attached guidance document for a letter of credit provides suggested wording.