

**CHAPTER 11 OPERATING GUIDELINES AND
REPORTING REQUIREMENTS
OF THE UNITED STATES TRUSTEE**

JUDICIAL DISTRICTS OF LOUISIANA & MISSISSIPPI

REGION 5



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**CHAPTER 11 OPERATING GUIDELINES
AND REPORTING REQUIREMENTS OF
THE UNITED STATES TRUSTEE, REGION 5,
JUDICIAL DISTRICTS OF
LOUISIANA AND MISSISSIPPI**
www.justice.gov/ust/r05

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I. INTRODUCTION

A. Authority

In furtherance of the duties imposed upon the United States Trustee under the United States Bankruptcy Code (Code) and 28 U.S.C. § 586(a)(3), the United States Trustee Region 5 (UST) herein promulgates the following Operating Guidelines and Reporting Requirements (OGRR-11) for cases filed under Chapter 11 of Title 11 of the United States Code. The OGRR-11 establishes the instructions for all debtors in possession and appointed Chapter 11 trustees (hereinafter collectively debtor or debtors).

THE DEBTOR'S ATTORNEY SHOULD CAREFULLY REVIEW THE CONTENTS OF THESE INSTRUCTIONS WITH THE DEBTOR IMMEDIATELY UPON RECEIPT.

The responsibilities of the UST include the administrative supervision of Chapter 11 proceedings. Pursuant to Federal Rules of Bankruptcy Procedure, it is the responsibility of the debtor to keep the UST informed of all matters pertaining to the case at all times. This includes ensuring that the UST is served with copies of all pleadings filed in the case.

Unless specifically directed otherwise, all communications and document submissions should be addressed to the appropriate office of the United States Trustee (Attachment I).

B. Purpose

The OGRR-11 establishes the procedures to be followed by each debtor subsequent to the entry of an order for relief in Chapter 11 cases and standardizes the practices in Region 5.

C. Certification

The debtor, or the debtor's authorized officer in the case of a corporation, and the debtor's attorney must sign the attached "Receipt and Certification" (Attachment III) which will be submitted on or before the initial debtor interview.

D. Compliance, Amendments or Modifications

Timely compliance with each of the requirements contained herein is mandatory. Any requests to amend or modify these requirements for a particular Chapter 11 case must be made in writing and approval by the UST must be in writing to be effective.

II. OPERATING REQUIREMENTS

A. General Requirements

1. The debtor must pay all obligations arising in the normal course of business after the filing of the petition (post-petition) in full when due.
2. The debtor may not pay pre-petition obligations except as allowed by the Code or by order of the court.
3. The debtor may not employ or compensate any professional, including but not limited to attorneys, accountants, realtors, or appraisers, without court approval.
4. The debtor must file all required tax returns. The debtor may not pay pre-petition taxes except as allowed by order of the court. The debtor is responsible for the timely deposit and payment of post-petition taxes. Individual Chapter 11 debtors must review IRS Notice 2006-83 which provides guidance regarding tax treatment of individual Chapter 11 debtors. This notice can be obtained from the Internal Revenue Service website: <https://www.irs.gov>.

B. Initial Debtor Interview with Office of the U.S. Trustee

The debtor and attorney are required to attend an initial debtor interview (IDI) and no less than two days prior to the IDI produce the Initial Operating Report with all required documents (Attachment II).

C. Bank Accounts

The debtor shall:

1. Immediately upon the filing of the petition close any bank account over which the debtor has possession or control at the time of filing, open new debtor-in-possession accounts in an authorized depository for estate funds and certify compliance (Attachment V).
2. Ensure that the depository imprints the name of the debtor on all permanent checks for all accounts (Attachment VI – sample of check form to be used). The debtor must type or print all of the foregoing information on temporary checks. The new account signature cards shall clearly indicate that the debtor is a “Chapter 11 Debtor-in-Possession.” A “voided” original pre-printed check for each account shall be provided to the UST with Attachment II.
3. Deposit all receipts and make all disbursements of estate funds by check or electronic fund transfers through these accounts. Notations representing reasons for disbursements shall be recorded on each check and reported monthly on the cash receipts and disbursements statement. Any funds in excess of those required for current operations should be maintained in an interest-bearing “debtor-in-possession” account.
4. When a trustee is appointed to succeed a debtor-in-possession, the trustee may continue previously opened and maintained debtor-in-possession accounts, but must ensure that the accounts and checks reflect the trustee’s name and title along with the name of the debtor and the case number. The trustee should also ensure that debtor is removed as a signatory on the account.
5. Funds of the estate may only be deposited in financial institutions which are UST Region 5 authorized depositories. A list of authorized depositories is available on the Bankruptcy Forms page of the UST Region 5 website at www.justice.gov/ust/r05.

D. **Insurance**

1. All debtors must maintain insurance and make all insurance premium payments when due.
2. Unless the UST directs otherwise, the debtors shall maintain at least the following insurance coverage:
 - (a) If the debtor has tangible assets susceptible to casualty loss (fire, weather, theft, vandalism, etc.), casualty insurance must be maintained at an amount at least equal to the replacement value of the property;
 - (b) If the debtor has employees, workers' compensation insurance and unemployment insurance must be maintained in accordance with applicable state laws;
 - (c) If the debtor conducts business operations, general liability and, if applicable, product liability insurance must be maintained; and
 - (d) Any other insurance customarily used in the debtor's business.
3. The debtor must notify the insurance carrier(s) that the UST is a party to be notified regarding changes in coverage. The debtor shall have each insurance carrier send a copy of the declaration page or certificate of proof of insurance to the UST indicating that the UST has been added for notification.
4. Upon expiration, termination, or renewal, or any changes affecting coverage whatsoever, the debtor shall immediately notify the UST and provide adequate proof of renewal or replacement coverage.
5. Proof of compliance with all sections dealing with insurance must be provided at the IDI with Attachment II.

E. **Chapter 11 Quarterly Fees**

Title 11 U.S.C. § 1930(a)(6) requires that in addition to the filing fee which is paid to the Court, a quarterly fee must be paid to the UST in each case under chapter 11 of title 11 other than under Subchapter V for each quarter (including any fraction of a quarter the debtor is under chapter 11 protection) until the case is closed, dismissed, or converted to another chapter. The quarterly fee is based on the amount of the disbursements made by the debtor during the quarter, even when there are no disbursements in a quarter. The quarterly fee schedule can be found at: <https://www.justice.gov/ust/chapter-11-quarterly-fees>.

Quarterly fee statements are mailed to the debtor by the UST at the end of each quarter with instructions on how to determine the fee and make proper payment of the fee. The fee is due on the last day of the calendar month following the calendar quarter for which the fee is incurred. Any debtor not receiving a statement for the fee or having questions about the fee should contact the appropriate UST office (see Attachment I). Failure to timely pay quarterly fees may result in dismissal of the case or conversion of the case to chapter 7. See 11 U.S.C. § 1112(b)(4)(K).

Interest is charged on delinquent fees. See 31 U.S.C. § 3717.

Payment Options

1) Online Payments:

Chapter 11 quarterly fees may be paid online via electronic funds transfer from a bank account* at <https://www.pay.gov/public/form/start/672415208>.

*Important: pay.gov DOES NOT ACCEPT debit cards, credit cards, or any other types of online payments.

2) Payments via Check or Money Order:

The current payment address will be listed on the quarterly fee statement. Payments sent to the payment center **must be** accompanied by the Quarterly Fee Payment Stub that is found at the bottom of the Quarterly Fee Statement. Failure to enclose the payment stub may result in the improper processing of the payment and cause delay in crediting the debtor's account. The payment center address is only for use in sending payments. Do not include any extraneous material or correspondence with the payment. Extraneous materials sent to the payment addresses will be destroyed. Checks should be made payable to "United States Trustee."

NOTICE: DISCLOSURE OF INTENT TO USE TAXPAYER IDENTIFYING NUMBER FOR THE PURPOSE OF COLLECTING AND REPORTING DELINQUENT QUARTERLY FEES OWED TO THE UNITED STATES TRUSTEE PURSUANT TO 28 U.S.C. § 1930(a)(6).

Pursuant to the Debt Collection Improvements Act of 1996, Public Law 104-134, Title III, § 3100 (i)(3)(A), 110 Stat. 1321-365, codified at 31 U.S.C. § 3701, the UST intends to use the debtor's Taxpayer Identifying Number ("TIN") as reported by the debtor and the debtor's counsel in connection with the chapter 11 bankruptcy proceedings for the purpose of collecting and reporting on any delinquent debt, including chapter 11 quarterly fees that are owed to the UST.

The UST will provide the debtor's TIN to the Department of Treasury for its use in attempting to collect overdue debts. Treasury may take the following steps: (1) submit the debt to the Internal Revenue Service Offset Program so that the amount owed may be deducted from any payment made by the federal government to the debtor, including but not limited to tax refunds; (2) report the delinquency to credit reporting agencies; (3) send collection notices to the debtor; (4) engage private collection agencies to collect the debt; and (5) engage the United States Attorney's office to sue for collection. Collection costs will be added to the total amount of the debt.

F. Communication with United States Trustee

United States Trustee personnel cannot communicate directly with debtors represented by an attorney unless written permission is provided prior to the communication (Attachment VIII).

III. REPORTING REQUIREMENTS

A. Operating Reports

Debtors-in-possession and chapter 11 trustees must account for the receipt, administration, and disposition of all property; provide information concerning the estate and the estate's administration as parties in interest request; and file periodic reports and summaries of a debtor's business, including a statement of receipts and disbursements, and such other information as the United States Trustee or the United States Bankruptcy Court requires. 11 U.S.C. §§ 1106(a)(1), 1107(a); Fed. R. Bankr. P. 2015(a)(2), (a)(3). The monthly periodic report filed during the case before the confirmation of a plan of reorganization is generally known as the monthly operating report (MOR). The quarterly periodic report filed after the confirmation of a plan of reorganization and before the case is closed is generally known as the post-confirmation report (PCR).

For all chapter 11 debtors except those who are small businesses or who, in accordance with the CARES Act, elect relief under subchapter V of chapter 11, the reports and the instructions for these reports can be found at: <https://www.justice.gov/ust/chapter-11-operating-reports>.

Any non-individual debtor or trustee, if appointed in the case is required to prepare and file with the MOR a Statement of Cash Receipts and Disbursements, a Balance Sheet containing the summary and detail of the assets, liabilities and equity (net worth) or deficit, a Statement of Operations (Profit or Loss Statement) and all bank statements and bank reconciliations for the reporting period. The UST reserves the right to require that additional supporting documentation be prepared and filed with the MOR.

B. Chapter 11 Small Business Operating Reports

Chapter 11 debtors designated as a small business or who elect subchapter V must prepare the Small Business Monthly Operating Report (Form 425C) through the effective date of the plan. A fillable form must be filed to enable the court to download the information. The fillable form may be found and downloaded at:

<https://www.uscourts.gov/forms/small-business-forms/monthly-operating-report-small-business-under-chapter-11>

In the event a non-subchapter v small business case remains open after the effective date of the plan, the debtor(s) must continue to file the Small Business Monthly Operating Report (Form 425C) or file the quarterly periodic report (PCR), as provided in section IIIa. above, to satisfy the debtor(s) obligations under Fed. R. Bankr. P. 2015(a)(5). Subchapter V cases are not required to file reports after the effective date of a confirmed plan.

C. Other Periodic Reports

A chapter 11 debtor must also file periodic financial reports using Official Form B 426 to report the value, operations, and profitability of each entity in which the debtor has a substantial or controlling interest unless the entity is publicly traded or also a debtor in bankruptcy. This requirement applies mostly to debtor corporations which control or own at least 20 percent of another entity. See Fed. R. Bankr. P. 2015.3. A copy of this form is available at the U.S. Bankruptcy Court's website at: <https://www.uscourts.gov/forms/bankruptcy-forms/periodic-report-regarding-value-operations-and-profitability-entities-which-0> .

IV. CONCLUSION

Pursuant to 11 U.S.C. § 101 *et. seq.*, and 28 U.S.C. § 586(a)(3), the UST reserves the right to revise, modify or amend these guidelines as deemed appropriate. Any inquiries regarding compliance with these guidelines should be addressed to the appropriate office of the UST.

/S/ DAVID W. ASBACH
Acting United States Trustee
Region 5, Judicial Districts of
Louisiana and Mississippi

REGION 5 MAILING ADDRESSES

1. EASTERN AND MIDDLE DISTRICTS OF LOUISIANA:

OFFICE OF THE UNITED STATES TRUSTEE
400 POYDRAS STREET, SUITE 2110
NEW ORLEANS, LOUISIANA 70130
TELEPHONE: (504) 589-4018
FACSIMILE: (504) 589-4096

2. WESTERN DISTRICT OF LOUISIANA:

OFFICE OF THE UNITED STATES TRUSTEE
300 FANNIN STREET, ROOM 3196
SHREVEPORT, LOUISIANA 71101
TELEPHONE: (318) 676-3456
FACSIMILE: (318) 676-3212

3. NORTHERN AND SOUTHERN DISTRICT OF MISSISSIPPI:

OFFICE OF THE UNITED STATES TRUSTEE
THAD COCHRAN UNITED STATES COURTHOUSE
501 E. COURT STREET, SUITE 6-430
JACKSON, MISSISSIPPI 39201
TELEPHONE: (601) 965-5241
FACSIMILE: (601) 965-5226

Initial Debtor Interview Financial Report

CASE NAME: _____

CASE NUMBER: _____

Mark One Box For Each Required Document.

Debtor must attach each of the following documents or a satisfactory explanation for failure to attach a document.

Document Attached	Previously Submitted	Explanation Attached	REQUIRED DOCUMENTS
{ }	{ }	{ }	1. Latest Fiscal Year Financial Statements.
{ }	{ }	{ }	2. Balance Sheet as of Month-end Immediately Preceding Filing.
{ }	{ }	{ }	3. Profit and Loss Statement for Month Immediately Preceding Filing.
{ }	{ }	{ }	4. Proof of Insurance Coverage – General Liability Coverage, Property (Fire, Theft, etc.) Insurance, Workers’ Compensation Insurance, Vehicle Insurance or Other.
{ }	{ }	{ }	5. Receipt and Certification of Understanding Operating Guidelines and Reporting Requirements for Chapter 11 Cases (Attachment III).
{ }	{ }	{ }	6. Completed “Information for Initial Debtor Interview” (Attachment IV).
{ }	{ }	{ }	7. Completed Declaration of Pre-Petition Account Closings” (Attachment V).
{ }	{ }	{ }	8. Proof of establishment of debtor in possession bank accounts as outlined, <i>infra</i> , with voided preprinted check and a copy of the bank’s completed signature forms for each bank account.
{ }	{ }	{ }	9. Most recently filed Federal Income Tax Return with all schedules and attachments.
{ }	{ }	{ }	10. Delinquent Quarterly Fee Notice (Attachment VII).
{ }	{ }	{ }	11. Authority for Direct Communication (Attachment VIII).
{ }	{ }	{ }	12. Six-month cash flow projections in small business cases (Attachment IX).

I declare under penalty of perjury that the following Initial Debtor Interview Financial Report, and any attachments thereto are true and correct to the best of my knowledge and belief.

Executed on: _____
(date)

Debtor(s): * _____

By: ** _____

Position: _____

Name of Preparer: _____

Telephone No. of Preparer: _____

*both debtors must sign if a joint petition

**for corporate or partnership debtor

RECEIPT AND CERTIFICATION OF UNDERSTANDING
OPERATING GUIDELINES AND REPORTING REQUIREMENTS
FOR CHAPTER 11 CASES

CASE NAME: _____

CASE NUMBER: _____

I hereby certify that I have reviewed the United States Trustee Region 5 Operating Guidelines and Reporting Requirements for Chapter 11 cases. Further, I hereby certify that I have read and understand the guidelines and requirements, and agree to perform in accordance with said guidelines and requirements.

(Date)

(Debtor Signature)

(Debtor Signature) *

(Corporate Representative Signature) **

(Title)

(Printed Name of Each 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)

*Both Debtors must sign if a Joint Return.

**For Corporate or Partnership Debtor

INFORMATION FOR INTIAL DEBTOR INTERVIEW

DATE: _____

CASE NAME: _____

CASE NUMBER: _____

BUSINESS INFORMATION:

FUNCTION: _____

NUMBER OF EMPLOYEES: _____ DATE STARTED/INCORPORATED: _____

CORPORATE OFFICERS, PARTNERS OR SOLE PRPRIETORSHIP:

NAME	TITLE	% OF OWNERSHIP	SALARY (Past 12 Mos.)
_____	_____	_____	_____
_____	_____	_____	_____

HAS APPLICATION FOR APPOINTMENT OF DEBTOR'S COUNSEL BEEN FILED WITH THE COURT?

YES _____ NO _____

SPECIFIC CONDITIONS WHICH CAUSED THE CHAPTER 11 PETITION TO BE FILED: _____

DEBTOR'S PROPOSED PLAN OF ACTION: _____

FINANCIAL CONDITION AS OF FILING DATE:

CASH: _____ INVENTORY: _____

ACCTS RECEIVABLE (TOTAL): _____ AMOUNT UNCOLLECTIBLE: _____

FIXTURES & EQUIPMENT: _____ VEHICLES: _____

REAL ESTATE:

LOCATION/DESCRIPTION:	VALUE	DEBT	LIEN HOLDERS
_____	_____	_____	_____
_____	_____	_____	_____

ACCOUNTS/NOTES RECEIVABLE FROM OFFICERS: _____

CASE NAME: _____

CASE NUMBER: _____

OTHER SIGNIFICANT ASSETS: _____

UNSECURED/TRADE ACCOUNTS OWED _____ NO. OF ACCOUNTS: _____

TAXES OWED:

TAXING AUTHORITY

AMOUNT

_____	_____
_____	_____
_____	_____

WAGES OWED: _____ NO. OF CLAIMS: _____

RENT OWED: _____ MOS. IN ARREARS: _____

ACCOUNTS OR NOTES PAYABLE TO OFFICERS: _____

POST PETITION LITIGATION: _____

ENVIRONMENTAL CONCERNS (describe): _____

SECURED DEBTS: (DO NOT REPEAT OBLIGATIONS LISTED UNDER REAL ESTATE)

SECURED PARTY

TRANSACTION DATE

AMOUNT

COLLATERAL

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

COMMENTS: (OPTIONAL)

CASE NAME: _____

CASE NUMBER: _____

DECLARATION OF PRE-PETITION ACCOUNT CLOSINGS

All pre-petition bank accounts of _____ as listed below*, were closed on _____ (Debtor)

(Date)

<u>Depository Name</u>	<u>Account Type</u>	<u>Account Number</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

All funds have been transferred to the following debtor in possession bank accounts*:

<u>Depository Name</u>	<u>Account Type</u>	<u>Account Number</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: _____
(Date)

(Debtor)

(Debtor)

(Printed Name of Signatory)

(Printed Name of Signatory)

*Attach additional sheets if necessary

DEBTOR IN POSSESSION ACCOUNTS

ABC, INC. 1400 Everystreet Anytown, LA 80000	Real Estate Account Trust Account Operating and/or Personal Account Payroll Account Tax Account Cash Collateral Account (Whichever Applicable)	No. _____
		Date _____, 20 ____
PAY TO THE ORDER OF _____		\$ _____
_____ DOLLARS		
THE BANK OF ANYWHERE		
FOR: _____		_____ (Signature)
11111111111111111111111111111111 1111		

This is an example of the correctly-styled check for a debtor in a possession bank account. Please use it as a guide in setting up your account and in ordering checks.

You must insure that your checks are imprinted with the full name of the debtor-in-possession exactly as shown on your voluntary petition. (Official Bankruptcy Form B-101 for Individual Debtors and B 201 for Non-Individual Debtors) Handwritten, typewritten and hand-stamped versions are not acceptable. In addition, the checks must be pre-numbered by the printer.

CASE NAME: _____

CASE NUMBER: _____

NOTICE

DISCLOSURE OF INTENT TO USE TAXPAYER IDENTIFYING NUMBERS FOR THE PURPOSE OF COLLECTING AND REPORTING DELINQUENT QUARTERLY FEES OWED TO THE UNITED STATES TRUSTEE PURSUANT TO 28 U.S.C. § 1930(A)(6).

Please be advised that, pursuant to the Debt Collection Improvements Act of 1996, Public Law 104-134, Title III, § 31001(i)(3)(A), 110 Stat. 1321-365, codified at 31 U.S.C. § 3701, the United States Trustee intends to use the debtor's Taxpayer Identifying Number ("TIN") as reported by the debtor or debtor's counseling connection with the chapter 11 bankruptcy proceedings for the purpose of collecting and reporting on any delinquent debt, including chapter 11 quarterly fees that are owed to the United States Trustee.

The United States Trustee will provide the debtor's TIN to the Department of Treasury for its use in attempting to collect overdue debts. Treasury may take the following steps: (1) submit the debt to the Internal Revenue Service Offset Program so that the amount owed may be deducted from any payment made by the federal government to the debtor, including but not limited to tax refunds, (2) report the delinquency to credit reporting agencies, (3) send collection notices to the debtor, (4) engage private collection agencies to collect the debt, and (5) engage the United States Attorney's office to sue for collection. Collection costs will be added to the total amount of the debt.

Debtor Signature

Debtor Signature

CASE NAME: _____

CASE NUMBER: _____

STATEMENT OF DEBTOR'S ATTORNEY CONCERNING DIRECT CONTACT

As attorney for the above referenced debtor, the undersigned attorney has no objection to UST personnel contacting the debtor(s) or debtor's representative regarding financial information contained in the monthly operating reports or initial debtor interview documents or regarding UST quarterly fees.

Designated representative: _____ Telephone #: _____

Designated representative: _____ Telephone #: _____

_____ requests all contacts with the debtor be arranged through the debtor's attorney.

Dated: _____

Signature: _____
(Attorney for Debtor)

SAMPLE FORM

SIX MONTH CASH FLOW PROJECTIONS

Month:

Month 1	Month 2	Month 3	Month 4	Month 5	Month 6

Beginning Cash

--	--	--	--	--	--

RECEIPTS:

Sales					
Other Receipts					
Total Receipts					

DISBURSEMENTS:

Operating					
General and Administrative					
Taxes					
Notes Payable					
Personal					
Total Disbursements					

Ending Cash

--	--	--	--	--	--