

# **AICCCA**

## **Standards and Best Practices**

Members of the AICCCA must comply with the foregoing Standards and Best Practices.

### **I LEGAL STATUS**

1. Agency must be a non-profit 501(c)(3) organization and operating in accordance with Internal Revenue Code guidance, including 501(q), as determined by the Internal Revenue Service, as well as all other applicable federal law.
2. Agency must meet all applicable licensing, registration, bonding and statutory requirements in states where business is conducted.
3. Agency must maintain an independent board, the majority of which cannot be employees, or related to other board members or employees of the organization.

### **II AVAILABILITY**

1. Agency must provide services to those who desire it regardless of age, race, creed, religion, employment, marital status or financial status. All services must be provided within a reasonable amount of time since inquiry, and at times convenient to the public.

### **III COUNSELORS**

1. Must be properly trained and qualified to provide clients with a quality financial education experience.
2. Must be certified by an organization acceptable to the Association within 12 months of the date of hire.
3. Must provide a comprehensive, one-on-one money management counseling interview following a prospective client's request for counseling services, and provide a written assessment and action plan to the client as applicable to the service provided.
4. Counselor compensation cannot be based on outcome of counseling process.

### **IV FEES**

1. All services must be available to the public regardless of ability to pay and at no time should a person be refused service due to an inability to pay.
2. Fees to clients should be as low as possible, and should consider the financial situation of the client.
3. Agency may not charge a fee for credit repair nor be affiliated with an organization that does.

### **V EDUCATION**

1. Agency must provide a community resource for educational materials and information concerning personal finance and debt issues.
2. Agency shall allocate a reasonable percentage of operating expenses to develop, foster and/or provide a variety of community educational programs (beyond counseling) on money management, budgeting and the intelligent use of credit.

### **VI ACCREDITATION**

1. Agency must be accredited by an approved third-party -- currently Council on Accreditation (COA); or ISO to the AICCCA Code of Practice through Bureau Veritas Certification (BVC), or British Standards Institution (BSI) -- and must be re-certified periodically.

## **VII REPORTING**

1. All financial books and records of an association member, including all client deposit accounts, must be audited annually within 180 days of the close of the member's fiscal year. Each agency shall provide a copy of its audit opinion letter, if unqualified, and its entire report of auditors, if qualified for any reason.
2. Agency must make reasonable amounts of statistical data (as determined by the Board) available to the Association in order to allow proper presentation of essential information to outside parties.
3. The chief executive officer of Agency shall complete and submit a notarized annual questionnaire affirming compliance with these standards and reporting its previous year's activities to the Association.

## **VIII BUSINESS PRACTICES**

1. Agency will fully comply with the association's Best Practices Guidelines. (Best Practices Guidelines are outlined on page 4).
2. Agency must not engage in deceptive or false advertising and in all cases should adhere to the highest standards of honesty and fairness.
3. Any materials that discuss debt management plans must include a disclosure regarding the agency's dual role in serving the needs of consumers and creditors.
4. Prior to the receipt of the client's first deposit, an agency must provide each client enrolling in a debt management plan with a reliable estimate of the length of time it will take to complete the plan. This must be provided in writing and identify all creditors included in the plan, the amount owed to and the proposed payment to each creditor, and the anticipated number of months to liquidate the debt.
5. Third parties providing services to an agency are to be held to the same standards as the agency, including, but not limited to, standards for fees and counselor certification.
6. On an annual basis, there will be an independent third party audit of the agency's operating practices to ensure compliance with the standards. Among other things, the audit will confirm the quality of counseling services delivered (as evidenced by quality assurance reports), as well as ensure the agency consistently conducts thorough client financial analyses, screens clients in order to make appropriate debt management plan recommendations, and conducts regular internal quality reviews to ensure a comprehensive counseling process during and after the counseling session. (Note: See Section VI Accreditation).
7. Agency shall only offer to its clients for additional fees or costs, goods or services that add value for its clients, meet all applicable state and federal requirements, are optional, and are offered at fair market value. Agency shall provide its clients with a separate written disclosure requiring the client to "opt in" prior to any purchase of such goods or services. Agency shall not allow or otherwise facilitate third parties to solicit its clients for such goods, products or services unless expressly allowed under agency's privacy policy and under privacy law.

## **IX CLIENT FUNDS**

1. Agency must carry adequate insurance or bonding on all employees with access to agency or client funds, with coverage based on the level of funds handled by the agency. Member agencies must add the Association to their respective Certificate of Insurance bonding policies for the purpose of receiving notice of any potential lapse in coverage due to non-payment of premium.
2. All client funds must be kept in a separate trust account in an FDIC insured, or equivalent, bank or financial institution.

## **X COMMON OWNERSHIP and/or CONTROL of THIRD-PARTY SERVICE PROVIDERS**

1. An agency must avoid the appearance of a conflict of interest in all decisions involving third-party providers of goods and services to the agency.
2. An agency may subcontract a non-core agency activity to a third party as long as no non-independent trustee, family member of a non-independent trustee, or paid officer of the agency has an ownership interest in the third party other than a non-controlling interest in a publicly traded company.
3. An agency may not subcontract a non-core agency activity to a third party where an independent trustee of the agency has an interest in the third party unless: the trustee discloses such interest to the agency's board of trustees and recuses himself/herself from the decision processes related to the third party. In addition, the transaction must either be for a nominal or otherwise insignificant amount; and the transaction was made at or below market rate.
4. An agency may not outsource or subcontract any core activity except to an organization that has received a determination of tax exempt status from the IRS and complies with the standards set forth in this document.

Agency is defined as a non-profit credit counseling or debt management service provider that has applied for, or received, a determination of tax-exempt status from the IRS. The term "agency" does not include an organization that has been denied tax-exempt status by the IRS.

Core activities of an agency are defined as education, consumer credit and debt management counseling, and related debt management consumer services that are not related to payment processing.

Non-core activities of an agency are defined as all other activities that are not core activities.

Independent Trustee is: a trustee who is not employed by an agency or by an affiliate of an agency; and who is not employed by organizations or businesses that will receive a direct financial benefit from the outcomes of counseling sessions or the business activities of the agency, such as credit grantors, collection agencies or third party contractors.

Non-Independent Trustee is a trustee who is employed by an agency or by an affiliate of an agency.

Family Member is defined as a spouse, parent, child, sibling, in-law, wherever they may reside, as well as any person(s) sharing the same living quarters in an intimate, personal relationship.

*Intent of Section: Recent disclosures of improper arrangements between some non-profit credit counseling agencies and for-profit service providers have the potential to undermine the trust of the public in credit counseling. The goal of this standard is to ensure that the agency adheres to the highest possible standards when dealing with third party and for-profit service providers. Even the slightest appearance of a conflict of interest must be avoided. The subcontracting of non-core services must be conducted on an "arms length" basis from agency insiders. An independent trustee of the agency is only allowed to be financially involved with an entity that receives compensation for non-core activities or services if the amount of financial involvement is nominal or otherwise insignificant and subcontracted at below market rates. The determination of whether an amount is insignificant should be based on the facts and circumstances of the transaction.*

## **XI INTERPRETATION OF STANDARDS**

1. A majority vote of the Board of Trustees shall be the final determinant as to whether an Agency is in compliance with these Standards.

# **Best Practices Requirements**

The following “Best Practices” are required to be followed by every member agency to ensure integrity, fairness and professionalism in the delivery of those services. Where specific limits are stated they are provided as upper limits that are acceptable, while improved performance is encouraged.

1. **FEES** – Maximum fees for the “set-up” of a Debt Management Plan (DMP) are \$75. Maximum fees, or requested donations, for the monthly maintenance of a DMP are \$50.
2. **DISBURSEMENT OF FUNDS** – Client funds received for a DMP must be disbursed to the creditors no later than 15 days from receipt of valid funds, or by scheduled disbursement date, whichever is greater.
3. **TRANSMITTAL OF FUNDS** – Member agencies must utilize available electronic payment processing in remitting funds to creditors.
4. **CLIENT/CREDITOR ACCEPTANCE** – Debt Management Plans should be established only when they are appropriate, and advantageous to the client. No client will be refused a DMP for minimum balances. No creditor will be excluded from a DMP unless it is beneficial to the client.
5. **INCEPTION DATES** – Clients must start a DMP, and make their first plan payment, within six weeks of agreeing to the service. Proposals must be issued in a timely manner, but no later than prior to the first payment date.
6. **COUNSELING** – Appointments for a counseling session should be scheduled within 2 business days of receipt of the request.
7. **COMPLAINTS** – All complaints should be researched and responded to within 5 business days.

(Updated May 15, 2011)