

SUPPORTING STATEMENT:

APPLICATION FOR APPROVAL AS A PROVIDER OF A PERSONAL FINANCIAL MANAGEMENT INSTRUCTIONAL COURSE

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, individual debtors are required to complete an approved instructional course concerning personal financial management after filing for bankruptcy before they may receive a discharge of their debts. 11 U.S.C. § 727(a)(11). The United States Trustee Program (Program) has responsibility for approving the providers of the personal financial management instructional courses that debtors must complete. 11 U.S.C. § 111(a)-(e). Before such a provider is approved, a United States Trustee (UST) is required to review the provider's qualifications under the standards set forth in the statute, and the UST may require the provider to submit information needed for this review. 11 U.S.C. § 111(d). Approved providers are named on a publicly available list in each federal judicial district where they are approved to educate debtors. 11 U.S.C. § 111(a). The application enables the Program to solicit expressions of interest from providers wishing to participate and to collect the information needed to determine if the provider meets the statutory standards. 11 U.S.C. § 111.

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

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

- B. Owner, officer, director, partner, or trustee of provider who served within the last three years.
 - i. Term of office.
 - i. Street address.
 - ii. Principal occupation.
 - iii. Employment experience.
 - iv. Whether such individual has ever been convicted of a crime involving fraud, dishonesty, or false statements.

- C. Provider (if an individual).

- i. Name.
- ii. Street and mailing address.
- iii. Social Security number.
- iv. Telephone and fax numbers.
- v. Internet website.
- vi. Email address.

D. Individual(s) who regularly refers debtors to provider.

- i. Name.
- ii. Street and mailing address.
- iii. Telephone and fax numbers.
- iv. Email address.
- v. Internet website.

E. Legal actions against provider.

- i. All legal actions, proceedings, investigations, arbitrations, mediations, audits by federal or state agencies, and potential bond or other claims in which the provider is a party, pending or adjudicated, within the last three years, and the outcomes.
- ii. All prior or ongoing disciplinary or enforcement action by an applicable licensing, registration, or certification authority, court, or regulatory body against the provider, or any owner, officer, director, partner, trustee, employee, or agent of the provider, within last three years

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 trained personnel with adequate experience and training in providing effective instruction and services; using learning materials and teaching methodologies designed to assist debtors in understanding personal financial management; providing adequate facilities, and maintaining adequate records. 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 providers 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. Providers 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 an owner, officer, director, partner, or trustee of the provider was ever convicted of a crime

involving fraud, dishonesty, or false statements; whether the provider's accreditation or certification was lost or suspended within the last five years; any legal action in which the provider has been a party within the last three years; and any disciplinary proceeding by an applicable licensing, registration, or certification authority, court, or regulatory body against the provider or any owner, officer, director, partner, trustee, employee, or agent of the provider within the last three years. Because providers may be placed in a position of public trust, the Program must ensure that such providers are trustworthy and capable of performing the duties assigned to them.

3. Use of Information Technology

The applicants will 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 providers 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 providers of a personal financial management instructional course. If the application is not approved, the Program will not be able to comply with Congress' mandate to create and maintain an approved list of providers of personal financial management instructional courses. 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 will be 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 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. Providers 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 providers, the Program must gather sufficient information to make an appropriate determination. It will be difficult for the Program to ensure that only qualified providers are approved if applicants are not obligated to divulge information about their owners, officers, directors, partners, 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 a provider's qualifications to provide personal financial management instructional courses. The only information that is considered sensitive relates to whether an owner, officer, director, partner, or trustee who has served the agency within the last three years has ever been convicted of a crime involving fraud, dishonesty, or false statements (Items 2.5, 2.6, 2.7); whether the provider's accreditation or certification was lost or suspended within the last five years (Item 2.11); any legal action in which the provider has been a party with the last three years (Item 2.13); and any disciplinary proceeding by an applicable licensing, registration, or certification authority, court, or regulatory body against the provider or any owner, officer, director, partner, trustee, employee, or agent of the provider within the last three years (Item 2.14). Applicant providers may be placed in a position of public trust, and the Program must ensure that such providers 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 application requires the minimum information needed for a review of qualifications. The number of applicants to date is approximately 300 respondents. The annual hour burden on applicants is estimated to be ten hours. This estimate is based on consultations with individuals familiar with the financial education 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 6,400 to 3,400 because fewer applicants applied for approval than expected three years ago. The total annual cost burden was also reduced from \$240,000 to \$150,000 to reflect the lower number of applicants. There was an error reported in the cost of the previous submission, therefore the reason for the increase from \$3,000 to \$150,000.

16. Anticipated Publication Plan and Schedule

The approved list of providers has already been published. This ICR is needed to enable the Program to continue to monitor providers' 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.

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

¹This total cost includes costs for the Program's ICR 1105-0084, application for approval as a nonprofit budget and credit counseling agency, because the costs for both collections of information are indivisible.

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