OMB No. 1105-0084 Approval Expires 9/30/2016

U.S. Department of Justice

Executive Office for United States Trustees

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

Introduction. In accordance with 11 U.S.C. § 111, as implemented by *Application Procedures and Criteria for Approval of Nonprofit Budget and Credit Counseling Agencies by United States Trustees*, 28 C.F.R. §§ 58.12 - 58.24 (the "Rule"), a nonprofit budget and credit counseling agency (the "Agency") seeking approval by the United States Trustee[1] shall submit an application to the Executive Office for United States Trustees ("EOUST") in the form described below. The Agency shall provide all information and documents required by the EOUST or the United States Trustee responsible for each judicial district in which the Agency seeks approval. Unless otherwise stated, the application and appendices shall be typewritten[2] 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 Agencies 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 Agency

Section 2. Status as a Nonprofit Organization

Section 3. Quality, Experience, and Background in Providing Credit Counseling Services

Section 4. Credit Counseling Methods and Curriculum

Section 5. Fees and Fee Waivers

Section 6. Disclosures

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[1] As defined in 28 C.F.R. § 58.12(b)(39), 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. Administration of Debt Repayment Plans and the Safekeeping and Payment of Client Funds

Section 8. Appendices
- Appendix A. Acknowledgments, Agreements, and Declarations in Support of Application for Approval as a Nonprofit Budget and Credit Counseling Agency
- Appendix B. Judicial Districts
- Appendix C. Counseling Methods and Business Locations
- Appendix D. Matrix of Current Counselors
- Appendix E. Activity Report for Approved Agencies

Section 9. 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 Agency 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 Agency's response to that item is identical to its response in the most recent application, the Agency 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 Agency 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:

ccapp@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 Agency's name (and Agency 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
Credit Counseling 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 Agency 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 Agency 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 Agency is pending before the United States Trustee or after the Agency 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 Agency shall immediately notify the United States Trustee in writing of any failure by the Agency 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 Agency to act as an approved Agency. Specifically, the Agency shall immediately notify the United States Trustee, in writing, of any of the following events:

(1) Notification by the Internal Revenue Service or by a state or local taxing authority that the approved Agency has been selected for audit or examination regarding its tax-exempt status, or any notification of a compliance check by the Internal Revenue Service or by a state or local taxing authority;

(2) Revocation or termination of the approved Agency's tax-exempt status by any governmental unit or by any judicial officer;

(3) Cessation of business by the approved Agency or by any office of the Agency, or withdrawal from any federal judicial district(s) where the approved Agency is approved;

(4) Any investigation of, or any administrative or judicial action brought against, the approved Agency by any governmental unit;

(5) Termination or cancellation of any surety bond or fidelity insurance;

(6) Any administrative or judicial action brought by any entity that seeks recovery against a surety bond or fidelity insurance;

(7) Any action by a governmental unit or a court to suspend or revoke the approved Agency's articles of incorporation, or any license held by the approved Agency, or any authorization necessary to engage in business;

(8) A suspension, or action to suspend, any accreditation held by the approved Agency, or any withdrawal by the approved Agency of any application for accreditation, or any denial of any application of the approved Agency for accreditation;

(9) A change in the approved Agency's nonprofit status under any applicable law; or

(10) Any change in the banks or financial institutions used by the Agency.

Approval Period and Deadline for Submission of Application for Renewal. Unless terminated earlier, the Agency approved to provide counseling services 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 Agency shall apply no later than 45 days before the expiration of its existing approval period to be considered for renewal. The Agency 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 Agency.

So long as the Agency has submitted a complete and timely application for renewal, it may continue to provide counseling services 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 Agency does not submit an application for renewal before the expiration of its current approval period, the approval will automatically expire, the Agency no longer will be authorized to act as an approved Agency, and the Agency must apply for a new six-month probationary period before providing counseling services to clients pursuant to 11 U.S.C. §§ 109 and 111.

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

(1) Cancellation or change in the amount of the surety bond or employee fidelity bond or insurance;

(2) The engagement of an independent contractor to provide counseling services or to have access to, possession of, or control over client funds;

(3) Any increase in the fees, contributions, or payments received from clients for counseling services or a change in the Agency's fee policy;

(4) Expansion into additional federal judicial districts;

(5) Any changes to the method of delivery the approved Agency employs to provide counseling services; or

(6) Any changes in the approved Agency's counseling services.

The Agency shall submit an amended application, reflecting all material changes that will occur due to the changes, and include a newly executed Section 9, "Certification and Signature." **The amended application need only include the items affected by the changes.**

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, Credit Counseling Application Processing, 441 G Street, N.W., Suite 6150, Washington, D.C. 20548.

APPLICATION AND INSTRUCTIONS

Section 1. General Information Concerning the Agency

Item 1.1: United States Trustee assigned Agency 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 Agency first applied to be an approved Agency.

Item 1.2: Name of Agency. Provide the Agency'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 Agency currently uses (the Agency should list former names in item 2.2).

Section 2. Status as a Nonprofit Organization

Guidelines. Organization and operation as a nonprofit entity. The Agency must be organized and operated as a nonprofit entity and have a board of directors, the majority of which: (a) are not relatives; (b) are not employed by the Agency; and (c) will not directly or indirectly benefit financially from the outcome of the counseling services provided by the Agency. The Agency should avoid any conduct or transactions that generate a private benefit for any individual or group related or connected to the Agency.

Ethical standards. The Agency shall not engage in any conduct or transaction, other than counseling services, that generates a direct or indirect financial benefit for any member of the board of directors or trustees, officer, supervisor, or any relative thereof. In addition, no such person shall receive any commissions, incentives, bonuses, or benefits (monetary or non-monetary) of any kind that are directly or indirectly based on the financial or legal decisions any client makes after requesting counseling services.

The Agency may not enter into any referral agreements or receive any financial benefit that involves the Agency paying to or receiving from any entity or person referral fees for the referral of clients to or by the Agency, except payments under a fair share agreement. The Agency may not enter into agreements involving counseling services that create a conflict of interest. The Agency may not provide counseling services to a client with whom it has a lender-borrower relationship.

No member of the board of directors or trustees, officer or supervisor of an approved Agency may be: a relative of an employee of the United States Trustee Program; a trustee appointed under 28 U.S.C. §§ 586(a)(1) or (b) for any federal judicial district where the Agency is providing or is applying to provide counseling services; a federal judge in any federal judicial district where the Agency is providing or is applying to provide counseling services; a federal court employee in any federal judicial district where the Agency is providing or is applying to provide counseling services; or a certified public accountant that audits the Agency's trust account.

Specific Instructions.

Item 2.1: Basis for nonprofit status. Describe the Agency's nonprofit purpose, such as its public, charitable, educational, or other organizing purpose under applicable state law. If the Agency is tax-exempt pursuant to section 501(c)(3) or another section of the Internal Revenue Code, please identify the tax-exempt status and applicable Internal Revenue Code section.

Items 2.3 and 2.4: 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 2.5: Material management changes. **New applicants**: State whether the Agency's officers or the members of its board of directors/trustees have changed in the last three years. If so, complete items 2.6 and/or 2.7. If not, continue to item 2.8. **Returning applicants**: State whether the Agency's officers or the members of its board of directors/trustees have changed since the most recent application. If so, complete items 2.6 and/or 2.7. If not, continue to item 2.8.

Items 2.6 and 2.7: 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 Agency'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 2.8(a) and (b): Referrals. Provide information about individuals or entities who provide referrals to the Agency or receive referrals from the Agency. Disclose oral referral agreements and arrangements as well as written agreements.

Item 2.8(c): Contracts. Disclose all contracts with related individuals or entities, whether or not they pertain to credit counseling services. For purposes of this item, a "related entity" includes a business in which an officer, director or employee of the Agency, or relative of an officer, director or employee of the Agency, owns, manages, controls or holds, directly or indirectly, a 20 percent ownership or financial interest in the business.

Item 2.9: Independent contractors. The term "independent contractor" means a person or entity who provides any goods or services to the Agency other than as an employee and as to whom the Agency 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 counselors employed by the Agency. **Do not list the Agency's own counselors**; list those on Appendix D. If the Agency lists independent contractors with access to, possession of, or control over client funds, complete Section 7 of this Application.

Section 3. Quality, Experience, and Background in Providing Credit Counseling Services

Guidelines. Generally. The Agency shall operate in a prudent business manner and shall deal responsibly and effectively with matters relating to the quality, effectiveness, and financial security of the services it provides.

Business experience. The Agency must have adequate experience and background in credit counseling. To meet this requirement, the Agency must have provided credit counseling services for the last two years. If the Agency has not provided credit counseling services for the last two years, then it must employ in each office location that provides counseling services at least one supervisor with experience

and background in providing credit counseling for no less than two of the last five years.

Compliance with laws and regulations. The Agency 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 Agency conducts counseling services, including all laws governing licensing and registration.

Specific Instructions.

Item 3.2: Time in business. State the length of time the Agency has offered credit counseling services. The Agency with fewer than two years of experience immediately preceding the application date shall complete item 3.3. All other Agencies may continue to item 3.4.

Item 3.6: Revocation of accreditation or certification. If the Agency'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 Agency's accreditation being revoked, suspended, or lapsed. If any counselor's certification was revoked, suspended, or lapsed at any time during the last five years, identify the counselor, identify the relevant date(s) and provide a detailed explanation of the circumstances.

Item 3.8: Financial statements. Provide audited financial statements if they exist. To the extent the Agency has not obtained audited financial statements, the Agency may substitute unaudited financial statements. If an Agency 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 3.9: Litigation. List all legal actions, proceedings, investigations, arbitrations, mediations, and potential bond or other claims, whether pending or adjudicated, in which the Agency, any affiliate listed in the response to item 2.8(c), or any officer, director, trustee, employee, or agent of the Agency is a party, and the outcomes of any such actions.

Items 3.10 and 3.11: Regulatory oversight, investigations, and Internal Revenue Service matters. Disclose audits, investigations, and enforcement actions by state and local tax, oversight, and regulatory agencies in the response to item 3.10. In the response to item 3.11, provide the correspondence relating to Internal Revenue Service audits, investigations, and enforcement actions, including: a letter indicating that the Agency's credit counseling activities are consistent or inconsistent with its tax-exempt status as of a certain date; a "no-change advisory;" a closing agreement; a notice of referral; or a revocation of the Agency's exemption. **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 3.12: Continuing obligation to update. Disclose to the United States Trustee any new actions of the type described in items 3.6, 3.9 or 3.10 that commence during the application review period. Provide to the United States Trustee copies of correspondence described in item 3.11 sent or received by the Agency or an affiliate during the application review period.

Section 4. Credit Counseling Methods and Curriculum

Guidelines. Adequate credit counseling services. The Agency shall provide, at a minimum, an adequate written analysis, particularized to the client, of each client's current financial condition, including a discussion of the factors that caused such financial condition, budget analysis, consideration of all alternatives to resolve a client's credit problems, and formation of a plan to respond to the financial problems without incurring negative amortization of debt. The typical length of an adequate counseling session is 60 minutes.

In the case of Internet counseling and automated telephone counseling, counseling is not complete until the client has engaged in interaction with a counselor, whether by electronic mail, live chat, or telephone, following the automated portion of the counseling session.

Prohibition against legal advice. The Agency shall refrain from giving legal advice to clients.

Providers of telephone services or Internet services. In addition to meeting all other requirements, the Agency 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 counseling services is the client and to determine whether the client has completely received counseling services. Determining whether the client has completely received counseling services means ensuring that the client is the same person who both commences and completes the counseling, and that the client engages in interaction with a counselor by electronic mail, live chat, or telephone following the automated portion of the counseling. Identity verification requires the Agency to:

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

(b) require the client 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 counseling services.

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

Language services. The Agency shall inform clients with limited English proficiency of the languages it offers.

Prohibition against legal advice. The Agency shall refrain from giving legal advice to clients or potential clients.

Certificates of counseling. The Agency agrees to issue certificates of counseling in accordance with the directives established by the United States Trustee. For reference, please consult 28 C.F.R. § 58.22.

Specific Instructions.

Check the box for each method of delivery for which the Agency seeks approval, and describe any languages, other than English, in which the Agency provides counseling. The former method of delivery, "telephone/Internet," has been eliminated. The Agency must select either telephone or Internet based on the primary method used for delivery of counseling services.

Item 4.2: Other counseling services. List the other types of counseling services the Agency provides, whether or not related to credit counseling, such as housing counseling, or marriage counseling.

Item 4.3: Language referrals. List the number of referrals of clients or potential clients the Agency provided to other approved Agencies for counseling based on limited English proficiency, and identify the languages, other than English, requested by such clients or potential clients.

Items 4.4 - 4.6: Counseling process. The Agency 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 counseling or identity verification forms (whether used by the client, the counselor, or both), written counseling 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 client), 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 Agency's intranet, provide printed screens of all such resource materials. **The Agency shall not unilaterally change its counseling methods or procedures without prior United States Trustee approval.**

Item 4.4: In-person counseling. Describe the counseling process, beginning with the process of providing information to or obtaining information from a client or potential client, and ending with certificate issuance:

(a) Describe the process of obtaining client 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 client calls or the URL for the website where the client provides the information. Provide copies of any and all agreements and consents the Agency requires clients

to sign in connection with counseling services. If the agreement or consent takes an electronic form, provide the URL for the website where the client accesses the form;

(b) Describe the substance of the counseling services, including an analysis of the client's current financial condition, factors that caused the client's financial condition, and how a client can develop a plan to respond to his or her financial problems without incurring negative amortization of debt; and

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

Item 4.5: Telephone counseling. Describe the counseling process, beginning with the process of providing information to or obtaining information from a client or potential client, and ending with certificate issuance:

(a) Describe the process of obtaining client information and providing mandatory disclosures. To the extent information-gathering takes place by telephone or Internet, describe that portion in detail and provide the telephone number a client calls or the URL for the website where the client provides the information. Provide copies of any and all agreements and consents the Agency requires clients to sign in connection with counseling services. If the agreement or consent takes an electronic form, provide the URL for the website where the client accesses the form;

(b) Describe the substance of the counseling services, including an analysis of the client's current financial condition, factors that caused the client's financial condition, and how a client can develop a plan to respond to his or her financial problems without incurring negative amortization of debt;

(c) Describe the Agency's experience and proficiency in providing counseling services over the telephone;

(d) Describe the Agency's client identity verification processes, including the method by which the Agency confirms the identity of the client before receiving counseling services by telephone by:

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

(2) requiring the client 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 counseling services;

(e) Determine the criteria by which the Agency determines that the client has completed the counseling as it was designed. If the Agency provides automated telephone counseling, describe the process by which the client engages in interaction with a counselor, whether by electronic mail, live chat, or telephone, following the automated portion of the counseling session;

(f) Provide a complete response to items 4.5(d) and (e) as to spouses receiving joint counseling; and

(g) Describe the certificate issuance process, including the timing of certificate issuance, the method of delivery to the client, and the Agency's policies concerning which personnel may issue certificates.

Item 4.6: Internet counseling. Describe the counseling process, beginning with the process of providing information to or obtaining information from a client or potential client, and ending with certificate issuance:

(a) Describe the process of obtaining client information and providing mandatory disclosures. To the extent information-gathering takes place by telephone or Internet, describe that portion in detail and provide the telephone number a client calls or the URL for the website where the client provides the information. Provide copies of any and all agreements and consents the Agency requires clients to sign in connection with counseling services. If the agreement or consent takes an electronic form, provide the URL for the website where the client accesses the form;

(b) Describe the substance of the counseling services, including an analysis of the client's current financial condition, factors that caused the client's financial condition, and how a client can develop a plan to respond to his or her financial problems without incurring negative amortization of debt;

(c) Describe the Agency's experience and proficiency in providing counseling services over the Internet;

(d) Describe the Agency's client identity verification processes, including the method by which the Agency confirms the identity of the client before receiving counseling services by Internet by:

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

(2) requiring the client 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 counseling services;

(e) Determine the criteria by which the Agency determines that the client has completed the counseling as it was designed. Describe the process by which the client engages in interaction with a counselor, whether by electronic mail, live chat, or telephone, following the automated portion of the counseling session;

(f) Provide a complete response to items 4.6(d) and (e) as to spouses receiving joint counseling; and

(g) Describe the certificate issuance process, including the timing of certificate issuance, the method of delivery to the client, and the Agency's policies concerning which personnel may issue certificates.

Section 5. Fees and Fee Waivers.

Guidelines: Fees. The Agency shall charge reasonable fees for, or relating to, credit counseling services. 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 Agency 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 counseling services justify the requested fee. The Agency bears the burden of establishing that its proposed fee is reasonable.

Fee waivers. The Agency must provide services without regard to a client's ability to pay the fee. A client is presumptively entitled to a fee waiver if the client'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 Agency may rebut the presumption, and charge a reduced fee, if the Agency determines, based on income information the client submits in connection with counseling services, that the client 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 counseling services, including additional fees for certificate issuance. If the Agency charges different fees based on delivery method (*e.g.*, in-person, telephone, and Internet counseling), 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 response to this item. Disclose such fee waivers and fee reductions in the response to item 5.2(a). If the Agency charges a reduced rate for spouses who take the course together, disclose the joint rate as well as the individual rate. If the

Agency charges reduced rates based on criteria other than ability to pay, such as reduced rates to clients of certain attorneys or law firms, or clients obtained through referrals, disclose 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 2.8.

(c) Fee communication to clients; disclosures. State whether the disclosures are communicated to clients and potential clients orally, by recording, in writing, or electronically (for example, via the Internet or e-mail). Specify the timing of disclosures to clients and potential clients. 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 client. If the Agency has been approved to charge a fee over $50 per client in connection with a prior application, the Agency need not provide a fee justification in connection with this application unless the Agency seeks a further increase of its fees. If the Agency seeks an increase over $50 per client for the first time, or seeks to increase an existing fee in excess of $50 per client, the Agency shall provide appropriate documentation demonstrating that its costs for providing the counseling services exceed the proposed fee. **The Agency 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 client's ability to pay**, including those policies at the discretion of the Agency or counselor, such as the client's net worth, dependence on government assistance, or receipt of *pro bono* legal services in connection with a filed or anticipated bankruptcy case.

(b) Fee waiver disclosure. State whether the fee waiver disclosures are communicated to clients and potential clients orally, by recording, in writing, or electronically (for example, via the Internet or e-mail). Specify the timing of disclosures to clients and potential clients. 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 Agency shall make mandatory disclosures prior to providing any information to or obtaining any information from a client or potential client, and prior to providing any counseling services. The Agency may use more than one form to communicate the required disclosures, including intake sheets, client

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 Agency's fee policy, including any fees associated with generation of the certificate;

(2) The Agency's policies enabling clients to obtain counseling services for free or at reduced rates based upon the client's lack of ability to pay. To the extent the Agency publishes information concerning its fees on the Internet, such fee information must include the Agency's policies enabling clients to obtain counseling for free or at reduced rates based upon the client's lack of ability to pay;

(3) The Agency's policy to provide free bilingual counseling services or professional interpreter assistance to any limited English proficient client;

(4) The Agency's funding sources;

(5) The counselors' qualifications;

(6) The potential impacts on credit reports of all alternatives the Agency may discuss with the client;

(7) The Agency's policy prohibiting it from paying or receiving referral fees for the referral of clients, except under a fair share agreement;

(8) The Agency's obligation to provide a certificate to the client promptly upon the completion of counseling services;

(9) A statement that the client has the opportunity to negotiate an alternative payment schedule with regard to each unsecured consumer debt under terms as set forth in 11 U.S.C. § 502(k), and a statement whether or not the Agency will provide this service. If the Agency does not provide this service, it shall disclose that it may refer the client to another approved Agency, and shall disclose that clients may incur additional fees in connection with such a referral;

(10) The fact that the Agency might disclose client information to the United States Trustee in connection with the United States Trustee's oversight of the Agency, or during the investigation of complaints, during on-site visits, or during quality of service reviews;

(11) The fact that the United States Trustee has reviewed only the Agency's credit counseling services (and, if applicable, its services as a provider of a personal financial management instructional course pursuant to 11 U.S.C. § 111(d)), and the fact that the United States Trustee has neither reviewed nor approved any other services the Agency provides to clients; and

(12) The fact that a client will receive a certificate only if the client completes counseling services.

Specific instructions.

Provide copies of any and all disclosures the Agency supplies clients or potential clients in connection with counseling services. If the Agency also provides an electronic disclosure, provide the URL for the webpages evidencing those disclosures. Ensure that the Agency's responses to items 4.4(a), 4.5(a), and 4.6(a) describe the timing of the disclosures to the client or potential client.

Section 7. Administration of Debt Repayment Plans and the Safekeeping and Payment of Client Funds

Guidelines. This section applies only to Agencies offering debt repayment plans (DRPs). If the Agency does not offer DRPs, continue to Section 8.

Financial security. The Agency must have adequate financial resources to provide continuing support services for DRPs over the life of any plan, and provide for the safekeeping of client funds.

Banking. The Agency shall deposit all client funds into a trust account insured by a federal institution with respect to each client up to the maximum amount allowable by the federal institution. Accounts shall be denominated as trust or fiduciary accounts.

Accounting. The Agency shall keep and maintain books, accounts, and records to provide a clear and readily understandable record of all business conducted by the Agency.

Bonding. Agencies that offer DRPs must provide the following:

(a) A surety bond payable to the United States in an amount which is the lesser of: (1) two percent of the Agency's prior year disbursements made from trust accounts; or (2) equal to the average daily balance maintained in all trust accounts for the six months prior to submission of the application. At a minimum, the bond must be $5,000.

(b) The Agency may receive an offset/credit in the surety bond amount required by the United States Trustee as follows: (1) the Agency has obtained a surety bond, or similar cash, securities, insurance (other than employee fidelity insurance), or letter of credit, in compliance with the licensing requirements of the state in which the Agency seeks approval from the United States Trustee; (2) the surety bond, or similar cash, securities, insurance (other than employee fidelity insurance), or letter of credit provides protection for the clients of the Agency; (3) the surety bond, or similar cash, securities, insurance, or letter of credit, must be written in favor of the state or the appropriate state Agency; and (4) the offset/credit is based on the annual disbursements or average daily bank balance directly related to the clients in the particular state. *See Example 1 below*.

Offsets and credits shall be computed on a state by state basis. In other words, a state bond can only be applied to offset the United States Trustee bond to the maximum United States Trustee bond requirement for that state. To the extent a state bond requirement exceeds the maximum United States Trustee bond requirement attributable for that state, the state bond cannot offset United States Trustee bond requirements for any other states.

(c) Proof of adequate employee bonding or fidelity insurance. The amount shall be 50 percent of the surety bond amount calculated prior to any offset/credit that the Agency may receive for state bonds. At a minimum, the employee bond or fidelity insurance must be $5,000.

(d) The Agency may receive an offset/credit in the employee bond/fidelity insurance amount required by the United States Trustee as follows: (1) the Agency has obtained an employee bond or fidelity insurance in compliance with the licensing requirements of the state in which the Agency seeks approval from the United States Trustee; (2) the deductible cannot exceed a reasonable amount considering the financial resources of the Agency; and (3) the offset/credit is based on the annual disbursements or average daily bank balance directly related to the clients in the particular state. *See Example 2 below*.

Offsets and credits shall be computed on a state by state basis. In other words, a state bond can be applied only to offset the United States Trustee bond to the maximum United States Trustee bond requirement for that state. To the extent a state bond requirement exceeds the maximum United States Trustee bond requirement attributable for that state, the state bond cannot offset United States Trustee bond requirements for any other states.

Example 1: Surety Bond Offset/Credit

The Agency with total annual disbursements of $3,000,000 seeks approval in judicial districts located in three states. The disbursements for the clients in each state are $1,000,000. State 1 has

no bonding requirement; State 2 has a fixed surety bond of $15,000; and State 3 has a bonding requirement of 10 percent of total annual disbursements. The Agency would calculate the appropriate United States Trustee bonding requirement as follows:

State	Disbursements	2% Bond Requirement *	State Bond Amount	UST Bond Amount
1	$1,000,000	$20,000	$0	$20,000
2	$1,000,000	$20,000	$15,000	$5,000
3	$1,000,000	$20,000	$100,000	$0
			Total	$25,000

* In lieu of 2% of total annual disbursements, the Agency may use its average daily balance maintained in all trust accounts for the six months prior to submission of the application.

The Agency must supply a bond calculation, similar to the example above, demonstrating its offset/credit computation.

Example 2: Employee Bond/Fidelity Insurance Offset/Credit

The Agency with total annual disbursements of $2,000,000 seeks approval in judicial districts located in two states. The disbursements for the clients in each state are $1,000,000 each. State 1 has no employee bonding or fidelity insurance requirement and State 2 has an employee bonding or fidelity insurance requirement of 10 percent of monthly average disbursements ($83,000 per month). The Agency would calculate the appropriate United States Trustee employee bonding or fidelity insurance requirement as follows:

State	Disbursements	Surety Bond Prior to Any Offsets/Credits*	50% of Surety Bond	State Insurance Amount	UST Insurance Amount
1	$1,000,000	$20,000	$10,000	$0	$10,000
2	$1,000,000	$20,000	$10,000	$8,300	$1,700
				Total	$11,700

* In lieu of the surety bond calculation based on total annual disbursements, the Agency may use the average daily balance maintained in all trust accounts for the six months prior to submission of the application.

The Agency must provide an insurance calculation, similar to the example above, demonstrating its offset/credit computation.

Administration by independent contractors. Subject to the exceptions below, if the Agency has contracted with an independent contractor to administer any part of its DRPs, the independent contractor shall either be an approved Agency or shall meet specific bonding requirements. Specifically, an independent contractor that is not an approved Agency shall be specifically covered under the Agency's surety bond or:

(a) have a surety bond sufficient to meet the requirements of the Agency, and

(b) agree in writing to allow the United States Trustee to audit the independent contractor's trust accounts for the DRPs administered on behalf of the Agency and to review the independent contractor's internal controls and administrative procedures.

Exceptions to bonding requirement: There exist two exceptions to the bonding requirement for independent contractors:

(a) If the independent contractor holds funds for transmission for 5 days or less, then the amount of the required surety bond shall be $500,000; or

(b) If the independent contractor performs only electronic fund transfers on the Agency's behalf, then the independent contractor need not satisfy the bonding and auditing requirements of this section during such time as the independent contractor is authorized by the National Automated Clearing House Association to participate in the Automated Clearing House system.

Specific instructions.

Item 7.1: Does the Agency offer DRPs? If the Agency currently offers DRPs to its clients, then it must complete section 7 in its entirety.

If the Agency has ceased offering DRPs to new clients who receive counseling services from the Agency, but continues to service, for earlier-counseled clients, any DRPs existing at the date of the application, the Agency shall state the date on which the Agency ceased offering DRPs to new clients. The Agency shall continue to maintain a surety bond payable to the United States for the duration of such plans based on disbursements pursuant to those plans, as set forth above. Complete items 7.3 through 7.9 of the application.

Item 7.5: Independent contractors. To the extent the Agency uses any independent contractor to administer, process, or execute any aspect of its DRPs or to handle client funds, it must disclose those independent contractors.

Item 7.9(d): Independent contractor status. Consult the box checked in response to item 7.7 to determine the necessary documents to attach as follows:

(a) The independent contractor performs only electronic fund transfers on the Agency's behalf, and no other functions: Exempt from bonding requirement. **Attach no documents**;

(b) The independent contractor holds funds for transmission for five days or less: Bonding requirement is $500,000. **Attach evidence of the bond**;

(c) The independent contractor is an approved Agency: **Attach evidence of the approved Agency's bond**;

(d) The independent contractor is covered under the Agency's surety bond. **Include evidence of coverage under the Agency's bond**; or

(e) None of the above. **Attach proof that the independent contractor maintains a surety bond in a sufficient amount as provided above**. **Attach a written acknowledgment** from the independent contractor agreeing to allow the United States Trustee or his/her designee to audit the trust accounts maintained by the independent contractor and to review the independent contractor's internal controls and administrative procedures.

Section 8. Appendices

New applicants: Complete Appendices A, B, C, and D. Do not complete Appendix E.
Returning applicants: If the Agency has no changes to Appendices B, C, or D from the previous application as approved, check the "NC" boxes for those Appendices and submit only Appendices A and E.

Appendix A: Acknowledgments, Agreements, and Declarations in Support of Application for Approval as a Nonprofit Budget and Credit Counseling Agency.

By executing and submitting the Application for Approval as a Nonprofit Budget and Credit Counseling Agency, the Agency 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 Nonprofit Budget and Credit Counseling Agency.

Appendix B: Judicial Districts.

Check the box for each judicial district in which the Agency seeks approval. Each Agency 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 Agency must submit an amended application to add judicial districts. Requests for authorization to cease providing credit counseling services in any district in which

the Agency was previously approved require written notification to the United States Trustee, signed by an authorized official.

Appendix C: Business Locations.

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

Appendix D: Matrix of Current Counselors.

The Agency shall use only counselors who possess adequate experience providing credit counseling, which means that each counselor either:

(a) holds a counselor certification and who has complied with all continuing education requirements necessary to maintain his or her counselor certification; or

(b) has successfully completed a course of study and worked a minimum of six months in a related area such as personal finance, budgeting, or credit or debt management. A course of study shall include training in counseling skills, personal finance, budgeting, or credit or debt management. A counselor shall also receive annual continuing education in the areas of counseling skills, personal finance, budgeting, or credit or debt management.

Certification and experience. A counselor shall be deemed to have adequate training and experience to provide credit counseling and budget analysis if the counselor is certified by a recognized independent organization, or has successfully completed a course of study acceptable to the United States Trustee and has worked a minimum of six months in a related area, including personal finance, budgeting, and debt management. The United States Trustee does not endorse any specific course or certification program.

With regard to each counselor who has completed a course of study, attach a statement to Appendix D setting forth the name and provider of the course, an outline of the course materials, and the criteria for passing the course. With regard to each counselor 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.

Criminal background checks. The Agency shall conduct a criminal background check at least every five years for each person providing counseling services. A "criminal background check" means a report generated by a state law enforcement authority disclosing the entire state criminal history record, if any, of the counselor for whom the criminal background check is sought, for every state where the counselor has resided or worked during any part of the immediately preceding five years. If a criminal background check is not available for, or is not authorized by state law in, each of the states where the counselor has resided or worked during any part of the immediately preceding five years, the Agency shall instead obtain at least every five years a sworn statement from each

counselor attesting to whether the counselor has been convicted of a felony, or a crime involving fraud, dishonesty, or false statements. The Agency shall not substitute a statement in lieu of a criminal background check unless a criminal background check is not available for, or is not authorized by state law in, each of the states where the counselor has resided or worked during any part of the immediately preceding five years.

The Agency shall not employ as a counselor anyone who has been convicted of any felony or a crime involving fraud, dishonesty, or false statements, unless the United States Trustee determines, upon review and in his or her discretion, the circumstances warrant a waiver of this employment requirement.

Appendix E: Activity Report for Approved Agencies.

Appendix E applies only to Agencies who have previously been approved by the United States Trustee and are seeking re-approval. **If the Agency has not yet been approved by the United States Trustee as an approved Agency, 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 the Agency 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.

Q16: 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 9. Certification and Signature

The Agency 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 Agency's president, chairman, trustee, or other authorized official declares that he or she is authorized to complete the application on behalf of the Agency; 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.