

PAPERWORK REDUCTION ACT NOTICE

SUPPORTING STATEMENT A

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

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

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). Additional requirements for applicants seeking to become and remain approved agencies are set forth in the final rule 28 C.F.R. §§ 58.12 - 58.24 (rule). 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 the rule 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 and the criteria set forth in the rule. 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;
- Officers, directors, shareholders, affiliates, subsidiaries, or relating individuals who have contracts with an agency, 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 credit counseling methods and content of its credit 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.

1. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

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 credit 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.

2. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The applicants may submit paper copies of all requested documents or they may submit an electronic application.

3. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

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.

4. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden. _____

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

5. Describe the consequence to the Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

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.

6. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines: (a) requiring respondents to report information to the agency more often than quarterly; (b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; (c) requiring respondents to submit more than original and two copies of any documents; (d) requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years; (e) in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study; (f) requiring the use of statistical data classification that has not been reviewed and approved by OMB; (g) that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; (h) requiring respondents to submit proprietary trade secrets or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

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

7. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 C.F.R. § 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments on the

information collection received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The Program has consulted with several applicants to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. Additional public comment will be solicited during the 60- and 30- day Federal Register notice periods.

8. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

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

9. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

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 “commercial or financial information obtained from a person and privileged or confidential” from disclosure under the FOIA. See 5 U.S.C. § 552(b)(4). 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.

10. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary,

the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

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 a counselor's certification was revoked or suspended within the last five years; (2) any legal action in which the agency or an officer, director, trustee, employee, 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.

11. Provide estimates of the hour burden of the collection of information. The statement should:

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than ten) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
 - If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
 - Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.
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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 approved agencies is approximately 83. The annual hour burden on applicants is estimated to be

approximately ten hours for initial applicants and approximately four hours for applicants submitting a renewal application with no changes from the previous application. This estimate is based on consultations with a sample of applicants. 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 approximately ten hours, and for each returning applicant approximately 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 declined over the past three years, and the number of new applicants has not exceeded 3 percent of the total number of applications during that time. Accordingly, based on experience, the Program estimates that approximately 97 percent of applicants in any year will use the streamlined renewal application while approximately 3 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 86 annual applicants. Three percent (or approximately 3) will be initial applicants and 97 percent (or approximately 83) will be renewal applicants. Three new applicants times 10 hours per application equals 30 hours. Eighty-three applicants times 4 hours per application equals 332 hours. The total burden hours is 362 (30 plus 320).

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	2.7
Appendix A	.5	.5
Appendix B	.5	.1
Appendix C	.5	.1
Appendix D	.5	.5
Appendix E	0	.1

The Program estimates that annualized costs to respondents for completing the credit counseling application is approximately \$268.30 for new applicants who spend ten hours

completing the application and \$107.32 for returning applicants who spend four hours completing the application. These estimates are based on information available on the Bureau of Labor Statistics website, which provides national wage estimates for various occupations. The Program selected the First-Line Supervisors of Office and Administrative Support Workers category, as this most closely describes the individuals who complete the application. The median hourly salary as of May 2018 for this group was \$26.83. The amounts set forth above were calculated by multiplying \$26.83 times ten and \$26.83 times four.

12. Provide an estimate for the total annual cost burden to respondents or record-keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

13. The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchase or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made:
 - Prior to October 1, 1995,
 - To achieve regulatory compliance with requirements not associated with the information collection,
 - For reasons other than to provide information or keep records for the government, or
 - As part of customary and usual business or private practices.

The answers to Items 13 and 14 are combined here. 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 86 applicants, the total annual cost burden is approximately \$4,300.

14. Provide estimates of annualized costs to the Federal government. Also provide a description of the method used to estimate cost, which should include quantification of hours operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.
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The total annual cost to the federal government is estimated at \$684,699, all of which will be incurred by the Program.¹ The annual cost is based on 52 weeks of full-time work by 4 professionals and the part-time work of 3 professionals, including a supervisory attorney and bankruptcy analysts.

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

Information Technology Cost:	\$ 75,000
Salary:	<u>\$ 609,699</u>
Grand Total:	\$684,699

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 from OMB Form 83-I.
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The total annual hour burden was reduced from 560 hours to 362 hours because fewer applicants are now seeking approval each year. Previously, the Program estimated that 122 applicants would seek approval whereas the Program now estimates that 86 applicants will seek approval.

The total annual cost burden was similarly reduced from \$6,100 to \$4,300 to reflect the reduced number of applicants.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.
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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.

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. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

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

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

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

A. STATISTICAL METHODS

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