

**U.S. BANKRUPTCY ADMINISTRATOR  
EASTERN DISTRICT OF NORTH CAROLINA**

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

**Introduction.** A nonprofit budget and credit counseling agency (“Agency”) seeking approval by the US Bankruptcy Administrator, in accordance with 11 U.S.C. § 111, shall submit an application to the Office of the US Bankruptcy Administrator in the form described below. The Agency shall provide all information and documents required by Bankruptcy Administrator responsible for the judicial district in which the Agency seeks approval. Unless otherwise stated, all information and documents shall be in writing. All documents provided shall be either original or “conformed copies.”

**Mailing Instructions, Information Requests, and Notifications.** The application package should include the completed application and all documents and information requested. Once completed, the entire package should hand delivered or sent by overnight mail to the following address:

US Bankruptcy Administrator  
434 Fayetteville St., Ste.640  
Raleigh, N.C. 27601  
Attn: Lesley Cavanaugh  
(919) 334-3887

Supplemental information requests and notifications will be sent to the principal contact identified in the application. Responses to requests should be submitted to the address stated above unless otherwise instructed.

Applications should be completed in their entirety before submission. An incomplete application may result in delay or denial of the application. Upon receipt of the application, the Agency will receive, as soon thereafter as practical, an acknowledgment letter which may include a request for additional information. Written inquiries concerning the status of the application should be directed to the above address.

**Application Form and Instructions.** The application form and instructions consist of the following sections:

- Section 1. General Information Concerning the Organization
- Section 2. Status as a Nonprofit Organization
- Section 3. Quality, Experience, and Education in Credit Counseling Services
- Section 4. Counseling Services and Reasonableness of Fees

- Section 5. Qualifications of Counselors
- Section 6. Administration of Debt Management Plans and the Safekeeping and Payment of Client Funds
- Section 7. Acknowledgments, Agreements, and Declaration
- Section 8. Certification and Signature
- Appendix A. Acknowledgments, Agreements, and Declarations in Support of Application for Approval as a Nonprofit Budget and Credit Counseling Agency
- Appendix B. Employee Qualifications Matrix

Comments regarding this application should be directed to the Administrative Office of the US Courts, Bankruptcy Division, Suite 4-250, Washington, DC 20544.

**Section 1. General Information Concerning the Organization**

- 1. Complete Section 1 of the Application.

**Section 2. Status as a Nonprofit Organization**

- 1. Nonprofit. The Agency must be organized and operated as a nonprofit entity and have an independent board of directors, board of trustees, or other governing body, the majority of which - (i) are not employed by such Agency and (ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such Agency. An Agency may not engage in any conduct or transactions that generate or create the appearance of generating a private benefit for any individual or group. The Agency must provide copies of tax returns for the two years immediately preceding the date of the application.
- 2. Complete Section 2 of the Application.

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

- 1. 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.
- 2. Experience. The Agency must have adequate experience and education in credit counseling. To meet this requirement, the Agency or its counselors must have provided credit counseling services for at least the past two calendar years. Alternatively, the Agency may, at the sole discretion of the Bankruptcy Administrator, substitute educational or experiential equivalents as follows: equivalent period of course work leading to a professional certification in a

financial, legal or education field; equivalent period of prior employment in the field of consumer credit counseling, banking or accounting.

3. Compliance with Laws and Regulations. The Agency and its officers, directors, or operators, 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 credit counseling services. Nothing contained in these instructions, the application, or the appendix thereto is intended to preempt any applicable law or regulation governing the conduct or operations of an Agency.
4. Complete Section 3 of the Application.

**Section 4. Counseling Services and Reasonableness of Fees**

1. Adequate Credit Counseling Services. An agency shall provide, at a minimum, adequate briefings, budget analysis, and credit counseling services to clients which include consideration of all alternatives to resolve a client's credit problems, an analysis of the client's current financial condition, discussion of the factors that caused such financial condition, and how the client can develop a plan to respond to the problems without incurring negative amortization of debt.
2. Providers of Telephonic Services or Internet Services. In addition to meeting all other requirements, an Agency that provides telephonic services or Internet services must demonstrate sufficient experience and proficiency in designing and providing services over the telephone or Internet.
3. Reasonableness of Fees. Fees, contributions, or payments received from clients for counseling services shall be reasonable in amount, and the Agency will provide services without regard to a client's ability to pay and will not withhold a certificate of counseling because of an inability to pay.
4. Complete Section 4 of the Application.

**Section 5. Qualifications of Counselors**

1. Trained Counselors. The Agency must provide trained and experienced counselors.
2. 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 accredited or certified by a recognized independent organization, such as the National Foundation for Credit Counseling ("NFCC") or the

Association of Independent Consumer Credit Counseling Agencies (“AICCCA”), or has successfully completed a course of study acceptable to the Bankruptcy Administrator and has worked a minimum of six months in a related area, including personal finance, budgeting, or debt management.

3. Complete Section 5 of the Application.

**Section 6. Administration of Debt Management Plans and the Safekeeping and Payment of Client Funds (This section applies only to Agencies offering debt management plans.)**

1. Financial Security. The Agency must have adequate financial resources to provide continuing support services for debt management plans over the life of any plan, and provide for the safekeeping of client funds.
2. Banking. The Agency shall deposit all client funds into a trust account insured by the Federal Deposit Insurance Corporation (FDIC) in the amount of \$100,000 with respect to each client. The Agency shall provide evidence of the trust account by providing the account number and name of the financial institution to the Bankruptcy Administrator.
3. 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.
4. Bonding. Agencies that offer Debt Management Plans must provide the following:
  - Proof of adequate employee bonding or fidelity insurance. The amount shall be the greater of five (5) percent of the applicant’s prior year disbursements made from trust accounts based upon the information provided in the last annual audit or \$5,000.
5. Complete Section 6 of the Application.

**Section 7. Acknowledgments, Agreements, and Declarations**

1. Agreement to Disclose Information to Clients. The Agency must provide full disclosure to a client, including funding sources, counselor qualifications, possible impact on credit reports, the cost of services to be paid by the client, and how the cost will be paid.

2. Acknowledgment of Prohibitions, Limitations, and Obligations Regarding Operations. By executing and submitting the Application for Approval as a Nonprofit Budget and Credit Counseling Agency, the Agency acknowledges 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.
3. Complete Section 7 of the Application.

**Section 8. Certification and Signature**

The Agency's president, chairman, trustee, or other authorized official is required to declare, by signing the application, that such individual is authorized to complete the application on behalf of the Agency; that such individual has read and knows the contents of the application and all enclosures and attachments submitted; and that such individual affirms under penalty of perjury that all of the representations and statements contained therein are true and correct to the best of such individual's knowledge, information, and belief.

**UNITED STATES BANKRUPTCY ADMINISTRATOR  
EASTERN DISTRICT OF NORTH CAROLINA**

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

An application package is complete if all questions/items have been responded to and either original or conformed copies of the documents requested in the application are attached. Failure to file a complete application may result in the delay or denial of the application. Responses to the questions on this application are continuing and the applicant must promptly notify the U.S. Bankruptcy Administrator of any circumstances that would cause an answer to any question to change. If additional space is required to complete an answer, attach a separate page with the name of the organization, the federal tax identification number, and the question number indicated at the top, right-side of the page.

**Section 1. General Information Concerning the Organization**

1.0 Agency is seeking:     Initial Approval     Re-approval  
    Amends Application dated \_\_\_\_\_

If seeking re-approval or submitting an amendment, the Agency should designate any changes in its previous responses with an asterisk.

1.1 Agency is a (n):     Corporation     Unincorporated Association  
    Partnership     Limited Liability Partnership  
    Limited Liability Corp.  Other \_\_\_\_\_

1.2 Name(s) under which Agency conducts business, including any d/b/a:

1.3 Primary business address (include street and mailing address):

1.4 State of organization \_\_\_\_\_ Date of organization: \_\_\_\_\_

1.5 Federal Tax ID No.: \_\_\_\_\_ Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Website: \_\_\_\_\_ Email: \_\_\_\_\_

- 1.6 Name, street address, telephone number, Email address, and fax number of the principal contact for the Agency.
- 1.7 Name, street address, telephone number, Email address, and fax number of the registered agent for the Agency.
- 1.8 The date on which the board of directors or other governing body passed or authorized a resolution authorizing the filing of this application.
- 1.9 List all judicial districts for which the Agency has requested approval and the status of the application.
- 1.10 List all locations of branch and satellite offices, if any. For each office that serves clients, provide the mailing address, street address, telephone number, fax number, business hours, Email address, Internet website, and number of personnel employed at the location.
- 1.11 Will the Agency administer debt management plans? \_\_\_\_\_ Yes \_\_\_\_\_ No

## **Section 2. Status as a Nonprofit Organization**

- 2.1 Identify the Agency's basis for nonprofit status (e.g., Section 501(c)(3) status under the Internal Revenue Code).

- 2.2 State all names, including any d/b/a, a/k/a, f/k/a, and street and mailing address(es) the Agency has used in the last three years.
- 2.3 Identify each officer, director, or trustee who served within the last three years, and provide their term of office, street address, principal occupation, employment experience, and state whether they have ever been convicted of a crime involving fraud, dishonest, or false statements.
- 2.4 Identify each agent or independent contractor who performs credit counseling services on behalf of the Agency or that regularly refers clients to the Agency. Provide each agent's or independent contractor's street address, mailing address, telephone number and fax number, Email address, and Internet website, if any.
- 2.5 Identify all affiliated businesses or subsidiaries of the Agency within the last three years, including those persons identified as owners, officers, directors, partners, and trustees of those affiliated businesses or subsidiaries; whether organized for profit or not for profit; and the location and the nature of the business of each such affiliate business or subsidiary.
- 2.6 Provide the names of all businesses with which the Agency conducts business in which an officer, director, employee, or insider of the Agency holds, directly or by nominee, a 20 percent ownership or financial interest.



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

- 3.1 How long has the Agency been in business? \_\_\_\_\_Years \_\_\_\_\_Months
- 3.2 How long has the Agency provided credit counseling services?  
\_\_\_\_\_Years \_\_\_\_\_Months
- 3.3 Disclose the total number of clients counseled by the Agency within the last 12-month period.
- 3.4 If offering debt management plans, how long has the Agency offered debt management plans: \_\_\_\_\_Years \_\_\_\_\_Months
- 3.5 Disclose any memberships with credit counseling associations.
- 3.6 Disclose any accreditation(s) or certification(s) by accrediting or certifying organization(s) (e.g., the Council on Accreditation).
- 3.7 If, at any time, the Agency’s accreditation or certification was revoked or suspended, or lapsed, within the last five years, disclose when and why.
- 3.8 List each state in which the Agency is licensed to conduct business as a credit counselor.

- 3.9 List all legal actions, proceedings, investigations, arbitrations, mediations, audits by federal or state agencies, and potential bond or other claims in which the Agency is a party, pending or adjudicated, within the last three years, and the outcomes.
- 3.10 Disclose any prior or ongoing disciplinary or enforcement action by an applicable licensing, registration, or certification authority, court, or regulatory body against the Agency, or any officer, director, trustee, employee, or agent, of the Agency, within the last three years.
- 3.11 If the Agency does not meet the two year business requirement and desires to meet the requirement by substituting educational or experience equivalents, provide description of such education or experience, and dates of courses, certifications and employment.

**Section 4. Counseling Services and Reasonableness of Fees**

- 4.1 Identify the types of counseling services to be provided.
- In Person: \_\_\_\_\_ Telephonic: \_\_\_\_\_ Internet: \_\_\_\_\_
- Phone Number(s): \_\_\_\_\_ URL(s): \_\_\_\_\_
- 4.2 State the average length of time spent briefing a client. \_\_\_\_\_
- 4.3 If providing telephonic or Internet counseling services, describe the Agency's experience and proficiency in providing credit counseling via the telephone and/or Internet.

4.4 Attach original or conformed copies of the following to the application:

- Any forms used in relation to the counseling services, including a budget analysis form.
- A sample of the contract entered into with clients for counseling services or debt management plans, if applicable.
- Fee schedule or suggested contribution schedule for all fees and contributions to be paid by client.

**Section 5. Qualifications of Counselors**

5.1 Complete and attach Appendix B, Employee Qualifications Matrix, for each location that will be staffed by counselors providing credit counseling services to clients. Enter the counselor’s name and other identifying information in the employee box and complete the information as instructed. Place the Agency’s name, address, and federal tax identification number on each matrix submitted.

5.2 Attach original or conformed copies of the following to the application:

- Any written standards, procedures, or guidelines provided to employees who provide credit counseling services.

**Section 6. Administration of Debt Management Plan and the Safekeeping and Payment of Client Funds (To be completed only by Agencies offering debt management plans)**

6.1 Disclose the total number of debt repayment plans serviced within the last 12-month period and the amount of distributions the applicant paid to creditors through those debt repayment plans.

6.2 Will the Agency administer all plans? \_\_\_\_\_ Yes \_\_\_\_\_ No

If the answer to this question is “no,” disclose the name, street address, telephone number, email address, and fax number of the entity that will administer the plans; the full name of all principals of the entity; and attach a copy of the debt management services agreement/contract between the Agency and the provider of the services.

- 6.3 List the names and addresses of each bank or financial institution at which the Agency maintains an operating account(s) and trust account(s) in which clients' funds will be deposited and withdrawn to pay respective creditors.
- 6.4 List the names, addresses, and telephone numbers of the independent audit firms that performed the Agency's last two annual audits.
- 6.5 Attach original or conformed copies of the following to the application (this applies only to Agencies offering debt management plans):
- Annual audited financial statements prepared in accordance with generally accepted accounting principles for the preceding two years.
  - Proof of adequate employee bonding or fidelity insurance.
  - If applicable, any debt management services agreement/contract between the Agency and the provider of the debt management services.
  - If the Agency fails to meet the two-year business requirement, but currently employs in each office location that serves clients as least one office supervisor with experience and background in providing credit counseling for no less than two of the last three years, the Agency shall provide:
    - a business plan, including a feasibility study and market analysis;
    - the current year's pro forma financial statements and cash flow projections, including, but not limited to, balance sheets, profit and loss statements, and statements of cash flow; and a year-to-date budget versus actual comparison, including all underlying assumptions; and
    - a financial statement for the prior 12 months, if available.

**Section 7. Acknowledgments, Agreements, and Declarations**

- 7.1 Attach an originally executed Appendix A, Acknowledgments, Agreements, and Declarations in Support of Application for Approval as a Nonprofit Budget and Credit Counseling Agency.
- 7.2 Attach original or conformed copies of the following to the application:
  - Disclosure forms that will be provided to clients.

**Section 8. Certification and Signature**

**I declare under penalty of perjury that I am authorized to complete this application on behalf of the above named organization; I have examined the contents of the application, enclosures, and other accompanying documents; and I believe that all representations are true and correct to the best of my knowledge, information, and belief.**

\_\_\_\_\_  
Signature of President, Chairman, Trustee, or other  
Authorized Official

\_\_\_\_\_  
Type or Print Name of Signor

\_\_\_\_\_  
Type or Print Title of Signor

\_\_\_\_\_  
Date

## **Appendix A**

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

### **Acknowledgments, Agreements, and Declarations in Support of 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 each state of the United States in which the Agency seeks approval from the U.S. Bankruptcy Administrator.
2. 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 employed by such Agency, and (ii) do not directly or indirectly benefit financially from the outcome of the counseling services provided by such Agency.
3. It will not engage in any conduct or transaction that generates or creates the appearance of generating a private benefit for any individual or group.
4. It will comply with the policies and directives of the U.S. Bankruptcy Administrator and the Administrative Office of the U.S. Courts, as may be issued from time to time.
5. It will make all records relating to the Agency's compliance with 11 U.S.C. § 111 available to the U.S. Bankruptcy Administrator upon request and cooperate with the U.S. Bankruptcy Administrator for any scheduled or unscheduled on-site visits and customer service audits.
6. No member of the board of directors or trustees, officer, manager, employee, counselor, or agent is a U.S. Bankruptcy Administrator Program employee, a panel or standing trustee, a federal judge, a federal court employee, a certified public accountant that performs audits of the Agency's trust account, or a person with a financial or familial connection to the U.S. Bankruptcy Administrator Program.
7. No Agency owner, employee, officer, insider or related party counselor, or member of 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 counseling session.

8. It will provide adequate credit counseling, which considers all alternatives to resolve a client's credit problems and includes an analysis of the client's budget, current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt.
9. 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.
10. Any fee, contribution, or payment received for counseling services will be reasonable in amount, and the Agency will provide services without regard to a client's ability to pay.
11. It will not exclude any creditor from a debt management plan because the creditor declines to make a "fair share" contribution to the Agency.
12. It will not disclose or provide to a credit reporting agency information concerning whether an individual debtor has received or sought instruction concerning personal financial management from the Agency.
13. It will not pay or receive referral fees or other consideration for the referral of clients to or by the Agency.
14. If administering debt repayment plans:
  - a. It will conduct a criminal background check for each person providing credit counseling services and shall not employ as a counselor anyone that has been convicted of a crime involving fraud, dishonesty, or false statements; and
  - b. It has adequate financial resources to provide continuing support services for debt repayment plans over the life of any plan, and it maintains client trust accounts that are audited annually in accordance with generally accepted auditing standards by an independent certified public accountant.
15. An approved Agency may state that it is approved to provide credit counseling services in compliance with the Bankruptcy Code. However, any advertisement that refers to such approval 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.*" An approved Agency will not use the U.S. Bankruptcy Administrator's seal, the U.S. Bankruptcy Court's seal, or any seal of the United States or a likeness thereof.
16. It will provide written certification of a client's participation in a briefing and otherwise provide verification as requested by the U.S. Bankruptcy Court and the U.S. Bankruptcy

Administrator.

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

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Signature

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Date



**Appendix B: Matrix of Personnel Experience**

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

NAME OF AGENCY: _____										
ADDRESS: _____										
FEDERAL TAX ID #: _____										
Credit Counseling Counselor Qualifications	Employee #1	Employee #2	Employee #3	Employee #4	Employee #5	Employee #6	Employee #7	Employee #8	Employee #9	Employee #10
<b>EDUCATION - Highest Degree Received (check one)</b>										
High School										
A.D.										
B.A./B.S.										
M.S.										
J.D.										
Ph.D.										
Other*										
<b>COUNSELOR CERTIFICATION (check all that apply)</b>										
NFCC										
AICCA										
CFP										
AFC										
CPA										
Other *										
<b>EXPERIENCE (state years of experience)</b>										
Credit Counseling										
Personal Financial Management										
Consumer Credit Education										
Financial Planning										
Consumer Economics										
Marketing										
Sales										
Other *										
<b>BACKGROUND (check if employee background check has been completed in last five years with no criminal conviction for fraud, dishonesty, or false statements)</b>										
Criminal Check										
No Criminal Conviction										

\*Disclose on separate page.

## TAX INFORMATION AUTHORIZATION

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Name of the Organization Employer Identification No.

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Address of the Organization

Hereby authorizes the Internal Revenue Service to disclose its returns and return information (as that term is defined in I.R.C. § 6103(b)) for previous 3 tax years, related to Forms 990 and 990T, including, but not limited to, whether the organization is currently under examination for those years, or the status of a pending application for recognition of tax exempt status, to officers and employees of the Administrative Office of the United States Courts and its Bankruptcy Administrator Program.

I certify that I have authority to execute this tax information authorization on behalf of the organization named above.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Note: Treasury Regulations require that this authorization be received within 60 days of its execution by the taxpayer.