



U.S. DEPARTMENT OF JUSTICE

*United States Trustee
District of Arizona*

**UNITED STATES TRUSTEE
OPERATING GUIDELINES AND REPORTING REQUIREMENTS
FOR CHAPTER 11 CASES**

Section 586(a)(3) of Title 28 of the United States Code provides that the United States Trustee shall monitor the administration of chapter 11 cases within the region for which such United States Trustee is appointed. These guidelines* and reporting requirements have been promulgated by the United States Trustee for the District of Arizona pursuant to her statutory duty, and supplement the provisions in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules of the United States Bankruptcy Court for the District of Arizona. The latter, however, must be separately consulted to assure full compliance with all of the substantive and procedural requirements governing a chapter 11 bankruptcy case.

**ILENE J. LASHINSKY
United States Trustee
District of Arizona**

* These guidelines set forth the general policy of the United States Trustee, District of Arizona. The guidelines do not create any right or benefit, substantive or procedural, enforceable at law, by a party against the United States Trustee.

Timely compliance with each of the following requirements is mandatory. Failure to comply with any given requirement may result in the filing of a motion to dismiss or convert the case, or a motion to appoint a chapter 11 trustee or examiner.

WEEK-ONE REQUIREMENTS

1. Close All Existing Books and Records

All books and records of the chapter 11 business debtor must be closed as of the date the petition is filed.

2. Open a New Set of Books and Records

These are the debtor-in-possession books and records, which must be maintained throughout the bankruptcy. Provisions must be made for a separate accounting with respect to pre-petition and post-petition accounts and transactions. This requirement applies only to business debtors and to sole proprietor businesses operated by individuals in chapter 11 cases.

3. Close All Existing Bank Accounts

All accounts that the debtor owns, has access to, or over which the debtor exercises possession, custody or control, must be closed **immediately** upon filing, and any existing balances transferred to a debtor-in-possession bank account (see No. 4 below). Any outstanding checks will be returned by the bank as “account closed”, and the payee will be a creditor in the estate. Business debtors with a merchant account or insurance/Medicare account, are encouraged to consult with the attorney and/or analyst assigned to the case at the U.S. Trustee’s office.

4. Open New General, Payroll and Tax Bank Accounts

In business cases, a minimum of three new debtor-in-possession bank accounts must be opened at a bank that appears on the list of approved depositories. The three mandatory new bank accounts are general, payroll, and tax accounts, as follows:

General Account: All revenue and receipts and all other income received by the chapter 11 debtor shall be deposited into this account. Under no circumstances may a debtor engage in cash or other transactions that do not pass through this account.

Payroll Account: At the time payroll is due to be paid to the employees, an amount equal to net payroll should be transferred from the General Account to this account, from which payroll is to be made. Payroll accounts are only required if the debtor has **six** or more employees, or if the U.S. Trustee specifically requires such accounts in cases of less than six employees.

Tax Account: Sufficient funds to cover tax liabilities must be deposited into this account from the General Account as they accrue. Taxes must be paid timely in the manner specified by the appropriate taxing authorities. Monies may not be drawn from this account to cover payroll and general operating expenses.

For individual debtor cases, at least one new debtor-in-possession bank account must be opened at a bank that appears on the list of approved depositories.

All estate funds must be kept in a debtor-in-possession bank account. The new bank signature cards or account set up documents, and pre-printed checks, **must clearly indicate that this is a "debtor-in-possession" bank account, and the chapter 11 case number must also appear on the face of the checks.** The notation "DIP" is not acceptable as a substitute for the words "debtor-in-possession". If the debtor is required to segregate cash collateral, additional separate debtor-in-possession bank accounts must be established and maintained.

The debtor should obtain copies of the account opening documents prepared by the bank, and provide them to the U.S. Trustee's office, along with copies of the pre-printed check stock, for each debtor-in-possession bank account.

5. Obtain Insurance Coverage

The debtor must maintain appropriate insurance coverage for all estate property, including raw land. Listed below are the types of insurance coverage that are normally required for most bankruptcy estates. If the debtor does not have the required insurance coverage at the time of filing, it must be obtained immediately.

General Comprehensive Public Liability
Fire and Theft
Worker's Compensation
Vehicle
Product Liability
Professional Liability
Any other insurance coverage customary in debtor's business

The debtor must provide a certificate of insurance from the insurance agent indicating which policies are in effect, a description of the property covered, the expiration date of each policy, and naming the U.S. Trustee as a certificate holder*. Be sure the insurance agent understands that the U. S. Trustee is a certificate holder for notice only and is not an additional insured party. The U.S. Trustee is identified as a certificate holder in order to be notified by the insurance agent when a policy is canceled or changed.

***The address for notice by the insurance company to the U.S. Trustee as a certificate holder should be formatted as follows:**

**U.S. Trustee
Bankruptcy Case No. (Fill in)
230 N. 1st Avenue, #204
Phoenix, AZ 85003-1706**

INITIAL DEBTOR INTERVIEW PACKAGE

Within fifteen (15) days of the service of these guidelines and reporting requirements, the debtor must submit a package of required documents (IDI Package) to the U.S. Trustee's office, consisting of the following:

1. Debtor Compliance Cover Sheet

The Debtor Compliance Cover Sheet provides a list of the documents required to be included in the IDI Package. The debtor must check the box on the compliance form corresponding to each document that is being provided. If a required document is not being provided, a written explanation must be given. An inadequate explanation may result in the filing of a motion to compel, dismiss or convert the case.

2. Debtor Information Sheet

The debtor shall fill out the Debtor Information Sheet, to provide a detailed discussion of the circumstances leading to the filing of the bankruptcy petition. The discussion should include any relevant specific action taken by a creditor to cause the petition to be filed, such as lock out, foreclosure action, or bank account seizure. The discussion must also include the broader topics of changes in management, economic trends or other relevant events which actually led to the need for bankruptcy protection.

3. Proof of Insurance Coverage

The debtor shall provide the U.S. Trustee with a copy of the first page of the binders of all insurance policies. In addition, all riders listing all business locations, vehicles, and all machinery covered by the policy must be provided. These copies are in addition to the certificate of insurance from the insurance agent naming the U.S. Trustee as certificate holder discussed above on page 3.

4. Proof of Closed Pre-petition Bank Accounts

The debtor must provide the U.S. Trustee with a copy of a bank statement for each pre-petition bank account evidencing that the account has been **closed**. A letter from the bank stating that the account has been closed will suffice. Such a letter must be written on bank stationery, and signed by an authorized bank representative. **A bank statement which shows a \$0 balance, but which does not clearly state the account is closed, is not adequate proof of closure of an account.**

5. Proof of Debtor-in-Possession Bank Accounts

The debtor must provide the U.S. Trustee with copies of all new debtor-in-possession bank account opening documents (sometimes referred to as "signature cards") together with evidence of the amounts transferred to each of the new accounts. Voided samples of pre-printed checks from each account must also be provided. Additional time will be allowed for the debtor to provide samples of the printed checks. These should be forwarded to the U.S. Trustee as soon as the samples are available.

6. Pre-petition Financial Statements

The business debtor must submit copies of its most recent financial statements (audited or unaudited), including but not limited to a balance sheet and income (profit and loss) statement. Copies of the year-end financial statement for the prior fiscal year must also be provided.

7. Federal Income Tax Return

The debtor must submit a copy of the last filed income tax return.

8. Personal Property List

The debtor must provide a written list* describing all machinery and equipment, furniture and fixtures, and vehicles on hand as of the date the petition is filed.

** This requirement may be waived if sufficient asset detail is provided in Schedule B.*

9. Trust Agreements

The debtor must submit copies of any trust agreements to which the debtor is a party or under which the debtor holds, has possession of, or operates any personal or real property or business as a trustee or otherwise.

10. Proof of Required Certificates and Licenses

The debtor must submit proof that it holds all certificates and licenses required by federal, state, and local laws for the lawful operation of its business. The following is a list of licenses and certificates that are typically required:

*Liquor and Tobacco Licenses
Health-related Licenses
Contracting License*

11. Real Property Questionnaire

The debtor must submit a separate Real Property Questionnaire for each parcel of real property the debtor leases, owns, has an interest in, or is in the process of purchasing. **A questionnaire form will be provided.** Please make the necessary number of copies of the form prior to completing it, if multiple parcels are owned or leased.

12. Attorney Authorization for Direct Contact

This authorizes the U.S. Trustee non-attorney personnel to contact the debtor and/or its designees directly in order to obtain financial information, resolve financial and administrative questions and/or issues, and to ensure compliance with various bankruptcy requirements. If a debtor is represented by counsel, all communication will be through counsel unless and until this form is returned to the U.S. Trustee's office.

INITIAL DEBTOR INTERVIEW

The U.S. Trustee requires a personal interview with the debtor. The interview will take place approximately two weeks prior to the § 341 Meeting of Creditors and will be conducted in the U.S. Trustee's office. Meeting dates may only be rescheduled in emergency situations. A telephonic interview will be scheduled for those debtors who do not reside or conduct business within a convenient commuting distance to the U.S. Trustee's office. Such debtors would include those located in the outlying counties such as, for example, Yuma, Mohave, Coconino, La Paz, and Yavapai.

The purpose of the interview is to discuss the debtor's current financial affairs, identify potential problems of administration, and discuss compliance with the regulations of the U.S. Trustee. The interview will also afford the debtor the opportunity to ask questions regarding the format of the monthly operating reports.

ADDITIONAL AND ONGOING REQUIREMENTS

1. Insider Compensation

The U.S. Trustee must be notified in writing of any proposed increases to the compensation of an insider.

2. Monthly Operating Reports

Pursuant to Federal Bankruptcy Rule 2015(a)(5), Local Rules of Bankruptcy Procedure 2015-1, and 28 U.S.C. § 586 (a)(3)(G), the debtor-in-possession or trustee is required to file monthly financial reports in all chapter 11 cases until the case is dismissed, converted to chapter 7 or 13, or a final decree is entered. All financial reports must be filed by the 15th day of each month following the end of the month covered by the report. **Reports must be submitted whether or not any financial activity has occurred.** The reports are to be filed electronically with the Clerk of the U.S. Bankruptcy Court.

Debtors-in-possession are required to report all post-petition income, defined as income earned after the date of filing, from any source, and to identify the source of the income.

The reports *must be signed by the debtor-in-possession*. Any attachments must include the case name and case number. All blanks must be filled out completely. If any information requested on the report is inapplicable, it must be so noted on the report. Failure to timely file reports may result in a motion to compel, dismiss or convert the bankruptcy case, or to appoint a trustee or examiner. Submission of reports that are incomplete or not prepared in accordance with these guidelines, will be treated as a failure to submit.

The reports are meant to be generic so that they can easily be adapted to various types of businesses. If you believe the report provided with this package is not applicable to your case, you may discuss this with the bankruptcy analyst during the IDI. The reports have been designed to utilize the debtor's own in-house financial reporting records when applicable, as well as to enable debtors to complete them without professional assistance. Applicable segments of the reports, such as the Balance Sheet and Statement of Operations, must be prepared in accordance with generally accepted accounting principles. Copies of the bank statements for all bank accounts must be attached to each Monthly Operating Report.

In involuntary bankruptcy cases, upon entry of the order for relief, the requirement to file monthly operating reports commences. Monthly operating reports are then required to be filed from the date of the filing of the involuntary petition forward.

3. Periodic Report Regarding Value, Operations, and Profitability of Entities in Which the Debtor's Estate Holds a Substantial or Controlling Interest

Federal Bankruptcy Rule 2015.3(a) provides that "In a chapter 11 case, the trustee or debtor in possession shall file periodic financial reports of the value, operations, and profitability of each entity that is not a publicly traded corporation or a debtor in a case under title 11, and in which the estate holds a substantial or controlling interest." In the event that this rule applies to your case, your first report must be filed **no later than seven days before the first date set for the meeting of creditors under § 341 of the Code.** Subsequent reports must be filed no less frequently than every six months thereafter, until the effective date of a plan or the case is dismissed or converted. The report must be submitted on Official Form 426 (Rev. 12/17).

4. Quarterly Post-Confirmation Reports

Post-confirmation financial reports must be filed by the reorganized debtor or other designated party on a quarterly basis until the case is dismissed, converted, is administratively closed, or a final decree is entered. The report must be prepared using the form provided by the U.S. Trustee's office.

5. Preparation and Filing of Tax Returns

All tax returns, including income, sales, personal property, payroll and real property, must be prepared and timely filed throughout the pendency of the bankruptcy.

6. Applications to Employ Professionals

A debtor may employ an attorney, accountant or other professional only upon authorization of the court. See 11 U.S.C. § 327; Federal Bankruptcy Rule 2014. No payments may be made, either by the estate or a third party, to such attorneys, accountants or other professionals after the bankruptcy is filed without approval of the Court after notice to all creditors and a hearing. See 11 U.S.C. § 330; Federal Bankruptcy Rule 2016.

Counsel should consult the "United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330" for specific procedural and substantive guidance on payment of professionals.

7. Chapter 11 Quarterly Fees

Debtors or other designated parties in chapter 11 cases must pay a quarterly fee to the United States Trustee Program for each calendar quarter, or portion thereof, between the date of filing the petition or the date of relief, and the date the court enters a final decree closing the case, dismisses the case or converts the case to another chapter in bankruptcy. The quarterly fee is calculated by totaling the disbursement amounts reported in the Monthly Operating Reports for the three-month calendar quarter, or portion thereof, or from the total quarterly disbursement amount reported in the Post-Confirmation Quarterly Report, according to the following chart. The quarterly fee amount will be estimated if disbursements for all of the months of a calendar quarter that the case is open have not been reported to the U.S. Trustee. The estimated fee is based on: a) reported disbursement history, b) initial financial data submitted when the case was filed, or c) an estimation done by the U.S. Trustee’s office. If the quarterly fee is calculated to be less than the estimated quarterly fee shown on the statement, Monthly or Quarterly Operating Reports must be signed under penalty of perjury and filed with the U.S. Bankruptcy Court, and the disbursement amounts reported must support the lower fee. A minimum fee of \$325.00 is due even if there are no disbursements during a calendar quarter. There is no proration of the fee.

Effective January 1, 2018, the quarterly fee is calculated as follows:

NEW STATUTORY QUARTERLY FEE SCHEDULE

Effective January 1, 2018

If disbursements for the calendar quarter are within these amounts. . .		Then the quarterly fee due is. . .
From	To	
-0-	\$14,999.99	\$325
\$15,000	\$74,999.99	\$650
\$75,000	\$149,999.99	\$975
\$150,000	\$224,999.99	\$1,625
\$225,000	\$299,999.99	\$1,950
\$300,000	\$999,999.99	\$4,875
\$1,000,000 or more		1% of quarterly disbursements or \$250,000, whichever is less

Mail quarterly fee payments to: U.S. Trustee Payment Center P.O. Box 6200-19 Portland, OR 97228-6200 (Effective 5/15/2019)	For calendar	A fee payment is
	quarter ending. . .	due on. . .
	March 31	April 30
	June 30	July 31
	September 30	October 31
	December 31	January 31

Quarterly fees are due no later than the last day of the month following the calendar quarter, as shown in the chart above. Failure to pay quarterly fees may result in the conversion or dismissal of the case. Payment of that quarter's fees and any past due fees and interest, if applicable, must be made before the effective date of a confirmed plan of reorganization, and quarterly fees will continue to accrue until entry of the final decree, or until the case is converted or dismissed. Failure to pay these fees may result in a motion by the U.S. Trustee to dismiss or convert the case to a chapter 7 proceeding.

A billing statement from the United States Trustee Program is mailed to the debtor or other designated party for each calendar quarter before the payment due date. Chapter 11 quarterly fees may be paid online through pay.gov at <https://www.pay.gov/public/form/start/672415208> or by mailing the tear off portion of the statement and a check, made payable to the "United States Trustee".

The address shown above is a lockbox at a bank. This address may NOT be used for service of process, correspondence or any purpose other than the payment of quarterly fees. Any other correspondence or documents sent to the lockbox other than the payment form will be destroyed.

The debtor or other designated party is responsible for the timely payment of the quarterly fees. Failure to receive a bill or statement from the Executive Office for United States Trustees does not excuse the debtor or other designated party from timely payment. Failure to pay the quarterly fees is cause for conversion or dismissal of the chapter 11 case pursuant to 11 U.S.C. § 1112(b)(4)(K).

The United States Trustee Program assesses interest on unpaid Chapter 11 quarterly fees in accordance with 28 U.S.C. § 1930(a)(6). 31 U.S.C. § 3717. The interest rate assessed is the rate in effect as determined by the U.S. Treasury Department at the time the account becomes past due.