

**U.S. Bankruptcy Administrator Program
Western District of North Carolina**

**APPLICATION FOR APPROVAL OF NONPROFIT
BUDGET AND CREDIT COUNSELING AGENCY**

An application package is complete if all questions/items have been responded to and an original or conformed copy 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.

The applicant must promptly notify the Bankruptcy Administrator of any circumstances that would cause an answer to any question to change.

Do not leave any items blank. If the Agency has no information to provide, state “N/A” with respect to the relevant item. Please see the accompanying instructions for additional guidance on completing each item. If additional space is required to complete an answer, attach a separate page with the name of the individual/organization, social security number/federal tax identification number, and the question number indicated on the top right-side of the page.

Section 1. General Information Concerning the Agency and Nonprofit Status

- 1.1 Agency is seeking (a) initial approval (b) renewal of approval*
 (c) Amendment to original application dated _____

*If (b) mark any changes to answers from your previous application with an asterisk.

- 1.2 Agency is a(n): Individual Unincorporated Association
 Corporation Limited Liability Corp.
 Partnership Limited Liability Partnership
 Other _____

- 1.3 Name under which Agency will conduct business (including any d/b/a), including any and all names the Agency has used in the last three years (including any d/b/a, a/k/a, or f/k/a):

- 1.4 Primary business address (including street and mailing address), including all addresses the Agency has used in the last three years:

- 1.5 State of organization: _____ Date of organization: _____

1.6 Federal Tax ID No. or Social Security No.: _____
Telephone No.: _____
Fax No.: _____
Website: _____
Email: _____

1.7 Name, street address, telephone number, email address, website address and fax number of the principal contact for the Agency.

1.8 Name, street address, telephone number, email address, and fax number of the registered agent for the Agency.

1.9 List each judicial district for which the Agency requests approval.

1.10 List all locations of branch and satellite offices, if any. For each office where credit counseling will be provided to clients, provide the mailing address, street address, telephone number, fax number, business hours, email address, Internet website, and number of personnel employed at each location.

1.11 Is the Agency organized as a nonprofit entity pursuant to state law in the state of organization?

_____ Yes _____ No

1.12 Has the Agency received tax-exempt determination from the Internal Revenue Service?

_____ Yes. Provide the date and basis for the determination.

_____ No. State the Agency's nonprofit purpose and the legal basis of its nonprofit status.

Section 2. Agency Background, Certifications, and Management

2.1 How long has the Agency been in business? _____ Years _____ Months

2.2 How long has the Agency conducted nonprofit budget and credit counseling?
_____ Years _____ Months

2.3 If the response to Item 2.2 is less than two years, complete this item. Otherwise, state “N/A.”

For each location that provides nonprofit budget and credit counseling briefings, does the Agency employ at least one office supervisor with experience in nonprofit budget and credit counseling for no fewer than two of the last five years?

_____ Yes _____ No

If yes, identify the individual who will serve as the supervisor for each office offering counseling courses and attach a resume describing that individual’s experience and educational background.

2.4 How many clients have received credit counseling certificates from the Agency within the last 12 months within the states of Alabama or North Carolina?

2.5 Identify each owner, officer, director, partner, or trustee who served within the last three years and provide their title, term of office, street address, principal occupation, employment experience, amount of direct and/or indirect compensation (including deferred compensation), and state whether they have been convicted of a crime involving fraud, dishonesty, or false statements. Attach a resume for each officer, director or trustee who is currently serving the Agency.

2.6 Identify each individual or entity who regularly refers clients to the Agency, and provide the following: 1) the individual’s or entity’s street address, mailing address, telephone number, fax number, email address, and web address; 2) whether referred clients receive a discount from the Agency’s ordinary counseling fee; 3) whether the referrals are made pursuant to a fair share agreement; and 4) a copy of any written contracts or agreements with such individual or entity.

- 2.7 Identify each individual or entity to whom the Agency regularly refers clients, and provide the following: 1) the individual's or entity's street address, mailing address, telephone number, email address, and web address; 2) a copy of any written contracts or agreements with such individual or entity.
- 2.8 Identify each officer, director, shareholder, affiliate, subsidiary, or related individual or entity with whom the Agency has engaged in transactions within the last year, and with respect to each such individual or entity, provide the following: 1) the nature of the transaction; 2) the individual's or entity's street address, mailing address, telephone number, email address, and web address; 3) a copy of any written contracts or agreements with such individual or entity.
- 2.9 Identify each independent contractor that performs counseling services on behalf of the Agency or provides goods and services to the Agency, and provide the following: 1) the contractor's street address, mailing address, telephone number, email address, and web address; and 2) a copy of any written contracts or agreements with such contractor.
- 2.10 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 business 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.
- 2.11 State the name of each business with which the Agency conducts business in which an owner, officer, director, employee, or insider of the Agency holds, directly or by nominee, an ownership or financial interest (except for ownership of stock or shares in a publicly traded entity).

- 2.12 Disclose any accreditations(s) or certification(s) by accrediting or certifying organizations. Do not list counselor certifications here.
- 2.13 If, at any time, the Agency's accreditation or certification was revoked, suspended, or lapsed within the last five years, disclose when and why. If any counselor's certification was revoked, suspended, or lapsed at any time during the last five years, identify the counselor and state when and why.
- 2.14 List each state in which the Agency is licensed to conduct business. For each state identified, also identify the state regulatory body that issued the license or certificate and the license or certificate number, if any.
- 2.15 List all legal actions, proceedings, investigations, arbitrations, mediations, audits by federal or state agencies, and potential bond or other claims in which the Agency, any affiliate listed in response to question 2.11 above, or any officer, director, trustee, employee, or agent of the Agency is a party, pending or adjudicated, within the last three calendar years, and any disposition.
- 2.16 Disclose any prior or ongoing disciplinary or enforcement action by an applicable licensing, registration, or certification authority, court, or regulatory body against the Agency, any affiliate listed in response to question 2.11 above, or any owner, officer, director, partner, trustee, employee, or agent of the Agency, within the last three years.

Section 3. Experience and Training of Counselors

- 3.1 **Complete and attach Appendix B, Matrix of Counselor Experience, for each location that will be staffed by counselors providing counseling to clients.** Enter the supervisor's/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 or Social Security Number on each matrix submitted.

- 3.2 As part of the application, attach an original or conformed copy of any written standards, procedures, or guidelines provided to employees who provide credit counseling services.
- 3.3 Describe the Agency’s continuing education policy for counselors.

Section 4. Counseling Services

- 4.1 Identify the delivery methods for the Agency’s counseling services and the languages in which each delivery method is offered.

In-Person: Yes _____ No _____

Languages offered:

Telephone: Yes _____ No _____

Languages offered:

Internet: Yes _____ No _____

Languages offered:

- 4.2 State the average length of time spent briefing a client in hours.

In-Person: _____ Telephone: _____ Internet: _____

- 4.3 For each applicable means of providing counseling, describe the process of providing mandatory disclosures to clients.

- 4.4 For each applicable means of providing counseling, describe the Agency’s identity verification processes.

4.5 For each applicable means of providing counseling, describe the procedures that will be employed to encourage the completion and submission of evaluation forms by clients.

4.6 If providing counseling by telephone, provide the following information:

- (a) Describe the Agency's experience and proficiency in providing such counseling.
- (b) Describe the Agency's policies regarding the use of toll-free telephone number.
- (c) Describe the Agency's procedures to ensure compliance with the Americans with Disabilities Act ("ADA"), and to provide toll-free telephone numbers for deaf and hearing impaired debtors.
- (d) Describe the Agency's procedures for ensuring that a counselor is telephonically present to counsel and interact with clients.
- (e) State whether any portion of the telephonic counseling is pre-recorded.
- (f) Describe the Agency's procedures for providing a written copy of the counseling materials to clients before the telephonic counseling session.

4.7 If providing courses by Internet, provide the following information:

- (a) Describe the Agency's experience and proficiency in providing such courses.
- (b) Describe the Agency's procedures to ensure compliance with the ADA and its application to the Internet.
- (c) Describe the Agency's procedures for ensuring that a counselor responds to a client's questions or comments within 24 hours.
- (d) Describe the Agency's procedures for measuring the time spent by clients in completing the counseling session.

4.8 Provide the online address for any Internet budget and credit counseling briefing, and provide a test username and password for accessing the counseling session, and any necessary instructions for accessing the briefing materials online. Provide a login and password or a copy of screen shots or for all Internet briefing materials.

4.9 Protection of Personal Identifiable Information (“PII”).

PII is defined as “any information about an individual maintained by an agency, including (1) any information that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.” *Guide to Protecting the Confidentiality of Personally Identifiable Information (PII) Recommendations of the National Institute of Standards and Technology (McAllister, Grance and Scarfone) NIST Special Publication 800-122 (2010).*

Attach a copy of written procedures and policies implemented by the agency to maintain the confidentiality of PII collected from clients, including the agency’s incident response plan in the event that this information is compromised. List the name(s) and contact information for agency personnel responsible for maintenance of confidentiality of PII collected from clients.

4.10 Attach an original or conformed copy 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. Adequate Facilities

5.1 Complete and attach Appendix C, Agency Checklist for Adequacy of Facilities, for each location.

Section 6. Reasonableness of Fees

- 6.1 List all fees and contributions paid by the client in connection with the counseling briefing.

- 6.2 List any reduced rates (such as discounts for clients referred by certain law firms, or special rates for spouses who take the counseling together), based on criteria other than ability to pay.

- 6.3 Describe any and all fee waiver and fee reduction policies based on the client's ability to pay.

- 6.4 Attach an original or conformed copy of the following to the application:
 - The Agency's fee waiver policy.

- 6.5 If the Agency seeks fees in excess of \$50 per client, describe the basis for the fee increase and provide a cost-based justification. **The Agency may not unilaterally increase its fee without prior approval from the Bankruptcy Administrator.**

Section 7. Disclosures, Tax Returns, and Tax Information Authorization

- 7.1 Attach to the application an original or conformed copy of all disclosure forms that will be provided to clients. Please see the instructions for a complete list of required disclosures.

- 7.2 Attach to the application an original or conformed copy of the Agency's income tax returns for the two years immediately preceding the filing of the application.

- 7.3 Complete and attach Appendix A, Tax Information Authorization.

Section 8. Debt Management Plans (DMPs)

8.1 Check the line describing the Agency’s status with DMPs:

_____ The Agency currently offers DMPs.

_____ The Agency has ceased offering DMPs to new clients who receive credit counseling from the Agency but continues to service DMPs that are existing as of the date of this application. On what date did the Agency cease offering DMPs? _____

_____ The Agency does not offer and does not service DMPs on behalf of any clients. If this line is checked, proceed to Section 10.

8.2 How long has the Agency offered DMPs?

_____ years _____ months

8.3 State the number of DMPs serviced within the last 12 months:

8.4 State the amount of funds distributed by the Agency to creditors within the last 12-month period: \$ _____

8.5 Does the Agency use independent contractors to administer or process any aspect of its DMPs?

_____ Yes. Continue to Item 8.6.

_____ No. Skip to Item 8.7.

8.6 Provide the name, address, telephone number, and email address of the independent contractor(s).

8.7 For each independent contractor listed in response to Item 8.6, check **one** line concerning the independent contractor's status.

_____ The independent contractor performs only electronic fund transfers on the Agency's behalf, and no other functions.

_____ The independent contractor holds funds for transmission for 5 days or less.

_____ The independent contractor is an approved Agency.

_____ The independent contractor is covered under the Agency's surety bond.

_____ None of the above.

8.8 List the names and addresses of each bank or financial institution at which the Agency maintains an operating account and trust account in which client funds will be deposited and withdrawn to pay respective creditors. **Trust accounts must be denominated as trust or fiduciary accounts.**

8.9 Attach the following to the application:

- (a) Proof of adequate employee bonding or fidelity insurance. The amount must 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 \$5,000.00. If providing a surety bond, the bond must be made payable to the United States Bankruptcy Administrator.
- (b) Calculations used to determine the appropriate level of all required bonds.
- (c) If the Agency identified an independent contractor in Item 8.6, please see the Instructions to identify what documents must be attached for Item 8.9(c);
- (d) In addition to the documents provided in response to Item 8.9(c), if the Agency listed an independent contractor in Item 8.6, attach a copy of any service agreements or contracts between the Agency and each independent contractor; and
- (e) The first page of the most recent bank statement for each trust account identified in Item 8.8. If the Agency bank account information has not changed since the most recent application as approved, this information need not be provided.
- (f) Alabama Districts only: Copy of current Sale of Checks license.

Section 9. Acknowledgments, Agreements, and Declarations

9.1 Complete and attach an originally executed Appendix D, Acknowledgments, Agreements,

and Declarations in Support of Application for Approval as a Nonprofit Budget and Credit Counseling Agency.

Section 10. Certification and Signature

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

Signature of Owner, President, Chairperson, Trustee, or
Other Authorized Official

Type or Print Name of Signor

Type or Print Title of Signor

Date

Appendix A

TAX INFORMATION AUTHORIZATION

Name of Organization/Employer Identification Number

Address of the Organization

hereby authorizes the Internal Revenue Service to disclose its returns and return information (as is defined in I.R.C. §6103(b)) **for the five (5) tax years prior to the date of this authorization**, including, but not limited to, whether the organization/agency 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.

BACKGROUND CHECK (state the year of the criminal background check and check if no conviction for any felony, or crime involving fraud, dishonesty, or false statements)										
Criminal Checks										
No Criminal Convictions										
ANNUAL CONTINUING EDUCATION										
Year of Most Recent CE										

* Disclose on separate page. See Section 3 of Instructions for additional detail.

Appendix C: Agency Checklist for Adequacy of Facilities

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

Agency Name: _____

TAX ID: _____

Location Address: _____

CHECK ONE	REQUIRED ELEMENT	EXPLANATION	
YES <input type="checkbox"/>	NO <input type="checkbox"/>	Handicapped accessible building and room.	No steps at door entry or at wheelchair ramp, rail. Meets specifications of ADA.
YES <input type="checkbox"/>	NO <input type="checkbox"/>	Handicapped accessible restrooms.	Meets ADA.
YES <input type="checkbox"/>	NO <input type="checkbox"/>	Close to public transport.	Location within ½ mile of bus stop or reasonable distance from public transportation if available in the area.
YES <input type="checkbox"/>	NO <input type="checkbox"/>	Convenient parking and physically challenged designated parking available.	
YES <input type="checkbox"/>	NO <input type="checkbox"/>	Facility meets standard building safety codes.	
YES <input type="checkbox"/>	NO <input type="checkbox"/>	Facility does not exceed occupancy requirements for safety, fire, or health codes, rules or laws.	Occupancy permit for intended use and number of occupants.
YES <input type="checkbox"/>	NO <input type="checkbox"/>	Facility meets fire/life and health codes, rules or regulations.	Established exit, fire alarm, sprinkler, or safety requirements are met.
YES <input type="checkbox"/>	NO <input type="checkbox"/>	Facility does not contain hazardous materials.	Facility is free of hazardous materials according to federal, state, and local environmental rules or regulations.
YES <input type="checkbox"/>	NO <input type="checkbox"/>	Facility has adequate liability insurance coverage.	

THE CHECKLIST IS NOT AN EXCLUSIVE OR EXHAUSTIVE LIST OF ELEMENTS THE BANKRUPTCY ADMINISTRATOR MAY CONSIDER IN DETERMINING WHETHER A FACILITY IS ADEQUATE.

I declare under penalty of perjury that I have reviewed the information provided on this checklist and it is true and correct to the best of my knowledge, information, and belief.

Signature of Owner, President, Chairman, Trustee, or Official

Type or Print Name of Signor Other Authorized

Type or Print Title of Signor

Date

***Internet or telephonic credit counseling briefings are not subject to these requirements.**

Appendix D

(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 the United States and the state in which the Agency seeks approval from the 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 counseling services provided by such Agency.
3. It will not engage in any conduct or transaction that generates or creates the appearance of a private benefit for any individual or group.
4. No member of the board of directors or trustees, or owner, officer, manager, employee, counselor, or agent of the Agency is: an employee of the U.S. Courts; a panel or standing trustee in any federal judicial district in which the Agency is providing or applying to provide pre-bankruptcy credit counseling services; a certified public accountant that performs audits of the Agency's trust account; or a person with a financial or familial connection to a panel trustee or an employee of the U.S. Courts.
5. No Agency employee, officer, director or related party counselor, 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 counseling session.
6. 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.
7. It will provide counselors who have adequate experience and training to provide credit counseling services and who receive no commissions, bonuses, or benefits (monetary or non-monetary), based on the outcome of a counseling session.
8. It will not exclude any creditor from a debt management plan because the creditor declines

to make a “fair share” contribution to the Agency.

9. It will comply with the policies and directives of the Bankruptcy Administrator and the Administrative Office of the U.S. Courts, as may be issued from time to time.
10. It will make all records related to the Agency’s compliance with 11 U.S.C. § 111 available to the Bankruptcy Administrator upon request, and cooperate with the Bankruptcy Administrator for any scheduled or unscheduled on-site visit or customer service audit.
11. It will cooperate with the Bankruptcy Administrator and timely respond to any questions or inquiries concerning the Agency’s operations and services.
12. It shall immediately notify the Bankruptcy Administrator, in writing, of any material changes, including changes in the Agency’s name, structure, principal contact, management, and physical location, credit counseling briefing, fee policy, language services, or methods of delivery.
13. It shall immediately notify the Bankruptcy Administrator, 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 Bankruptcy Administrator.
14. It will conduct a criminal background check every five years for each person providing credit counseling services and shall not employ as a counselor, any person who has been convicted of a crime involving fraud, dishonesty, or false statements.
15. Any fee, contribution, or payment received for education services will be reasonable in amount, and the Agency will provide services without regard to a client’s ability to pay.
16. It will not provide legal advice to clients.
17. It will not contact any client via the United States Postal Service, other mail carrier, or electronic mail, for the purpose of soliciting clients to utilize the Agency's counseling course, unless:
 - (a) Such solicitations include the phrase “This is an advertisement for services” or “This is a solicitation” prominently displayed at the beginning of each page of the solicitation, and in a font size larger than or equal to the largest font size otherwise used in the solicitation; and
 - (b) Any such solicitations include only logos, seals, or similar marks that are substantially dissimilar to the logo, seal, or similar mark of any agency or court of the United States government, including but not limited to the Bankruptcy Administrator program.
18. It will make the following disclosures to each client before such client pays a fee for the Agency’s credit counseling briefing:

- (a) The Agency's fee schedule, including any cost to the client in addition to the credit counseling fee.
 - (b) A statement that the credit counseling is offered to clients without regard to the client's ability to pay.
 - (c) The qualifications, including educational and training background, of the Agency's counselors.
 - (d) A statement that the Agency does not pay or receive fees or other consideration for the referral of clients to the Agency.
 - (e) A statement that, upon completion of the credit counseling session, the Agency will provide a certification of credit counseling to the client.
19. An approved Agency may state that it is approved to provide credit counseling services as required under 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."* Approved Agencies will not use the Bankruptcy Administrator's seal, the Bankruptcy Court's seal, or any seal of the United States or a likeness thereof.
20. It will assist the Bankruptcy Administrator in identifying and investigating suspected fraud and abuse by any party participating in bankruptcy credit counseling briefings or bankruptcy process.
21. Any forms, agreements, contracts, or other materials provided to clients will not limit clients' right to seek damages against the Agency, as set forth in 11 U.S.C. § 111(g)(2).
22. It will refer clients seeking a counseling course only to Agencies that have been approved by the Bankruptcy Administrator to provide such services.
23. It will not disclose or provide to a credit reporting agency any information concerning whether a client has received or sought credit counseling from the Agency; nor sell information about any client to any third party without the client's prior written approval; nor expose the client to commercial advertising as part of the credit counseling briefing; nor market or sell financial products or services during the credit counseling briefing (though it may generally discuss all available financial products and services).
24. It will seek approval from the Bankruptcy Administrator by submitting an amended application before: engaging an independent contractor to provide credit counseling on behalf of the Agency; making or implementing any increase in fees, contributions, or payments received from clients for credit counseling; making or implementing any change in its fee policy; any expansion into federal judicial districts; or making or implementing any material change to credit counseling sessions or any method of delivery.
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. The Agency understands that failure to comply with any of the foregoing acknowledgements, agreements, and declarations may result in denial of the application or removal from the Bankruptcy Administrator's list of approved Agencies.

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 Owner, President, Chairperson, Trustee, or
Other Authorized Official

Type or Print Name of Signor

Type or Print Title of Signor

Date