

## OPERATING GUIDELINES AND REPORTING REQUIREMENTS FOR DEBTORS IN POSSESSION AND TRUSTEES (Revised 11/2024)

Under 28 U.S.C. §586(a)(3), the United States Trustee supervises all Chapter 11 cases. Accordingly, the United States Trustee for Region 20 has established these Operating Guidelines and Reporting Requirements for Chapter 11 debtors and trustees. Chapter 11 debtors, trustees, and their attorneys must notify the United States Trustee of significant matters affecting their case.

Timely complying with these requirements is essential. Failing to comply may result in the United States Trustee filing one or more motions, including to: dismiss the case, convert it for liquidation under Chapter 7, appoint a Chapter 11 trustee or examiner or both, or impose sanctions. If you believe that the below requirements should be waived or varied in your case, you should immediately submit a written request to the appropriate Field Office of the United States Trustee. Contact information may be obtained from the United States Trustee's website:

Cases filed in:

- District of Kansas (Wichita Field Office):

<https://www.justice.gov/ust/ust-regions-r20/region-20-staff-directory-2>

- Western District of Oklahoma (Oklahoma City Field Office):

<https://www.justice.gov/ust/ust-regions-r20/region-20-staff-directory-1>

- Northern and Eastern District of Oklahoma (Tulsa Field Office):

<https://www.justice.gov/ust/ust-regions-r20/region-20-staff-directory-0>

- District of New Mexico (Albuquerque Field Office):

<https://www.justice.gov/ust/ust-regions-r20/region-20-staff-directory>

Debtors, if represented, should contact their attorney with questions about this material.

1. **Initial Financial Report.** Complete the checklist and all applicable forms and notices by the deadline specified in your Initial Financial Letter sent by the Field Office. The Letter includes links to the appropriate checklist and required forms.
2. **Initial Debtor Interview.** To obtain requested information and ensure that debtor understands these Guidelines, the United States Trustee will meet with debtor and debtor's counsel—which may be by phone—before the §341 meeting of creditors. The Field Office will notify debtor's counsel of the time and date of this meeting.
3. **Books And Records.** A debtor's books and records, including all general-ledger accounts, must be closed as of the petition date and new books and records opened. The old books and records must be retained and be available to the United States Trustee.
4. **Bank Accounts.** Section 345(b) requires that estate funds be deposited or invested to ensure that the funds are protected for the benefit of creditors.

The debtor in possession is required to close existing bank accounts and open new bank accounts in an authorized depository, which is a bank that agrees to post collateral or a bond to protect uninsured amounts or deposits, and to report on a debtor's bank activity monthly. Protection may also be provided by a deposit or investment "insured or guaranteed by the United States . . . or backed by the full faith and credit of the United States..." 11 U.S.C. § 345(b). The court, for cause, may modify these requirements.

A depository authorized to hold bankruptcy funds must execute the Uniform Depository Agreement (UDA) regarding, among other things, the collateralization of bankruptcy funds on deposit at the depository.

5. **Proof of Insurance.** As part of the initial financial report, debtors must provide the United States Trustee with proof of the insurance coverage required by these guidelines. The proof must disclose, at a minimum, the effective date and the termination date of the coverage, the type and limits of coverage provided, and the identity of all loss payees. Binders must be accompanied by paid receipts. Debtors should instruct their insurance companies and agents to include the United States Trustee as a notice party on any insurance policies so that the United States Trustee receives prior notification regarding any change, cancellation, or expiration of a debtor's insurance policy. Upon expiration or other termination of any coverage, debtors must immediately provide the United States Trustee with proof of replacement coverage. Debtors must, where appropriate, maintain at least the following coverage:

1. General comprehensive liability;
2. Property (personal & realty);
3. Casualty and theft;
4. Workers' compensation;
5. Vehicle;
6. Product liability;
7. Flood insurance;
8. Directors and Officers liability;
9. Professional malpractice; and
10. Other coverage customary or prudent in the debtor's business or required by law.

6. **Taxes.** Debtors must file timely all tax returns and reports accompanied by payment in full of any liability. A copy of each return and verification of payment of taxes due must be served on the United States Trustee.

If the debtor maintains a separate tax account, then:

1. Upon paying each payroll, debtor must transfer from the operating account to the

- debtor's tax account sufficient funds to pay any liability associated with the payroll.
2. Taxes must be paid from the tax account accompanied by appropriate tax-deposit coupons.
  3. State and local taxes must also be paid from the tax account.
  4. Sales and use taxes must be deposited to the tax account at least weekly.

## **7. Operating Reports.**

### **a. Reporting Requirements in Non-Small Business and Non-Subchapter V Cases.**

On June 21, 2021, the United States Trustee Program's rule entitled Uniform Periodic Reports in Cases Filed Under Chapter 11 of Title 11, published at 28 C.F.R. § 58.8 (the "Final Rule") became effective. The Final Rule, mandated by 28 U.S.C. § 589b, requires that chapter 11 debtors in possession and trustees, other than in small business and subchapter V cases, file monthly operating reports and post-confirmation reports using streamlined, data-embedded, uniform forms in every judicial district where the U.S. Trustee Program operates.

UST Form 11-MOR, Monthly Operating Report ("MOR"), is the periodic financial report that must be filed on a calendar monthly basis from the petition date to the earlier of the effective date of a confirmed plan, the conversion date of the case to another chapter, or the dismissal of the case.

UST Form 11-PCR, Post-confirmation Report ("PCR"), is the periodic financial report that must be filed on a calendar quarterly basis once the effective date of a confirmed plan occurs by any post-confirmation entities, which would include the reorganized debtor and any other "authorized parties" charged with administering the

confirmed plan, until the earlier of the date the case is closed, dismissed, or converted to another chapter.

Report filers must refer to the Final Rule and instructions for the MOR and PCR forms for important information, including who must file each report, when the reports must be filed, who the reports must be served upon and what documentation must be filed along with each report. United States Trustee personnel will instruct the debtor as to which supplemental statements are also required in the debtor's case.

To access the latest version of the MOR and PCR forms, instructions for their use and filing, and other important information related to periodic reporting under the Final Rule, please navigate to

<https://www.justice.gov/ust/chapter-11-operating-reports>.

While at that webpage, please subscribe to the "Chapter 11 Operating Reports E-mail Updates" feature to automatically receive email updates about periodic reporting under the Final Rule.

**b. Reporting Requirements for Small Business and Subchapter V Cases.**

In cases where the debtor is a "small business debtor" as defined by 11 U.S.C. § 101 (51D) or has elected to proceed under subchapter V of chapter 11, monthly operating reports must be filed on Official Form B 425C, which is available at <https://www.uscourts.gov/forms/bankruptcy-forms>. United States Trustee personnel will instruct the debtor as to which supplemental statements are also required in the debtor's case.

The first MOR filed by a debtor in its Chapter 11 case shall cover the period from the date of the commencement of the bankruptcy case to the end of the month in which the case was commenced. However, if the case is filed after the 15th day of the month, the activity for the remainder of the first

month can be included in the report for the next calendar month, pursuant to Bankruptcy Rule 2015. The opening balance for inventory, cash, and receivables in the first MOR should reflect the DIP's financial condition as of the date the case commenced. Liabilities of the debtor should always start at zero since the debtor is a "new" reporting entity. Pre-petition liabilities should not be included in the MORs.

The MOR must be dated and signed with a wet signature by the debtor's representative. Reports with the scanned original signature of the debtor's representative shall be filed with the Court, using the Electronic Case Filing (ECF) System. Neither electronic nor stamp signatures are acceptable.

MORs are due by the 21st of each month following the period covered by that report. Reports are required for every month the case is open, until the case has been closed, converted, or dismissed unless the case status changes such that quarterly reports are due instead. Reports must be complete, signed, contain all necessary attachments, and be properly filed with the Court before they will be deemed to have met the reporting requirements.

For post-confirmation reporting, use the form provided to you by the local field office. This report must be submitted no later than the 21st day of the month immediately following the calendar quarter covered by the report.

8. **Quarterly Fees.** Under 28 U.S.C. § 1930(a)(6), a quarterly fee shall be paid to the United States Trustee System Fund at Treasury in each case under chapter 11 (except cases under Subchapter V) for each calendar quarter, or portion thereof, between the date a bankruptcy petition is filed and the date the court enters a final decree closing the case, dismisses the case, or converts the case to another chapter in bankruptcy.

Quarterly fees continue to accrue after the Plan of Reorganization has been confirmed.

More information, including payment instructions, is available at: <https://www.justice.gov/ust/chapter-11-quarterly-fees>

9. **Employing Professionals and Principals.** A copy of any application to employ or compensate a professional (including, but not limited to, lawyers, accountants, real estate agents/brokers, appraisers, auctioneers, and consultants) must be filed with the court. Applications to employ such persons must be filed before any services being rendered to debtor.

Any affidavit or declaration supporting an application must disclose any relationship or contact applicant has with the debtor, any creditor, party in interest, their attorneys and accountants, and employees of the Office of the United States Trustee. **A general statement that the applicant is disinterested and does not represent an interest adverse to the estate is *not* sufficient.**

Debtor must provide the following information regarding employment and compensation of its principals:

- name and position of the individual;
- detailed description of the duties and responsibilities;
- reasons why employing the individual is necessary for successful reorganization;
- details of the compensation sought;
- details of any other benefits or consideration to be received, including but not limited to use of vehicles, housing, expense reimbursement, insurance, and pension or profit sharing; and
- each individual's salary and benefit history for the year immediately preceding the filing of the petition.

10. **Additional Notice Requirements.** Debtors must advise the United States Trustee immediately of any significant change in their business. Significant changes include, but are not limited to, casualty or theft losses, changes in insurance coverage, or allegations of violations of laws, ordinances, or regulations, including but not limited to the failure to pay taxes, which could affect the continued operation of the debtor's business.
11. **Change of Address.** Debtors must file a Notice of Change of Address with the Court to notify the United States Trustee and the Bankruptcy Court of any change of address or telephone number within ten days of the change. Debtors may not receive notice of actions taken in the case if the debtor fails to provide proper notice to the Clerk and the United States Trustee.



**Receipt and Certification of Understanding of United States  
Trustee's Operating Guidelines and Reporting Requirements**

**CASE NAME:** \_\_\_\_\_

**CASE NUMBER:** \_\_\_\_\_

I hereby certify that I have read and understand the United States Trustee Chapter 11 "Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees". Further, I hereby agree to perform in accordance with said guidelines and requirements.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Debtor)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Printed Name of Signatory)

The undersigned, as counsel for the debtor, has read and reviewed with the debtor the operating guidelines and reporting requirements discussed above.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Attorney for Debtor)