

## **SUPPORTING STATEMENT:**

### **APPLICATION FOR APPROVAL AS A NONPROFIT BUDGET AND CREDIT COUNSELING AGENCY**

#### **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:

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

B. 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 disclosure under 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 may submit paper copies of all requested documents or they may submit an electronic application.

## 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 and 30 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 disclosure under 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 (Items 2.3, 2.4, 2.5). 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 175, and the Program believes this number will remain stable. The annual hour burden on applicants is estimated to be ten hours for initial applicants and four hours for applicants submitting a renewal application with no changes from the previous application. This estimate is based on consultations with individuals in the credit counseling industry and on experience with applicants who have completed the application. The majority of applicants will utilize the renewal application.

The changes in the application reducing the hour burden include allowing electronic submission of applications and the use of a "no change" process that, rather than requiring an applicant to complete the entire application in full every year, permits the applicant to affirm that responses to certain items have not changed since the previous application. Because not all applicants will be able to utilize all of the streamlined features, it is difficult to estimate an annual hour burden for all applicants. Taking into consideration the many variables, the overall annual hour burden for each new applicant is estimated to be ten hours, and for each returning applicant four hours.

This overall annual hour burden estimate is based on the number of first-time applicants versus renewal applicants over the past several years. Although the Program cannot predict with certainty how many applicants will apply in the future, the number of renewal applicants has been relatively stable over the past three years, and the number of new applicants has not exceeded 10 percent of the total number of applications during that time. Accordingly, based on experience, the Program estimates that approximately 90 percent of applicants in any year will use the more streamlined renewal application while approximately 10 percent will complete the entire application for first-time applicants. The Program estimates a total annual burden of this collection of 808 hours using the following calculation:

The Program estimates there will be 175 annual applicants. Ten percent (or 18) will be initial applicants and 90 percent (or 157) will be renewal applicants. Eighteen new applicants times 10 hours per submittal equals 180 hours. One hundred fifty seven renewal applicants times 4 hours per submittal equals 628. One hundred eighty hours plus 628 hours equals 808 total burden hours.

Below is a table showing the hour burden for the application and individual appendices for both initial applicants and returning applicants.

	Initial applicants	Returning applicants
Form	Time (in hours)	
Application	8.5	2.25
Appendix A	0	0
Appendix B	.5	.25
Appendix C	.5	.25
Appendix D	.5	.25
Appendix E	0	1

13. Estimate of Cost Burden

The cost to applicants will be minimal. For applicants submitting applications electronically, the only anticipated costs, not including labor costs, are the costs of scanning paper documents and electronically submitting them. Such expenses are difficult to estimate due to variations among agencies, but are not expected to exceed \$50. To the extent applicants choose to submit paper applications rather than using the recommended electronic submission process, applicants may incur additional photocopying and postage expenses. Taking into consideration these variables, and the popularity of electronic submission, the total overall estimated cost for an application is \$50. With approximately 175 applicants, the total annual cost burden is approximately \$8,750.

14. Cost to Federal Government

The total annual cost to the federal government is estimated at \$970,000, all of which will be incurred by the Program.<sup>1</sup> The annual cost is based on 52 weeks of full-time work by 6 professionals, including a supervisory attorney, bankruptcy analysts, and secretarial support.

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

Information Technology Cost:	\$ 420,000
Salary:	<u>\$ 550,000</u>
Grand Total:	\$970,000

15. Reason for Change in Burden

---

<sup>1</sup> This 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.

The total annual hour burden was reduced from 3,000 annual hours to 808 annual hours because fewer applicants actually applied for approval than expected three years ago and the Program made changes to the application to enable applicants to complete and submit it more quickly. Previously, the Program estimated that 300 applicants would seek approval whereas the Program now estimates that 175 applicants will seek approval. In addition, the annual hour burden was further reduced because the Program implemented a change to its fillable application form that permits applicants to save changes to the forms from year to year, reducing the amount of time necessary to complete an application in future years. Also, returning applicants may affirm that responses to certain items have not changed since the previous application, rather than completing the entire application in full every year, and may submit the application electronically.

The total annual cost burden was reduced from \$150,000 to \$8,750 to reflect the reduced number of applicants, lower costs, and fewer hours needed to complete the application.

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.

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."