

SUPPORTING STATEMENT:

APPLICATION FOR APPROVAL AS A NONPROFIT BUDGET AND CREDIT COUNSELING AGENCY

A. JUSTIFICATION

1. Necessity of Information Collection

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 enacted amendments to the Bankruptcy Code that took effect on October 17, 2005. Under the Bankruptcy Code, an individual debtor is required to meet with an approved nonprofit budget and credit counseling agency to receive credit counseling and a budget analysis within 180 days prior to filing for bankruptcy relief. 11 U.S.C. § 109(h)(1). The United States Trustee Program (Program) must approve nonprofit budget and credit counseling agencies (agency) that debtors will consult with before filing a bankruptcy petition. 11 U.S.C. § 111(a)-(e). Before an agency can be approved, a United States Trustee (UST) is required to review the agency's qualifications under the standards set forth in the statute, and the UST may require the agency to provide information needed for this review. 11 U.S.C. § 111(b)-(c). Approved agencies are named on a publicly available list in each federal judicial district where they are deemed qualified to counsel debtors. 11 U.S.C. § 111(a). The application enables the Program to solicit expressions of interest from agencies wishing to participate and to collect the information needed to determine if an agency meets the statutory standards. 11 U.S.C. § 111.

The application collects certain identifiable information (identifiers) of individuals within the agency seeking approval of its application. These identifiers are as follows:

- A. Principal contact for agency.
 - i. Name.
 - ii. Street address.
 - iii. Telephone number.
 - iv. Email address.
 - v. Fax number.

- C. Officers, directors, or trustees of an agency who served within the last three years.
 - i. Term of office.
 - ii. Street address.
 - iii. Principal occupation.
 - iv. Employment experience.
 - v. Whether the individual has ever been convicted of a crime involving fraud, dishonesty, or false statements.

- D. Agent or independent contractors who perform credit counseling services on behalf of the agency.
 - i. Name.
 - ii. Street address.
 - iii. Mailing address.

- iv. Telephone and fax numbers.
- v. Email address.
- vi. Internet website, if any.

2. Needs and Uses

The information collected through the application is necessary to carry out the Program's statutory mandate. The collected information enables the Program to assess each applicant's eligibility for approval under statutory standards that include providing qualified counselors, maintaining adequate provision for the safekeeping and payment of client funds, providing adequate counseling with respect to client credit problems, and dealing responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides. Users of the data are:

Executive Office for United States Trustees (EOUST)
District and Regional Offices of Each United States Trustee

Each district or regional office receives only the information on the agencies applying for approval within that particular district or region. The information is not shared with any other entity, unless allowed by law. If the Program receives a request for information under the Freedom of Information Act (FOIA), the Program complies with the FOIA and the Privacy Act in protecting private information not subject to the FOIA. Agencies may consent, if they so wish, to the sharing of their application information. The impact on personal privacy is minimal, as the application is generally not seeking sensitive information other than generic identifiers, such as names and addresses. The only sensitive information sought in the application is whether any board member, director, or trustee of an agency was ever convicted of a crime involving fraud, dishonesty, or false statements. Because agencies may be placed in a position of public trust, the Program must ensure that such agencies are trustworthy and capable of performing the duties assigned to them.

3. Use of Information Technology

The applicants submit paper copies of all requested documents. Electronic submission is not possible at this time due to limited electronic infrastructure.

4. Efforts to Identify Duplication

The application significantly reduces duplication by allowing agencies that wish to perform services in multiple jurisdictions to submit only one application for national review. The information in the application is not attainable from any other data source.

5. Minimizing Burden on Small Businesses

The Program seeks only necessary information in an effort to minimize the burden of preparing the application for small businesses.

6. Consequences of Not Conducting or Less Frequent Collection

This application is the only source of data on those applying to be approved as nonprofit budget and credit counseling agencies. If approval of the application is not extended, the Program will not be able to comply with Congress' mandate to create and maintain an approved

list of credit counseling agencies. This data collection is conducted only upon initial application, six months after approval, and annually thereafter as mandated by statute, unless extenuating circumstances warrant otherwise.

7. Special Circumstances

This data is collected in a manner consistent with the guidelines in 5 C.F.R. § 1320.6.

8. Public Comments and Consultations

The Program has consulted with the Internal Revenue Service, the Federal Trade Commission, and a number of State Attorneys General. Public comment will be solicited during the 60-day notice of application under review.

9. Provision of Payments or Gifts to Respondents

The Program will not provide any payment or gift of any type to applicants. Applicants participate on a voluntary basis.

10. Assurance of Confidentiality

The information gathered is used only by the EOUST and district or regional UST offices to evaluate qualifications. The information is secured in a system of records database at the EOUST. The information is shared outside of the EOUST only with district and regional offices as needed to make decisions regarding approval and with other government agencies as allowed by law. If the Program receives a request for information under the Freedom of Information Act (FOIA), the Program complies with the FOIA and the Privacy Act in protecting private information not subject to the FOIA. Agencies may consent, if they so wish, to the sharing of their application information.

The information in the application is mandatory. In order for the Program to fulfill its statutory duty of approving only qualified agencies, the Program must gather sufficient information to make an appropriate determination. It will be difficult for the Program to ensure that only qualified agencies are approved if applicants are not obligated to divulge information about their principal directors, officers, and trustees, particularly if any have been convicted of crimes of fraud, dishonesty, or false statements.

11. Justification for Sensitive Questions

The application focuses on obtaining information necessary to make a determination regarding an agency's qualifications to provide credit counseling services. The only information that is considered sensitive relates to the questions regarding whether an officer, director, or trustee who has served the agency within the last two years has ever been convicted of a crime involving fraud, dishonesty, or false statements. Because agencies are placed in a position of public trust, the Program must ensure that such agencies are trustworthy and capable of performing the duties assigned to them.

12. Estimate of Applicant's Burden

In an effort to minimize the applicant's burden, the credit counseling application requires the minimum information needed for a review of qualifications. The number of applicants to

date is approximately 160, though the UST believes it may eventually total 300 respondents. The annual hour burden on applicants is estimated to be ten hours. This estimate is based on consultations with individuals in the credit counseling industry and on experience with applicants who have completed the application.

13. Estimate of Cost Burden

The cost to applicants will be minimal. The only anticipated cost is photocopying and mailing of the requested documents plus salaries for the employees completing the application. The estimated cost is approximately \$500 per application. With approximately 300 applicants, the total annual cost burden is approximately \$150,000.

14. Cost to Federal Government

The total annual cost to the federal government is estimated at \$1,755,000, all of which will be incurred by the Program.¹ The annual cost is based on 52 weeks of full-time work by 14 professionals, i.e. attorneys, bankruptcy analysts, paralegals, legal clerks, and other support staff.

The estimated cost to the federal government for this application is based on the following:

Information Technology Cost:	\$ 390,000
Salary:	<u>\$ 1,365,000</u>
Grand Total:	\$1,755,000

15. Reason for Change in Burden

The total annual hours burden was reduced from 8,000 annual hours to 3,000 annual hours because fewer applicants actually applied for approval than expected three years ago. The total annual cost burden was also reduced from \$400,000 to \$150,000 to reflect the lower number of applicants. The cost was excluded from the previous ICR submission, therefore, the reason for the increase in cost from what was previously submitted (from \$0 to \$150,000) is due to an error.

16. Anticipated Publication Plan and Schedule

The approved list of agencies has already been published. This ICR is needed to enable the Program to continue to monitor agencies' compliance with statutory and regulatory requirements, and thereby, update the approved list as changes are needed.

17. Display of Expiration Date

The expiration date and OMB control number for the application will be shown on the form.

¹This total cost includes costs for the Program's ICR 1105-0085, application for approval as a provider of a personal financial management instructional course, because the costs for both collections of information are indivisible.

18. Exception to the Certification Statement

There are no exceptions identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB Form 83-I.

B. STATISTICAL METHODS

This section is not applicable to the application as Item 17 on Form OMB 83-I is checked "No."