

**PAPERWORK REDUCTION ACT NOTICE
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 (BAPCPA) enacted amendments to the Bankruptcy Code that took effect on October 17, 2005. The BAPCPA requires an individual debtor 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 all nonprofit budget and credit counseling agencies (agency) that wish to provide credit counseling services to debtors. 11 U.S.C. § 111(a)-(e). Before an agency can be approved, the United States Trustee must review the agency's qualifications under the standards set forth in the statute, and 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, including: (1) name, (2) title, (3) mailing address, (4) telephone and fax numbers, and (5) email address and Internet website(s);
- Officers, directors, or trustees of an agency who served within the last three years, including: (1) name, (2) title, (3) term in office, (4) principal occupation and employer, (5) amount of direct or indirect compensation, (6) resume, if service is less than one year; (7) reason for termination of service, if individual is no longer an officer, director or trustee, and (8) whether the individual has ever been convicted of a crime involving fraud, dishonesty, or false statements;
- Independent contractors, including (1) name, (2) mailing address, (3) telephone number, and (4) email address and Internet website; and
- Individuals who regularly refer clients to the agency or receive referrals from the agency, including: (1) name, (2) mailing address, (3) telephone number, and (4) email address and Internet website.

The application also seeks information about the agency's proposed counseling methods and content of its counseling sessions, certain financial information, as well as all legal actions, proceedings, investigations, arbitrations, mediations, and potential bond or other claims, whether pending or adjudicated in the last three years, in which the agency or any officer, director, trustee, employee, contractor, or agent of the agency is a party and the outcomes. It also seeks information about all prior or ongoing audit, disciplinary or enforcement actions by an applicable tax, oversight, licensing, registration, or certification body against the agency or any officer, director, trustee, employee, contractor, or agent of the agency, within the last three years and the outcomes.

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: (1) Executive Office for United States Trustees (EOUST); and (2) 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.

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 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 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 includes the identification of: (1) instances where the agency's accreditation or an counselor's certification was lost or suspended within the last five years; (2) any legal action in which the agency or an officer, director, trustee, employee, contractor, or

agent of the agency has been a party within the last three years; (3) any disciplinary proceeding by an applicable licensing, registration, or certification authority against the agency or any officer, director, trustee, employee, contractor, or agent of the agency within the last three years; and (4) whether any officer, 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.

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 is approximately 88 and approved agencies is approximately 122. The Program believes that these numbers 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 Program allows 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 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 hours using the following calculation:

The Program bases its estimates on 122 annual applicants. Ten percent (or 12) will be initial applicants and 90 percent (or 110) will be renewal applicants. Twelve new applicants times 10 hours per application equals 120 hours. One hundred ten renewal applicants times 4 hours per application equals 440. The total burden hours is 560 (120 plus 440).

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	1.0

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 122 applicants, the total annual cost burden is approximately \$6,100.

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.¹ 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

¹ 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.

There is no change in burden from the most recent application that was approved by the Office of Management and Budget in January 2013.

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 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 and Item 17 on Form OMB 83-I is checked "No."