



U.S. Department of Justice

Executive Office for United States Trustees

Office of Oversight

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February 14, 2022

MEMORANDUM

TO: Melody Braswell
Department Clearance Officer for Paperwork Reduction Act

FROM: Robert S. Gebhard
Assistant Director, Office of Oversight

SUBJECT: Request for Renewal Approval by the Office of Management and Budget of the
"Application for Approval as a Nonprofit Budget and Credit Counseling Agency"

This memorandum and the attached materials are submitted under the Paperwork Reduction Act, 44 U.S.C. § 3501, *et seq.*, to authorize the United States Trustee Program (Program) to extend and revise the information collection request (ICR) entitled, "Application for Approval as a Nonprofit Budget and Credit Counseling Agency" (Application). This ICR was previously approved by the Office of Management and Budget for three years under 1105-0084 and is set to expire on December 31, 2022.

By way of background, 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 (UST) 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). Procedures and criteria to be used by the United States Trustee Program when determining whether applicants seeking to become and remain approved agencies satisfy all the statutory prerequisites are set forth in final rule. 28 C.F.R. §§ 58.12 - 58.24 (Rule). 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.

Agencies are approved for a probationary period not to exceed six months. The Program may approve an agency for an additional one-year period, and then for successive one-year

periods if the agency demonstrates it meets the standards set forth under 11 U.S.C. § 111 and can satisfy such standards in the future.

The ICR as provided in the revised Application is necessary to carry out the Program's statutory mandate in determining whether an agency is in compliance with statutory standards and should be approved for a six-month period or an additional one-year period pursuant to 11 U.S.C. § 111. The collected information will enable 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.

The total annual hour burden associated with the attached Application and instructions has increased from 362 hours to 373 hours. First, the Program added the requirement that returning applicants complete an application in full every five years. Currently, applicants may select a "no change" response to a question. By requiring periodic restatements of information previously provided, applicants will be more likely to closely review that information to ensure that it is up to date and correct, thus enhancing the Program's ability to review and approve the applications. In addition, permitting applicants to use the currently approved "no change" option indefinitely in their responses creates an unreasonable burden on the Program to retain unnecessary Applications as opposed to disposing of them in accordance with a document retention policy. The Program estimates that this modification will increase a returning applicant's hourly burden by approximately one hour every five years.

Second, the instructions now include a broad definition of the term website where before there was none, to ensure that applicants fully disclose their entire presence on the internet. This will enable the Program to better monitor applicants who may have previously undisclosed websites offering credit counseling. The Program estimates that this modification will increase an applicant's annual hourly burden by only a few minutes.

Other changes that do not impact the total annual hour burden include the removal of two questions from the application, a clarification that Applications may be submitted by secure methods other than those set forth in the instructions, and additional minor or clarifying changes.

The following documents are contained in the attached ICR package:

1. Supporting Statement for the Paperwork Reduction Act Submission.
2. Application, instructions and appendices used to collect the information.
3. Law or authority mandating the information collection.
4. 60-day ICR Notice for publication in the Federal Register.
5. 30-day ICR Notice for publication in the Federal Register.

Your favorable consideration of this request will be greatly appreciated. If there are any questions concerning the ICR, please contact Juliet Drake at (202) 307-3698.

Attachments