



U.S. Department of Justice
Office of the United States Trustee
Region 2 - New York, Connecticut, and
Vermont

**OPERATING GUIDELINES AND REPORTING REQUIREMENTS FOR CHAPTER 11
DEBTORS AND TRUSTEES**
(Revised 03/01/23)

Title 28 § 586(a)(3) of the United States Code directs the United States Trustee to supervise the administration of all Chapter 11 cases. To comply with this provision and the requirements of 11 U.S.C. § 704(a)(8),¹ the United States Trustee for Region 2 has established the Operating Guidelines and Reporting Requirements for Chapter 11 Debtors and Trustees (the "Guidelines"). Chapter 11 debtors, trustees and their attorneys are required to comply in all respects with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and Local Bankruptcy Rules for the District in which the Debtor filed its bankruptcy case.

Timely compliance with each of the following requirements is essential. Failure to comply may result in a motion to dismiss or convert this case to liquidation under Chapter 7, for the appointment of a Chapter 11 trustee or examiner, or for imposition of sanctions. If you believe that the 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 website, <http://www.justice.gov/ust/r02/index.htm>. If you are represented by counsel, please contact your attorney with questions regarding this material.

Upon the filing of a Chapter 11 petition, the Debtor becomes a new and separate entity referred to as a "Debtor-in-Possession." The Debtor-in-Possession (or "Debtor") has fiduciary and statutory responsibilities to operate efficiently and to preserve and maintain the bankruptcy estate. As part of its core responsibilities, the Debtor must pay all post-petition obligations as they become due and comply with Section 363 of the Bankruptcy Code regarding the use of cash collateral. In addition, unless otherwise permitted under the Bankruptcy Code, the Debtor may not pay pre-petition obligations, borrow funds, or sell assets outside the ordinary course of business, without obtaining prior court approval.

All certifications, reports, documents, and any other papers required by the United States Trustee which are to be signed by the Debtor, must be executed by the Debtor, its responsible officer, or managing member of the Debtor. Failure of the Debtor or its responsible officer or managing member to sign any certification, report, or document, or signing by any other party, such as Debtor's attorney or accountant, renders the document incomplete.

Most communications between United States Trustee Program employees and Debtors are administrative in nature and relate to the United States Trustee's statutory duty to supervise the administration of bankruptcy cases. To ensure that direct contact with a represented party is authorized by the Debtor's attorney, the United States Trustee requests that the Debtor's attorney complete and submit the Limited Waiver of Debtor Attorney Concerning United States Trustee Contact with Client (the

¹ 11 U.S.C. § 704(a)(8) is made applicable to Chapter 11 Debtors under 11 U.S.C. §§ 1106(a)(1) and 1107(a).

“McDade Waiver” Authorization form available at <https://www.justice.gov/ust-regions-r02/file/exhibit26.pdf/download>).

In addition to the obligations set forth above, the Debtor must comply with the following:

1. **List of Creditors.** When the petition is filed, a list of the Debtor’s twenty (20) largest unsecured creditors, excluding insiders, must be filed with the Clerk of the Bankruptcy Court. The complete name, address, e-mail address, telephone number, and name of contact of each creditor must be supplied.
2. **Unsecured Creditor’s Committee.** If there is sufficient interest, the Bankruptcy Code requires the United States Trustee to appoint a Creditors’ Committee composed of eligible unsecured creditors. *See* 11 U.S.C. § 1102. Potential committee members receive information explaining the duties and responsibilities of the creditors’ committee. The Debtor is required to meet with the members of the Creditors’ Committee as soon as practicable after the appointment of the Committee to transact such business as may be necessary and proper. *See* 11 U.S.C. § 1103(d). Unless otherwise ordered by the court, a Creditors’ Committee will not be appointed in small business cases or in cases filed under Subchapter V. *See* 11 U.S.C. § 1103(a)(3).
3. **Initial Debtor Interviews.** In chapter 11 cases, the United States Trustee requires the Pro Se Debtor or the Debtor and its counsel to meet with a member of the staff of the United States Trustee at an Initial Debtor Interview (the “IDI”) prior to the Section 341 meeting (“Meeting of Creditors”). The purpose of the meeting is to discuss the debtor's particular financial situation, its operating framework under Chapter 11, the Guidelines, and any other requirements of the United States Trustee. The Debtor and its counsel should review the information contained in these Guidelines thoroughly before the IDI. Failure by the Debtor to attend meetings reasonably requested by the United States Trustee is cause for conversion or dismissal of the bankruptcy case.

At the meeting, the Debtor is required to furnish the following documentation and such other information as requested. If no initial debtor interview is scheduled, such materials must be provided to the United States Trustee within fourteen (14) days of the petition filing.

- Copies of the Debtor’s last two filed federal income tax returns including all schedules and attachments.
- A copy of the most recently issued or prepared audited and/or unaudited financial statements (inclusive of balance sheet, income statement, and statement of cash flows).²
- A schedule of aged accounts receivable.
- Specimen (voided) checks that verify the opening of "debtor in possession" bank accounts (see "Bank Accounts"), and a listing of the authorized signatories (not the signature card).
- Proof that all applicable insurance is in place (see “Insurance”).
- A listing of all disbursement transactions recorded in bank accounts and alternative (P2P) payment platforms for the ninety (90) days prior to the filing, which may take the form of a check register for an individual.
- Copies of all licenses and/or permits (including licenses to intellectual property and certificates evidencing ownership of intellectual property).
- Copies of all written policies given to customers regarding the sale of personally identifiable information.

² If the debtor is a “small business debtor” these documents must be filed along with the petition. 11 U.S.C. § 1116.

- Group/Pension Information Form (must be completed even if not applicable)
4. **Affiliated Entities.** If the Debtor is an entity that is indirectly or directly affiliated, related, and/or shares common ownership with other entities (a “layered” entity structure, for example), the Debtor must provide the United States Trustee with an organizational chart or detailed statement that explains the relationship between the companies and provides the federal identification numbers (FEINs) for each. The Debtor must also file periodic financial reports for each entity that is not a publicly traded corporation or a debtor in a bankruptcy case, and in which the estate holds a substantial or controlling interest. *See* Fed. R. Bankr. P. Rule 2015.3.
 5. **Meeting of Creditors.** A meeting of creditors will be held by the United States Trustee within 21 to 40 days after the filing of a voluntary petition or order for relief. The Pro Se Debtor or the Debtor and its attorney are required to appear. All creditors and other parties in interest are notified of the meeting by the Clerk of the Bankruptcy Court. The debtor(s) will be examined under oath by the representative of the United States Trustee, creditors, and other parties in interest in attendance pursuant to 11 U.S.C. §§ 341 and 343, and Fed. R. Bankr. P. Rule 2003(b).
 6. **Books and Records.** Debtor’s books and records (i.e., 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.
 7. **Bank Accounts.** Immediately upon the filing of the Debtor’s petition, the funds in the Debtor’s existing accounts become property of the bankruptcy estate. All pre-petition bank accounts controlled by the Debtor must be closed immediately upon the filing of the petition, and the debtor shall immediately open new debtor-in- possession operating, payroll, and tax accounts at a United States Trustee Authorized Depository. A list of approved depositories is available on the United States Trustee Website, <https://www.justice.gov/ust-regions-r02/region-2-general-information> .

In addition, individual Debtors engaged in business as sole proprietors should open a separate debtor-in-possession account for payment of personal living expenses. All business revenues must be deposited into the general operating account, with amounts needed to fund the other accounts being transferred to those accounts as necessary. Deposits, other than transfers from the operating accounts, should **not** be made directly to the payroll or tax accounts. Any deviation from these debtor-in-possession accounts must be approved by the United States Trustee.

Except as provided herein, disbursements other than by numbered check are prohibited. Counter checks are prohibited. Requests to use, create or maintain petty cash accounts must be submitted to the United States Trustee in writing.

If the Debtor uses cash collateral, separate cash collateral accounts must be established and maintained pursuant to 11 U.S.C. § 363(4). Any funds in excess of those required for current operations should be maintained as permitted by 11 U.S.C. § 345(a).

Within fourteen (14) days of filing the petition, the Debtor must provide the United States Trustee with a sworn statement describing all pre-petition accounts by depository name, account number and account name, verifying that each such pre-petition account has been closed. A form that complies with this requirement can be obtained from the United States Trustee website, https://www.justice.gov/sites/default/files/ust-regions/legacy/2011/09/08/decl_pre-petition_acct_closings.pdf.

8. **Insurance.** Within fourteen (14) days of filing the petition, the Debtor 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 coverage; the type and limits of coverage provided, and the identity of all loss payees. Binders dated after the filing of the petition must be accompanied by paid receipts. Debtor should instruct its insurance companies to list the United States Trustee as a Certificate Holder. Upon expiration or other termination of any coverage, the debtor shall immediately provide the United States Trustee with adequate proof of replacement coverage. Debtor shall maintain at least the following coverage, where appropriate:
- a. General comprehensive liability
 - b. Property (personal & theft)
 - c. Casualty and theft
 - d. Workers' compensation and, if required, disability insurance
 - e. Vehicle
 - f. Product Liability
 - g. Flood insurance
 - h. Directors and Officers Liability
 - i. Professional malpractice
 - j. Other coverage customary or prudent in the debtor's business or required by law.
 - k. Proof of Renewal of Insurance during pendency of the case.
9. **Physical Inventory.** Within thirty (30) days of filing the petition, the Debtor, if directed by the court or requested by the United States Trustee, shall provide the United States Trustee with a physical inventory as of the petition date. The inventory shall be itemized and indicate cost values. For purpose of this reporting requirement, "inventory" is defined as all goods in possession of the debtor intended for sale to customers. It includes finished goods and unfinished goods. It does not include fixed assets owned by the debtor.
10. **Rental Property Records.** Debtors who own commercial or residential rental property shall provide the United States Trustee with a rent roll as of the petition date within fourteen (14) days from the filing of the petition. The rent roll shall consist of: (1) a description of each property owned; (2) rental price of each unit; (3) security or other deposits held; (4) occupancy and payment status of each unit; (5) lease terms including date the lease was entered and date of lease expiration; (6) name, address, and phone number of the management company, if any; and (7) the monthly management fee.
11. **Periodic Financial Reporting.** The periodic financial reports shall be filed with the Clerk of the Bankruptcy Court in compliance with local ECF rules and filing procedures.

A. 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.

The periodic financial report MOR must be filed by the 21st day of the month following the reporting period, unless a different period is specified by Local Rule. Such reports shall disclose all transactions of the calendar month immediately preceding the due date. The first report shall include all transactions for the period of the first month the debtor is in bankruptcy. It is recognized that in almost all cases, this first report will only be for a partial month. The partial month report should not be combined with that of the first full month.

Unless otherwise directed by the United States Trustee, the Debtor must file with each MOR a Statement of Cash Receipts and Disbursements, Balance Sheet, and Statement of Operations (Profit or Loss Statement). The Debtor is also required to file with each MOR a photocopy of the month's bank statements and all other depository, payment (PayPal, Venmo, Zelle, etc.), or crypto platform transaction activity statements. If statements are not available at the time the MOR is filed, they must be submitted separately as soon as the Debtor receives them. Additional supporting documentation may be required by the United States Trustee on a case-by-case basis and as directed at the IDI or at any time during the pendency of the case. Failure to submit required supporting documentation will render the MOR incomplete and may result in a motion to dismiss, convert, or appoint a trustee in the case.

UST Form 11-PCR, Post-Confirmation Report ("PCR"), is the periodic financial report that must be filed on a calendar quarterly basis after the occurrence of the effective date by post-confirmation entities, including the reorganized debtor and any other "authorized parties" charged with administering the confirmed plan. PCRs must be filed until the earlier of the date the case is closed, dismissed, or converted to another chapter. The report must be filed by the 21st day of the month following the reporting period, unless a different period is specified by Local Rule.

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.

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. Small Business Cases, Including Subchapter V Cases

Chapter 11 debtors designated as small businesses must complete and file the small business monthly operating report. The monthly operating report is based on a calendar month (e.g., January 1 - January 31), and all reports must be filed by the 21st day of the month following the reporting period, unless a different period is specified by Local Rule.

The Small Business Reorganization Act of 2019 ("SBRA"), Pub. L. No. 116-54, effective February 19, 2020, provides that a small business debtor may elect at the time of filing to proceed under a new subchapter V of chapter 11. Subchapter V debtors must file the periodic financial reports required by section 308 and Rule 2015(a)(6).

Debtors must use the Official Form B 425C, Monthly Operating Report for Small Business Under Chapter 11 ("Form B 425C") and provide all Exhibits and Additional Information. This form is available at <https://www.uscourts.gov/forms/bankruptcy-forms>. The Debtor is required to file as

an attachment to the Form B 425C each month's bank statement for every account in the Debtor's name and all other depository, payment (PayPal, Venmo, Zelle, etc.), or crypto platform transaction activity statements including accounts to which the Debtor had access during the reporting period. The Debtor also is required to attach copies of all tax returns filed during the reporting period. Tax returns, bank statements and transaction activity statements should be redacted to comply with applicable laws affecting privacy right of third parties. *See* Fed. R. Bankr. P. 9037.

Once the effective date of a confirmed plan occurs, small business case debtors are required to file periodic post-confirmation financial reports, on a calendar quarterly basis until the earlier of the date the case is closed, dismissed, or converted to another chapter. The reports must be filed by the 21st day of the month following the reporting period, unless a different period is specified by Local Rule. Unless required by a court order or specified by Local Rule, Subchapter V debtors do not need to file post-confirmation quarterly reports.

12. **Taxes.** Upon payment of each payroll, debtor shall transfer from the operating account to the debtor's tax account sufficient funds to pay any liability associated with the payroll. Taxes shall be paid from the tax account accompanied by appropriate tax deposit coupons. State and local taxes shall also be paid from the tax account. Sales and use taxes shall be deposited to the tax account at least weekly. All tax returns and reports must be timely filed and accompanied by payment in full of any liability. A copy of each return and verification of payment of taxes due must be provided with the periodic financial report.
13. **Employment of Principals and Professionals.** Pursuant to 11 U.S.C. § 327 and Fed. R. Bank R. P. 2014, the debtor or trustee must apply for an order of the Court approving the employment or compensation of professionals (including, but not limited to, lawyers, accountants, financial advisors, appraisers, auctioneers, real estate agents/brokers, and consultants), unless Local Rules otherwise direct. Applications to employ or compensate such persons must be filed, and an order approving must be entered, prior to any services being rendered to the debtor.

Each applicant's affidavit must disclose any relationship or contact applicant has with the debtor, any creditor, party in interest, their attorneys and accountants, and employees 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.

No later than the date of the first meeting of creditors, the debtor shall 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 employment of 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.

14. **Pre-Petition Financial Statements.** Within fourteen (14) days of the petition filing, debtor shall provide the United States Trustee with copies of the debtor's most recent audited and unaudited financial statements.
15. **Federal Income Tax Returns.** Within fourteen (14) days of the petition filing, debtor shall provide the United States Trustee with copies of the last two federal income tax returns that were filed with Internal Revenue Service along with the supporting schedules.

16. **Change of Address.** The debtor must notify the United States Trustee, in writing within ten (10) days of any change of address or telephone number of the debtor. The debtor must also file with the Clerk of the Bankruptcy Court a change of address form.
17. **United States Trustee Quarterly Fees.** United States Trustee Quarterly Fees accrue for each calendar quarter, or portion thereof, between the date of filing the petition 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 reported disbursements for the three-month calendar quarter, or portion thereof, according to the fee schedule shown below. The quarterly fee amount will be estimated if disbursements for all months of a calendar quarter that the case is open have not been reported to the United States Trustee. The estimated fee is based on: (a) reported disbursement history; (b) initial financial data submitted when the case was filed; or (c) the United States Trustee's estimate. If there is a disagreement with the estimated quarterly fee noted on the billing statement, then periodic financial reports or actual disbursement reports supporting a different calculation must be filed with the Bankruptcy Court. **The applicable minimum fee is due even if there are no disbursements during a calendar quarter.** The fee is not prorated.

**FEE SCHEDULE FOR CALENDAR QUARTERS BEGINNING
APRIL 1, 2021 THROUGH DECEMBER 31, 2025**

TOTAL QUARTERLY DISBURSEMENTS	QUARTERLY FEE
\$0 to \$62,624	\$250
\$62,625 to \$999,999	0.4% of quarterly disbursements
\$1,000,000 to \$31,249,937	0.8% of quarterly disbursements
\$31,249,938 or more	\$250,000

Fee Schedules for Calendar Quarters beginning on or before March 31, 2021 are available at: <https://www.justice.gov/ust/chapter-11-quarterly-fees>.

Quarterly fees are due no later than one (1) month following the end of each calendar quarter. 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 United States Trustee to convert the case to a chapter 7 case.

Quarterly fees must be timely paid. As soon as the final periodic financial report for a quarter is complete, the responsible party should calculate the quarterly fee and remit payment so that it is received by the due date. The responsible party need not wait for the courtesy statement sent by the Executive Office for U.S. Trustees to pay quarterly fees.

Subchapter V debtors are not required to pay quarterly fees under 28 U.S.C. § 1930(a)(6)(A).

Chapter 11 quarterly fees may be paid using one of two approved payment methods. The first payment option is an on-line electronic funds transfer from a debtor bank account through Pay.gov at <https://www.pay.gov/public/form/start/672415208>. The second option is by mailing the tear off portion of the statement and a check, made payable to "United States Trustee."

Checks made payable to "United States Trustee" may be sent to:

United States Trustee Payment Center
P.O. Box 6200-19
Portland, OR 97228-6200

The address given is a lockbox at a bank. It may not be used for service of process, correspondence, or for any purpose other than for the payment of quarterly fees. All correspondence and questions should be directed to the local Office of the United States Trustee.

The overnight delivery address for quarterly fee payments is:

U.S. Bank
Attn: Government Lockbox
U.S. Trustee Payment Center 6200-19
17650 N.E. Sandy Blvd
Portland, OR 97230

Please include the full 10-digit case number on the check.

If a check is marked "Insufficient Funds," all future quarterly fee payments must be made by cashier's check, certified funds, postal money order, or an on-line electronic funds transfer.

Failure to pay quarterly fees is cause for conversion or dismissal of the Chapter 11 case pursuant to 11 U.S.C. § 1112(b)(4)(K).

18. **Interest Assessment on Unpaid Quarterly Fees.** Pursuant to 31 U.S.C. § 3717, the United States Trustee Program shall assess interest on unpaid Chapter 11 quarterly fees charged in accordance with 28 U.S.C. § 1930(a). The interest rate assessed is the rate in effect as determined by the Treasury Department at the time your account becomes past due. If payment of the full principal amount past due is received within thirty (30) days of the date of the notice of initial interest assessment, the interest assessed will be waived.
19. **Quarterly Fees After Confirmation of Plan.** Quarterly fees continue to accrue after the Plan of Reorganization has been confirmed. Commencing with the Effective Date of the Confirmed Plan, the debtor is required to file Post-Confirmation Operating Reports, and to continue to pay quarterly fees subject to the same payment guidelines outlined in Paragraphs 17 and 18 above until a Final Decree is entered by the court or the case is dismissed or converted to another chapter.
20. **Additional Notice Requirements.** The United States Trustee must be advised immediately of any significant change in debtor's 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.
21. **Waiver or Modification of Reporting Requirements.** The reporting requirements of the United States Trustee's office may be waived or modified only after a request in writing demonstrating sufficient cause for the requested action, and specifying what alternative is to be provided (i.e., the form and detail) for reporting on that estate. No waiver or modification shall be effective unless in writing and signed by the United States Trustee or an authorized delegate.
22. **Disclosure of Intent to use Taxpayer Identifying Number.** 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 counsel in connection with the chapter 11 bankruptcy proceeding for the purpose of collecting and reporting on any delinquent debt, including chapter 11 quarterly fees and interest, if applicable, 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/or (5) engage the United States Attorney's office to sue for collection. Collection costs will be added to the total amount of the debt.

**AMENDMENTS TO OPERATING REQUIREMENTS
and
SOLICITATION OF COMMENTS AND SUGGESTIONS**

The United States Trustee reserves the right to revise, modify or amend these Guidelines and requirements from time to time, and as is appropriate in an individual case. Comments or suggestions regarding these Guidelines or other policies and procedures of the Office of The United States Trustee are sought and appreciated and should be directed to the United States Trustee for Region 2 using the information shown below:

**WILLIAM K. HARRINGTON
UNITED STATES TRUSTEE
for REGION 2
Region02@UST.DOJ.GOV
<https://www.justice.gov/ust-regions-r02>**