

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

(Application for Approval as a Nonprofit Budget and Credit Counseling Agency)

Name of Agency: _____

The Agency hereby assures and certifies compliance with all applicable federal statutes, regulations, policies, guidelines, and requirements including, but not limited to, 11 U.S.C. §§ 109(h) and 111. The Agency also specifically assures, certifies, and agrees that:

1. It is 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 seeks approval from the United States Trustee.
2. It will comply with the policies and directives of the United States Trustee and the Executive Office for United States Trustees, as may be issued from time to time.
3. It will make all records relating to the Agency's compliance with 11 U.S.C. § 111 available to the United States Trustee upon request and cooperate with the United States Trustee for any scheduled or unscheduled on-site visits and customer service audits, notwithstanding the existence of any contrary privacy policy or agreement.
4. It will cooperate with the United States Trustee and the Executive Office for United States Trustees and timely respond to any questions or inquiries concerning the Agency's operations and services.
5. It shall immediately notify the United States Trustee, in writing, of any material changes, including changes in the Agency's name, structure, principal contact, management, counselors, physical location, counseling services, fee policy including making or implementing any decreases in fees, language services, or method of delivery.
6. It shall immediately notify the United States Trustee, in writing, of any changes that render inapplicable, inaccurate, incomplete, or misleading any statement it previously made in its application or related materials, as well as any statement to the United States Trustee.
7. It will immediately notify the United States Trustee if there arises: any legal action, proceeding, investigation, arbitration, mediation, audit or examination by federal or state agencies (including the Internal Revenue Service) that involve the Agency; a change in the Agency's nonprofit status or authorization to operate under state law; a claim against the Agency's surety bonds or employee fidelity insurance policies; or any claim or action in which the Agency or its officers, directors, or employees is a party.
8. It will seek permission from the United States Trustee by submitting an amended application before: making any change in amount of or cancellation of any surety bond or fidelity insurance; engaging an independent contractor to provide credit counseling services or allowing the independent contractor to have access to, possession of or control over client funds; making or implementing any increase in fees, contributions or payments received from clients for credit counseling services; making or implementing any change in its fee policy; any expansion into additional federal judicial districts; or making or implementing any material change in credit counseling services or any change to its methods of delivery.
9. It is organized and operated as a nonprofit entity and has an independent board of directors, board of trustees, or other governing body the majority of which (i) are not relatives; (ii) are not employed by the Agency, and (ii) do not directly or indirectly benefit financially from the outcome of the credit counseling services provided by the Agency.

10. No member of the board of directors or trustees, officer, or supervisor is a relative of an employee of the United States Trustee; a panel or standing trustee in any federal judicial district where the Agency is providing or is applying to provide credit counseling services; a federal judge or federal court employee in any federal judicial district where the Agency is providing or is applying to provide credit counseling services; or a certified public accountant that performs audits of the Agency's trust account.
11. No Agency owner, employee, officer, insider or related party, or member of the board of trustees, directors, or any other corporate governing body will receive any commissions, incentives, bonuses, or benefits (monetary or non-monetary) of any kind based on the outcome of a credit counseling session.
12. It will provide counselors who have adequate experience and training to provide credit counseling services, and who receive no commissions, incentives, bonuses, or benefits (monetary or non-monetary) based on the outcome of a counseling session.
13. It will conduct a criminal background check every five years for each person providing credit counseling services. 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 obtain a sworn statement from each counselor, at least every five years, which attests to whether the counselor has been convicted of a felony or a crime involving fraud, dishonesty, or false statements. The Agency shall not employ as a counselor anyone who has been convicted of any felony or any crime involving fraud, dishonesty, or false statements, unless the United States Trustee determines circumstances warrant a waiver of this prohibition against employment.
14. It will provide adequate credit counseling services, including a written outline of available counseling opportunities to resolve the client's financial problems, and a written analysis of the client's budget, current financial condition, and the factors that caused such financial condition. Based on the analysis of the client's financial condition, it will assist the client in developing a plan to respond to the problems without incurring negative amortization of debt.
15. It will provide an opportunity to negotiate an alternative payment schedule with regard to each unsecured consumer debt pursuant to 11 U.S.C. § 502(k), or if it is unable to provide such services, it will refer the client to another approved Agency that does so in the applicable federal judicial district.
16. It will not exclude any creditor from a debt repayment plan because the creditor declines to make a "fair share" contribution to the Agency.
17. Any fee, contribution, or payment received for credit counseling services will be reasonable in amount, and the Agency will provide services without regard to a client's ability to pay.
18. It will not disclose or provide to a credit reporting agency information concerning whether an individual has sought or received credit counseling services from the Agency; nor sell information about the client to any third party without the client's prior written permission; nor expose the client to commercial advertising as part of the credit counseling services; nor market or sell financial products or services during the credit counseling session (though it may generally discuss all available financial products and services).
19. Any forms, agreements, contracts or other materials provided to a client will not limit the client's right to seek damages against the Agency as set forth in 11 U.S.C. § 111(g)(2).
20. If credit counseling services cannot be provided to a client for any reason, it will refer clients for credit counseling services only to Agencies that are approved by the United States Trustee.

21. It will 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 or compensation for the referral of clients to or by the Agency, except under a “fair share” agreement.
22. Any advertisement that refers to the United States Trustee’s approval for the Agency to provide credit counseling services in compliance with the Bankruptcy Code shall only be phrased in the following manner: ***“Approved to issue certificates in compliance with the Bankruptcy Code. Approval does not endorse or assure the quality of an Agency’s services.”***
23. It will not use the United States Department of Justice’s seal, the United States Trustee’s seal, the Bankruptcy Court’s seal, or any seal of the United States or a likeness thereof.
24. It will send a certificate to the client, upon completion of credit counseling services, no later than one business day after completion of counseling, and shall issue certificates only in the form approved by the United States Trustee and only from the Certificate Generating System maintained by the United States Trustee.
25. It consents to the release and disclosure of the Agency’s name on the approved list and the publication of the Agency’s contact information.
26. If administering debt repayment plans, it has adequate financial resources to provide continuing support services for debt repayment plans over the life of any plan and provide for safekeeping of client funds; it maintains client trust accounts that are audited annually by an independent certified public accounting firm, in accordance with generally accepted accounting principles as defined by the American Institute of Certified Public Accountants and any Statement of Work prepared by the United States Trustee; and has obtained the requisite surety bonds and employee bonding or fidelity insurance.
27. If it has contracted with another entity (“independent contractor”) to administer any part of its debt repayment plan, the independent contractor either: (a) is approved by the United States Trustee as a nonprofit budget and credit counseling agency; or (b) is specifically covered under the Agency’s surety bond, or has a surety bond that meets the requirements of 28 C.F.R. § 58.23(d)(1). The independent contractor shall also agree in writing to allow the United States Trustee to audit the trust accounts maintained by the independent contractor and to review the independent contractor’s internal controls and administrative procedures. However, if the independent contractor holds funds for five days or less, then the amount of the independent contractor’s surety bond shall be \$500,000. Further, if the independent contractor performs only electronic fund transfers on the Agency’s behalf, then the independent contractor need not satisfy the surety bonding and audit requirements of 28 C.F.R. § 58.23(d)(3)(i) during such time as the independent contractor is authorized by the National Automated Clearing House Association to participate in the Automated Clearing House system.

I HEREBY DECLARE under penalty of perjury that the foregoing representations are true and correct to the best of my knowledge, information, and belief.

Signature of President, Chairman, Trustee, or Other
Authorized Representative

Type or Print Name of Signer

Type or Print Title of Signer

Date