

U.S. Department of Justice

Executive Office for United States Trustees

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

Introduction. In accordance with 11 U.S.C. § 111, as implemented by *Application Procedures and Criteria for Approval of Providers of a Personal Financial Management Instructional Course by United States Trustees*, 28 C.F.R. §§ 58.25 - 58.36 (the “Rule”), a provider of a personal financial management instructional course (a “Provider”) seeking approval by the United States Trustee¹ shall submit an application to the Executive Office for United States Trustees (“EOUST”) in the form described below. The Provider shall provide all information and documents required by the EOUST or United States Trustee responsible for each judicial district in which the Provider seeks approval. Unless otherwise stated, the application and appendices shall be typewritten² using the space provided on the form, as well as attachments if necessary.

The application has been substantially revised to reflect changes to the process under the Rule. All Providers should review the Rule thoroughly before completing an application.

Application Form and Instructions. The application form and Instructions comprise the following sections:

- Section 1. General Information Concerning the Provider
- Section 2. Provider Names and Personnel
- Section 3. Quality, Experience, and Background in Providing Personal Financial Management Instructional Courses
- Section 4. Learning Materials and Methodologies (Course Curriculum)
- Section 5. Fees and Fee Waivers
- Section 6. Disclosures

¹ As defined in 28. C.F.R. § 58.25(b)(30), the term “United States Trustee” means, alternatively:

- (i) The Executive Office for United States Trustees
- (ii) A United States Trustee appointed under 28 U.S.C. 581;
- (iii) A person acting as a United States Trustee;
- (iv) An employee of a United States Trustee; or
- (v) Any other entity authorized by the Attorney General to act on behalf of the United States under this part.

² “Typewritten” includes completion of the online fillable PDF form, or completion of the form using a word processing application or a typewriter.

- Section 7. Appendices
- Appendix A. Acknowledgments, Agreements, and Declarations in Support of Application for Approval as a Provider of a Personal Financial Management Instructional Course
 - Appendix B. Judicial Districts
 - Appendix C. Instructional Methods and Business Locations
 - Appendix D. Matrix of Current Instructors
 - Appendix E. Activity Report for Approved Providers
- Section 8. Certification and Signature

Except where a “No Change” (“NC”) box appears, complete all items in the application, even if the requested information has not changed since the most recent application. **Do not leave any items blank.** If the Provider has no information to provide, state “N/A” with respect to the relevant item.

New Applicants. Check the box marked “New Applicant” in item 1.1. Complete every item in the application and submit completed Appendices A through E. Do not check any of the “NC” boxes. Where an item provides alternatives for new applicants and returning applicants, respond as directed for new applicants only.

Returning Applicants. Check the box marked “Returning Applicant” in item 1.1. Where an item provides alternatives for new applicants and returning applicants, respond as directed for returning applicants only.

Statement of No Change for Returning Applicants. Where a “NC” box appears beside an item, if the Provider’s response to that item is identical to its response in the most recent application, the Provider may check the “NC” box indicating no changes have occurred and continue to the next item. If an item does not offer the option of checking a “NC” box, then the Provider must complete the item even if its response has not changed since the previous application.

Mailing Instructions, Information Requests, and Notifications. The application should be completed in its entirety, which includes all supplemental documents and information that are requested, before submission to the United States Trustee. An incomplete application may result in delay or denial of the application. Once completed, the application should be sent by one of two permissible delivery methods:

- (1) By electronic mail to the following address:

deapp@usdoj.gov

The application may be submitted in one or more e-mail transmissions to accommodate file size limitations. The maximum size of any e-mail is 10MB. Please include the Provider’s name (and Provider number, if previously assigned), in the subject line of all e-mail transmissions. Retain the original application for your records.

(2) By overnight mail to the following address:

Executive Office for United States Trustees
Debtor Education Application Processing
441 G Street, N.W.
Suite 6150
Washington, D.C. 20548
(202) 514-4100

As soon after receipt as practicable, the United States Trustee will send the Provider an acknowledgment letter confirming receipt. The principal contact identified in the application shall receive all notices and requests for information. **Correspondence with the United States Trustee should be submitted to the address set forth above, unless otherwise instructed.**

Duty to notify the United States Trustee. The Provider has a continuing duty to promptly notify the United States Trustee of any circumstances that would materially alter or change a response to any section of the application regardless of whether they occur while an application to become an approved Provider is pending before the United States Trustee or after the Provider has been approved. Notification to the United States Trustee must be in writing, signed by an authorized official, and include all pages of the application and/or appendices that are affected by the change. Notification shall be transmitted in the same manner as the application.

The Provider shall immediately notify the United States Trustee in writing of any failure by the Provider to comply with any statutory or regulatory standard or requirement specified in 11 U.S.C. §§ 109 or 111, the Rule, or the terms under which the United States Trustee approved the Provider to act as an approved Provider. Specifically, the Provider shall immediately notify the United States Trustee, in writing, of any of the following events:

- (1) Cessation of business by the approved Provider or by any office of the Provider, or withdrawal from any federal judicial district(s) where the approved Provider is approved;
- (2) Any investigation of, or any administrative or judicial action brought against, the approved Provider by any governmental unit;
- (3) Any action by a governmental unit or a court to suspend or revoke the approved Provider's articles of incorporation, or any license held by the approved Provider, or any authorization necessary to engage in business; or
- (4) A suspension, or action to suspend, any accreditation held by the approved Provider, or any withdrawal by the approved Provider of any application for accreditation, or any denial of any application of the approved Provider for accreditation.

Approval Period and Deadline for Submission of Application for Renewal. Unless terminated earlier, the Provider approved to provide a personal financial management instructional course for the first time shall be approved for a six-month probationary period. Except as provided below, each approval period after the probationary period shall be for one year. The Provider shall apply no later than 45 days before the expiration of its existing approval period to be considered for renewal. The Provider is responsible for monitoring the expiration date of the current approval period as well as the application deadline, and for timely submitting an application. The United States Trustee will not send application deadline reminders to the Provider.

So long as the Provider has submitted a complete and timely application for renewal, it may continue to provide an instructional course while its application for renewal is under review by the United States Trustee. If the renewal application is approved for an additional one-year period, that renewal period will begin on a) the date after its current approval period expires, or b) the date the United States Trustee approves the application, whichever is later.

If the Provider does not submit an application for renewal before the expiration of its current approval period, the approval will automatically expire, the Provider no longer will be authorized to act as an approved Provider, and the Provider must apply for a new six-month probationary period before providing an instructional course to debtors pursuant to 11 U.S.C. § 111.

Amendments. After approval, the Provider must obtain the United States Trustee's approval before making any of the following changes:

- (1) The engagement of an independent contractor to provide an instructional course;
- (2) Any increase in the fees received from debtors for an instructional course or a change in the Provider's fee policy;
- (3) Expansion into additional federal judicial districts;
- (4) Any changes to the method of delivery the approved Provider employs to provide an instructional course; or
- (5) Any changes in the approved Provider's instructional course.

The Provider shall submit an amended application, reflecting all material changes that will occur due to the changes, and include a newly executed Section 8, "Certification and Signature." **The amended application need only include the items affected by the changes.**

Limitations on Advertising. Approved Providers may not contact any debtor utilizing the United States Postal Service or other mail carrier, or electronic mail for the purpose of soliciting debtors to utilize the Provider's instructional course, unless:

(1) any such solicitations include the phrase “This is an advertisement for services” or “This is a solicitation;”

- (2) prominently displayed at the beginning of each page of the solicitation;
- (3) in a font size larger than or equal to the largest font size otherwise used in the solicitation; and
- (4) any such solicitations include only logos, seals, or similar marks that are substantially dissimilar to the logo, seal, or similar mark of any Provider or court of the United States government, including but not limited to the United States Trustee Program.

Burden Statement. Respondents are not required to complete this form unless it contains a valid OMB number. The public reporting burden for this application is estimated to average ten hours for an initial application and four hours for a re-application, including time for reviewing instructions, gathering information, and completing the application. Comments regarding this burden estimate or any other aspect of this application, including suggestions for reducing the burden, should be directed to the Executive Office for United States Trustees, Debtor Education Application Processing, 441 G Street, N.W., Suite 6150, Washington, D.C., 20548.

Privacy Act Statement. Section 111 of title 11, United States Code, authorizes the collection of this information. The primary use of this information is by the United States Trustee to approve Providers of personal financial management instructional courses. Disclosure of this information may be to a bankruptcy trustee when the information is needed to perform the trustee's duties, to the appropriate federal, state, local, regulatory, tribal, or foreign law enforcement agency when the information indicates a violation or potential violation of law, or to a complainant or victim when such information is necessary to provide an explanation concerning the results of an investigation of which they complained or were a victim. Other disclosures may be made pursuant to the routine uses enunciated in the United States Trustee Program's system of records notice, UST-005, "Credit Counseling and Debtor Education Files and Associated Records." See 71 Fed. Reg. 59,818, 59,727-59,830 (Oct. 11, 2006). Additional disclosure of the information may be to district and regional offices of each United States Trustee. The information will not be shared with any other agencies unless allowed by law.

Public Law 104-134 (April 26, 1996) requires that any person doing business with the federal government furnish a Social Security Number or Tax Identification Number. This is an amendment to title 31, Section 7701. Furnishing the Social Security Number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the application.

APPLICATION AND INSTRUCTIONS

Section 1. General Information Concerning the Provider

Item 1.1: United States Trustee assigned Provider number. **New applicants:** Enter "N/A" for this item. **Returning applicants:** Provide the four or five digit number the United States Trustee assigned when the Provider first applied for approval as a provider of a personal financial management instructional course.

Item 1.2: Name of Provider. Provide the Provider’s legal name as designated by the state of incorporation or organization.

Item 1.4: Additional names. List all aliases, d/b/a, or fictitious names the Provider currently uses (the Provider should list former names in item 2.1).

Section 2. Provider Names and Personnel

Guidelines. Ethical standards. The Provider may not enter into any referral agreements or receive any financial benefit that involves the Provider paying to or receiving from any entity or person referral fees for the referral of debtors to or by the Provider. The Provider may not enter into agreements involving an instructional course that creates a conflict of interest.

No member of the board of directors or trustees, officer or supervisor of an approved Provider may be a relative of an employee of the United States Trustee Program, a trustee appointed under 11 U.S.C. §§ 586(a)(1) for any federal judicial district where the Provider is providing or is applying to provide an instructional course, a federal judge in any federal judicial district where the Provider is providing or is applying to provide an instructional course, or a federal court employee in any federal judicial district where the Provider is providing or is applying to provide an instructional course.

Specific Instructions.

Items 2.2 and 2.3: Current officers, directors, and trustees. Provide information about individuals currently serving as officers, directors, and trustees. “Compensation” includes both direct compensation, such as wages and salaries, and indirect compensation, such as bonuses, deferred compensation, and noncash compensation.

Item 2.4: Material management changes. **New applicants:** State whether the Provider’s officers or the members of its board of directors/trustees have changed in the last three years. If so, complete items 2.5 and/or 2.6. If not, continue to item 2.7. **Returning applicants:** State whether the Provider’s officers or the members of its board of directors/trustees have changed since the most recent application as approved. If so, complete items 2.5 and/or 2.6. If not, continue to item 2.7.

Item 2.5 and 2.6: Former officers, directors, and trustees. **New applicants:** Provide information about individuals who are not currently on the board, but have served as officers, directors, or trustees within the last three years. **Returning applicants:** Provide information about individuals who are not currently on the board, but have served as officers, directors, or trustees within the last year.

When supplying address information, provide the individual’s current employer or residential address, and not the Provider’s business address. “Compensation” includes both direct

compensation, such as wages and salaries, and indirect compensation, such as bonuses, deferred compensation, and noncash compensation.

Item 2.7(a) and (b): Referrals. Provide information about individuals or entities who provide referrals to the Provider or receive referrals from the Provider. Disclose oral referral agreements and arrangements as well as written agreements.

Item 2.7(c): Contracts. Disclose all contracts with related individuals or entities, whether or not they pertain to an instructional course. For purposes of this item, a “related entity” includes a business in which an officer, director or employee of the Provider, or relative of an officer, director or employee of the Provider, owns, manages, controls or holds, directly or indirectly, a 20 percent ownership or financial interest in the business.

Item 2.8: Independent contractors. The term “independent contractor” means a person or entity who provides any goods or services to the Provider other than as an employee and as to whom the Provider does not:

- (1) direct or control the means or methods of delivery of the goods or services being provided;
- (2) make financial decisions concerning the business aspects of the goods or services being provided; and
- (3) have any common employees.

“Independent contractors” do not include instructors employed by the Provider. **Do not list the Provider’s own instructors.** List those on Appendix D.

Section 3. Quality, Experience, and Background in Providing Personal Financial Management Instructional Courses

Guidelines. Business experience. The Provider must have adequate experience and background in providing an instructional course. To meet this requirement, the Provider must have experience providing an instructional course for the last two years. If the Provider has not provided an instructional course for the last two years, then it must employ in each office location that provides an instructional course at least one supervisor with experience and background in providing an instructional course for no less than two of the last five years.

Compliance with laws and regulations. The Provider must be in compliance with all applicable laws and regulations of the United States and each state, commonwealth, district, or territory of the United States in which the Provider conducts an instructional course, including all laws governing licensing and registration.

Specific Instructions.

Item 3.2: Time in business. State the length of time the Provider has offered an instructional course. A Provider with fewer than two years of experience immediately preceding the application date shall complete item 3.3. All other Providers may continue to item 3.4.

Item 3.5: Revocation of accreditation or certification. If the Provider's accreditation was revoked, suspended, or lapsed at any time during the last five years, state the date(s) of revocation, suspension or lapse, and provide a detailed explanation of the circumstances that led to the Provider's accreditation being revoked, suspended, or lapsed. If any instructor's certification was revoked, suspended, or lapsed at any time during the last five years, identify the instructor, identify the relevant date(s) and provide a detailed explanation of the circumstances.

Item 3.7: Financial statements. Provide audited financial statements if they exist. To the extent the Provider has not obtained audited financial statements, the Provider may substitute unaudited financial statements. If the Provider has not commenced operations as of the application date, it may provide *pro forma* financial statements in lieu of audited or unaudited financial statements.

Item 3.8: Litigation. List all legal actions, proceedings, investigations, arbitrations, mediations, and potential bond or other claims, whether pending or adjudicated, in which the Provider, any affiliate listed in the response to item 2.7(c), or any officer, director, trustee, employee, or agent of the Provider is a party, and the outcomes of any such actions.

Item 3.9: Regulatory oversight and investigations. Disclose audits, investigations, and enforcement actions by state and local tax, oversight, and regulatory agencies. **Routine audits performed on an annual or other periodic basis need not be disclosed, except to the extent they form the basis of an enforcement action.**

Item 3.10: Continuing obligation to update. Disclose to the United States Trustee any new actions of the type described in items 3.5, 3.8, and 3.9 that commence during the application review period.

Section 4. Learning Materials and Methodologies (Course Curriculum)

Guidelines. Adequate personal financial management instruction. A personal financial management instructional course shall include the following substantive instruction:

(1) Budget development, which consists of the following:

(A) setting short-term and long-term financial goals, as well as developing skills to assist in achieving these goals;

(B) calculating gross monthly income and net monthly income; and

(C) identifying and classifying monthly expenses as fixed, variable, or periodic;

(2) Money management, which consists of the following:

(A) keeping adequate financial records;

(B) developing decision-making skills required to distinguish between wants and needs, and to comparison shop for goods and services;

(C) maintaining appropriate levels of insurance coverage, taking into account the types and costs of insurance; and

(D) saving for emergencies, for periodic payments, and for financial goals;

(3) Wise use of credit, which consists of the following:

(A) identifying the types, sources, and costs of credit and loans;

(B) identifying debt warning signs;

(C) discussing appropriate use of credit and alternatives to credit use; and

(D) checking a credit rating;

(4) Consumer information, which consists of the following:

(A) identifying public and non-profit resources for consumer assistance; and

(B) identifying applicable consumer protection laws and regulations, such as those governing correction of a credit record and protection against consumer fraud; and

(5) Coping with unexpected financial crisis, which consists of the following:

(A) identifying alternatives to additional borrowing in times of unanticipated events; and

(B) seeking advice from public and private service agencies for assistance.

Providers of telephone services or Internet services. In addition to meeting all other requirements, the Provider that provides telephone services or Internet services must demonstrate sufficient experience and proficiency in designing and providing services by these methods of delivery, including proficiency in

employing verification procedures to ensure the person receiving the instructional course is the debtor and to determine whether the debtor has completely received the instructional course. Determining whether the debtor has completely received the instructional course means ensuring that the debtor is the same person who both commences and completes the instructional course, and that the debtor completed the instructional course in its entirety. Identity verification requires the Provider to:

(1) obtain one or more unique personal identifiers from the debtor and assign an individual access code, user ID, or password at the time of enrollment; and

(2) require the debtor to provide the appropriate access code, user ID, or password, and also one or more of the unique personal identifiers during the course of delivery of the instructional course.

The Provider shall furnish toll-free telephone numbers for both hearing and hearing-impaired debtors whenever telephone communication is required. The Provider shall provide telephone amplification, sign language services, or other communication methods for hearing-impaired debtors.

Course duration. The Provider shall ensure the instructional course contains sufficient learning materials and teaching methodologies so that the debtor receives a minimum of two hours of instruction, regardless of the method of delivery of the course.

Language services. The Provider shall inform debtors with limited English proficiency of the languages it offers.

Prohibition against legal advice. The Provider shall refrain from giving legal advice to debtors.

Certificates of instruction. The Provider agrees to issue certificates of instruction in accordance with the directives established by the United States Trustee. For reference, please consult 28 C.F.R. § 58.35. Note that an approved Provider shall not withhold the issuance of a certificate because of a debtor's failure to submit an evaluation form, though the Provider should make reasonable effort to ensure that debtors complete and submit course evaluation forms. **The approved Provider also shall not withhold issuance of a certificate because of the debtor's failure to obtain a passing grade on a quiz, examination, or test.**

Specific Instructions.

Check the box for each method of delivery for which the Provider seeks approval, and describe any languages, other than English, in which the Provider offers instruction.

Item 4.1: Other instructional or counseling services. List the other types of services the Provider offers, whether or not related to an instructional course, such as housing counseling or marriage counseling.

Item 4.4: Language referrals. List the number of referrals of debtors the Provider provided to other approved Providers for an instructional course based on limited English proficiency, and identify the languages, other than English, requested by such debtors.

Items 4.5 - 4.7: Instructional course process. The Provider that seeks approval to provide more than one delivery method shall provide a complete response for each delivery method. As to each element below, provide examples of instruction or identity verification forms (whether used by the debtor, the instructor, or both), written instructional materials, procedures, manuals, scripts, outlines, and/or guidelines, where applicable. If the listed materials are available on the Internet (whether or not accessible to the debtor), provide the URL for the website and, if necessary, instructions for accessing such materials, such as a username and a password. If the listed materials are available only on the Provider's intranet, provide printed screens of all such resource materials. **The Provider shall not unilaterally change its curriculum without prior United States Trustee approval.**

Item 4.5: In-person instruction. Describe the instructional course process, beginning with the process of providing information to or obtaining information from a debtor, and ending with certificate issuance:

- (a) Describe the process of obtaining debtor information and providing mandatory disclosures. If any portion of the information-gathering takes place by telephone or Internet, describe that portion in detail and provide the telephone number a debtor calls or the URL for the website where the debtor provides or obtains the information. Provide copies of any and all agreements and consents the Provider requires debtors to sign in connection with the instructional course. If the agreement or consent takes an electronic form, provide the URL for the website where the debtor accesses the form;
- (b) Describe the substance of the instructional course, including a description of the five criteria listed under the Section 4 Guidelines, beginning on page 8, entitled "adequate personal financial management instruction;"
- (c) The Provider shall limit class size to ensure an effective presentation of the instructional course materials. Describe the Provider's policies concerning class size;
- (d) The Provider shall ensure that an instructor is present to instruct and interact with debtors. Describe the Provider's procedures for ensuring that an instructor is present to instruct and interact with debtors; and

- (e) Describe the certificate issuance process, including the timing of certificate issuance and the Provider's policies concerning which personnel may issue certificates.

Item 4.6: Telephone instruction. Describe the instructional course process, beginning with the process of providing information to or obtaining information from a debtor, and ending with certificate issuance:

- (a) Describe the process of obtaining debtor information and providing mandatory disclosures. If any portion of the information-gathering takes place by telephone or Internet, describe that portion in detail and provide the telephone number a debtor calls or the URL for the website where the debtor provides or obtains the information. Provide copies of any and all agreements and consents the Provider requires debtors to sign in connection with the instructional course. If the agreement or consent takes an electronic form, provide the URL for the website where the debtor accesses the form;
- (b) Describe the substance of the instructional course, including a description of the five criteria listed under the Section 4 Guidelines, beginning on page 8, entitled "adequate personal financial management instruction;"
- (c) Describe the Provider's experience and proficiency in providing instructional courses over the telephone;
- (d) Describe the Provider's debtor identity verification processes, including the method by which the Provider confirms the identity of the debtor before receiving the instructional course by telephone by:
 - (1) obtaining one or more unique personal identifiers from the debtor and assigning an individual access code, user ID, or password at the time of enrollment; and
 - (2) requiring the debtor to provide the appropriate access code, user ID, or password, and also one or more of the unique personal identifiers during the course of delivery of the instructional course;
- (e) The Provider shall ensure that an instructor is telephonically present to instruct and interact with debtors. Describe the Provider's procedures for ensuring that an instructor is telephonically present to instruct and interact with debtors;
- (f) The Provider shall provide learning materials to debtors before the instructional course begins. Describe the Provider's procedures for providing learning materials to debtors before the instructional course;

- (g) The Provider shall incorporate tests into the curriculum that support the learning materials, ensure completion of the course, and measure comprehension. Describe the Provider's procedures for incorporating such tests into the curriculum;
- (h) The Provider shall ensure tests are reviewed prior to the completion of the instructional course. Describe the Provider's procedures for ensuring such review of tests occurs prior to the completion of the instructional course. Note that the approved Provider shall not withhold issuance of a certificate because of the debtor's failure to obtain a passing grade on a quiz, examination, or test;
- (i) The Provider shall ensure direct oral communication from an instructor by telephone or in person with all debtors who fail to complete the test in a satisfactory manner or who receive less than a 70 percent score. Describe the Provider's procedures for ensuring such direct oral communication from an instructor;
- (j) Describe the criteria the Provider employs to measure the time spent by the debtor to complete the instructional course;
- (k) Provide a complete response to items 4.6(d) - (j) as to spouses receiving joint instruction; and
- (l) Describe the certificate issuance process, including the timing of certificate issuance, the method of delivery to the debtor, and the Provider's policies concerning which personnel may issue certificates.

Item 4.7: Internet instruction. Describe the instructional course process, beginning with the process of providing information to or obtaining information from a debtor, and ending with certificate issuance:

- (a) Describe the process of obtaining debtor information and providing mandatory disclosures. If any portion of the information-gathering takes place by telephone or Internet, describe that portion in detail and provide the telephone number a debtor calls or the URL for the website where the debtor provides or obtains the information. Provide copies of any and all agreements and consents the Provider requires debtors to sign in connection with the instructional course. If the agreement or consent takes an electronic form, provide the URL for the website where the debtor accesses the form;
- (b) Describe the substance of the instructional course, including a description of the five criteria listed under the Section 4 Guidelines, beginning on page 8, entitled "adequate personal financial management instruction;"
- (c) Describe the Provider's experience and proficiency in providing instructional courses by Internet;

- (d) Describe the Provider's debtor identity verification processes, including the method by which the Provider confirms the identity of the debtor before receiving the instructional course by Internet by:
 - (1) obtaining one or more unique personal identifiers from the debtor and assigning an individual access code, user ID, or password at the time of enrollment; and
 - (2) requiring the debtor to provide the appropriate access code, user ID, or password, and also one or more of the unique personal identifiers during the course of delivery of the instructional course;
- (e) The Provider shall incorporate tests into the curriculum that support the learning materials, ensure completion of the course, and measure comprehension. Describe the Provider's procedures for incorporating such tests into the curriculum;
- (f) The Provider shall ensure tests are reviewed prior to the completion of the instructional course. Describe the Provider's procedures for ensuring such review of tests occurs prior to the completion of the instructional course. Note that the approved Provider shall not withhold issuance of a certificate because of the debtor's failure to obtain a passing grade on a quiz, examination, or test;
- (g) The Provider shall ensure direct communication from an instructor by electronic mail, live chat, or telephone with all debtors who fail to complete the test in a satisfactory manner or who receive less than a 70 percent score. Describe the Provider's procedures for ensuring such direct communication from an instructor;
- (h) Describe the criteria the Provider employs to measure the time spent by the debtor to complete the instructional course;
- (i) The Provider shall respond to a debtor's questions or comments within one business day. Describe the Provider's procedures for responding to a debtor's questions or comments within one business day;
- (j) Provide a complete response to items 4.7(d) - (i) as to spouses receiving joint instruction; and
- (k) Describe the certificate issuance process, including the timing of certificate issuance, the method of delivery to the debtor, and the Provider's policies concerning which personnel may issue certificates.

Section 5. Fees and Fee Waivers.

Guidelines. Fees. The Provider shall charge reasonable fees for, or relating to, an instructional course. A fee of less than or equal to \$50 is presumed reasonable; fees in excess of \$50 are presumed not reasonable and require prior approval of the United States

Trustee. The Provider may exceed the presumptively reasonable fee after receiving approval from the United States Trustee, by demonstrating, at a minimum, that its costs for delivering the instructional course justify the requested fee. The Provider bears the burden of establishing that its proposed fee is reasonable.

Fee waivers. The Provider must provide services without regard to a debtor's ability to pay the fee. A debtor is presumptively entitled to a fee waiver if the debtor's current income is less than 150 percent of the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. § 9902(2), as adjusted from time to time, for a household or family of the size involved in the fee determination. The Provider may rebut the presumption, and charge a reduced fee, if it determines, based on income information the debtor submits in connection with the instructional course, that the debtor is able to pay the fee in a reduced amount.

Specific Instructions.

Item 5.1: Fees.

- (a) Types of fees. Disclose all fees charged for the instructional course, including additional fees for certificate issuance. If the Provider charges different fees based on delivery method (*e.g.*, in-person, telephone, and Internet instruction), disclose the different fees and specify the applicable delivery method.
- (b) Fee reductions and special rates. Do not include reductions based on inability to pay in your response to this item. Disclose such fee waivers and fee reductions in the response to item 5.2(a). If the Provider charges a reduced or discounted rate for spouses who take the course together, disclose the joint rate as well as the individual rate. If the Provider charges reduced rates based on criteria other than ability to pay, such as reduced rates to debtors of certain attorneys or law firms, or debtors obtained through referrals, state the reduced rate and specify the basis for the reduction and the identity of the individual or entity serving as the basis for reduction. If the reduction is pursuant to oral or written agreement, or is in consideration of a referral agreement or arrangement, disclose such agreements or arrangements in response to item 2.7. **The Provider shall not unilaterally decrease its fee without prior United States Trustee approval.**
- (c) Fee communication to debtors; disclosures. State whether the disclosures are communicated to debtors orally, by recording, in writing, or electronically (for example, via the Internet or e-mail). Specify the timing of disclosures to debtors. Provide the URL for electronic disclosures. Include copies of all written and/or electronic disclosures in response to section 6; do not include copies of the disclosures here.
- (d) Fees exceeding \$50 per debtor. If the Provider has been approved to charge a fee

over \$50 per debtor in connection with a prior application, the Provider need not

provide a fee justification in connection with this application unless the Provider seeks a further increase in any of its fees. If the Provider seeks an increase over \$50 per debtor for the first time, or seeks to increase an existing fee in excess of \$50 per debtor, the Provider shall provide appropriate documentation demonstrating that its costs for providing the instruction exceed the proposed fee. **The Provider shall not unilaterally increase its fee without prior United States Trustee approval.**

Item 5.2: Fee waiver and fee reduction.

- (a) Fee waiver policies. Fully describe any and all fee waiver and fee reduction policies **based on the debtor's ability to pay**, including those policies at the discretion of the Provider or instructor, such as the debtor's net worth, dependence on government assistance, or receipt of *pro bono* legal services in connection with a bankruptcy case.
- (b) Fee waiver disclosure. State whether the fee waiver disclosures are communicated to debtors orally, by recording, in writing, or electronically (for example, via the Internet or e-mail). Specify the timing of disclosures to debtors. Provide the URL for electronic disclosures. Include copies of all written and/or electronic disclosures in response to section 6; do not include copies of the disclosures here.

Section 6. Disclosures

Guidelines. Generally. The Provider shall make mandatory disclosures prior to providing any information to or obtaining any information from a debtor, and prior to providing the instructional course. The Provider may use more than one form to communicate the required disclosures, including intake sheets, debtor agreements, welcome letters or similar documents, but one form is preferable. The written form and the electronic form, if any, must be consistent.

Mandatory disclosures. The list of mandatory disclosures includes:

- (1) The Provider's fee policy, including any fees associated with generation of the certificate;
- (2) The Provider's policies enabling debtors to obtain an instructional course for free or at reduced rates based upon the debtor's lack of ability to pay. To the extent an approved Provider publishes information concerning its fees on the Internet, such fee information must include the Provider's policies enabling debtors to obtain an instructional course for free or at reduced rates based upon the debtor's lack of ability to pay;
- (3) The Provider's policy to provide free bilingual instruction or professional interpreter assistance to any limited English proficient debtor;

- (4) The instructors' qualifications;
- (5) The Provider's policy prohibiting it from paying or receiving referral fees for the referral of debtors;
- (6) The Provider's obligation to provide a certificate to the debtor promptly upon the completion of an instructional course;
- (7) The fact that the Provider might disclose debtor information to the United States Trustee in connection with the United States Trustee's oversight of the Provider, or during the investigation of complaints, during on-site visits, or during quality of service reviews;
- (8) The fact that the United States Trustee has reviewed only the Provider's instructional course (and, if applicable, its services as a credit counseling agency pursuant to 11 U.S.C. § 111(c)), and the fact that the United States Trustee has neither reviewed nor approved any other services the Provider provides to debtors; and
- (9) The fact that a debtor will receive a certificate only if the debtor completes an instructional course.

Specific instructions.

Provide copies of any and all disclosures the Provider supplies debtors in connection with the instructional course. If the Provider also provides an electronic disclosure, provide the URL for the webpages evidencing those disclosures. Ensure that the Provider's responses to items 4.5(a), 4.6(a), and 4.7(a) describe the timing of the disclosures to the debtor.

Section 7. Appendices

New applicants: Complete Appendices A, B, C, and D. Do not complete Appendix E.

Returning applicants: Complete Appendices A, B, C, D, and E.

Appendix A: Acknowledgments, Agreements, and Declarations in Support of Application for Approval as a Provider of a Personal Financial Management Instructional Course.

By executing and submitting the Application for Approval as a Provider of a Personal Financial Management Instructional Course, the Provider acknowledges and agrees to comply with the prohibitions, limitations, and obligations set forth in Appendix A, Acknowledgments, Agreements, and Declarations in Support of Application for Approval as a Provider of a Personal Financial Management Instructional Course.

Appendix B: Judicial Districts.

Check the box for each judicial district in which the Provider seeks approval. The Provider is responsible for ensuring that it complies with all applicable laws and regulations of the United States and each state, district, commonwealth, or territory of the United States in which it seeks approval from the United States Trustee.

After approval, the Provider must submit an amended application to add judicial districts. Requests for authorization to cease providing instruction in any district in which the Provider was previously approved require written notification to the United States Trustee, signed by an authorized official.

Appendix C: Business Locations.

List the Provider's business locations and specify whether in-person services are available at each listed location.

Appendix D: Matrix of Current Instructors.

The Provider shall use only instructors who possess adequate experience providing an instructional course, which means that each instructor either:

(a) holds one of the certifications listed below and who has complied with all continuing education requirements necessary to maintain that certification:

- (1) certified as a Certified Financial Planner;
- (2) certified as a credit counselor by an accrediting organization;
- (3) registered as a Registered Financial Consultant; or
- (4) certified as a Certified Public Accountant; or

(b) has successfully completed a course of study or worked a minimum of six months in a related area such as personal finance, budgeting, or credit or debt management. A course of study must include training in personal finance, budgeting, or credit or debt management. An instructor shall also receive annual continuing education in the areas of personal finance, budgeting, or credit or debt management. The United States Trustee Program does not endorse any specific course or certification program.

Complete the requested information regarding the basis for certification and experience for each instructor. For each instructor who is certified by an independent organization, attach a statement to Appendix D setting forth the organization's name, contact information, and the criteria for obtaining the certification. Instructors must satisfy an annual continuing education

requirement.

Appendix E: Activity Report for Approved Providers.

Appendix E applies only to Providers who have previously been approved by the United States Trustee and are seeking re-approval. **If the Provider has not yet been approved by the United States Trustee as an approved Provider, do not submit Appendix E with the application.**

The relevant time periods for Appendix E are January 1-June 30 and July 1-December 31 of each year. After a Provider has been approved, it must submit a completed Appendix E by January 31 and July 31 of every year. Attach Appendix E for the most recent six-month period when submitting an application.

Q7: Certificates issued at reduced cost. Include data only for fee reductions based on ability to pay. Do not include reductions based on criteria independent of ability to pay, such as arrangements with attorneys, referrals, or joint debtor discounts.

Section 8. Certification and Signature

The Provider has a continuing duty to promptly notify the United States Trustee of any circumstances that would materially alter or change a response to any section of the application, during the application process or otherwise. Notification must be in writing, include all pages of the application and/or appendices that are affected by the change and a newly executed “certification and signature.”

By signing the application, the Provider’s president, chairman, trustee, or other authorized official declares that he or she is authorized to complete the application on behalf of the Provider; that he or she has read and knows the contents of the application and all enclosures and attachments submitted; and that he or she affirms, under penalty of perjury, that all of the representations and statements contained therein are true and correct to the best of that individual’s knowledge, information, and belief.