

denial or revocation of his trustworthiness determination because of financial considerations concerns.

On July 5, 2007, Applicant answered the SOR and elected to have the matter decided without a hearing. Department Counsel submitted the government's case in a File of Relevant Material (FORM), dated August 15, 2007. Applicant was sent a copy of the FORM, along with notice of her opportunity to file objections and submit material to refute, extenuate, or mitigate the potentially disqualifying conditions. On September 24, 2007, Applicant responded to the FORM. Department Counsel did not object to the material. Applicant's response was admitted into the record. On October 5, 2007, I was assigned the case.

FINDINGS OF FACT

The SOR alleges concerns based on financial considerations. Applicant's jewelry store debt (SOR 1.a and 1.g) have been paid. She admits owing the other nine bills and states payment on her student loans (approximately \$10,000) have been deferred until 2010. The admissions are incorporated herein as findings of fact. After a thorough review of the record, I make the following findings of fact.

Applicant is a 26-year-old technical support technician who has worked for a defense contractor since May 2005, and is seeking a position of public trust.

In 1998, Applicant obtained a student loan to attend university. After one semester, she left school because the tuition was too expensive and her mother was gravely ill with cancer. In 1999, she obtained a student loan to attend technical college. She has repaid a portion of that debt and the rest was deferred. She graduated from the technical college in 1999. In 2006, she obtained a student loan to attend university. That loan is deferred until 2010. Applicant is working with the Federal Direct Consolidation Loan Company to consolidate all of her student loans. (Item 5) Applicant has not received any undue pressure from the creditor to collect this debt.

In December 1999, Applicant received an automobile loan with monthly payment of \$298. (Item 6) As of April 2003, she had been 30 days past due on her payments five times, and more than 90 days past due once. Her income was insufficient for her to make payments and the vehicle was repossessed. At some time, the car company obtained a judgment. (Item 7) When this occurred or the amount of the judgment is not part of the record. Applicant acknowledges she owes \$7,000, and will pay it after she has satisfied the other debts.

Until the end of 2006, Applicant's income was insufficient for her to make payment on her past due obligations. For some time, her debts exceeded her take-home pay. In her response to the FORM, Applicant acknowledged that at an early age she "got in over my head. I was living for the moment" and living beyond her means. She intends to pay her debts when her finances permit. In August 2007, she obtained a part-time job to help supplement her income from her full time job. She has obtained financial counseling through her job's EAP program.

The jewelry debt, which is listed twice (SOR 1.a and 1.g) has been paid. She has made \$100 payment on the two medical bills (SOR 1.c, \$50, and SOR 1.i, \$75). Applicant is also paying debts not listed in the SOR.

Applicant financially assists her mother. Her mother has a disabling medical condition, which prevents her from working, and for which she receives no governmental assistance. Applicant pays her mother's monthly electric bill.

	Creditor	Amount	Current Status
a	Jewelry store debt.	\$522	Paid. (Item 3) Same debt as # 7.
b	Credit card debt.	\$1,658	
c	Medical bill.	\$50	Payment made.
d	Telephone bill.	\$338	
e	Telephone bill.	\$106	
f	Auto purchase.	\$7,036	
g	Jewelry store debt.	\$612	Paid. (Item 3) Same debt as # 1.
h	Telephone bill.	\$563	
i	Medical bill.	\$75	Payment made.
j	State student loan.	\$5,228	Applicant is working with the Federal Direct Consolidation Loan Company to consolidate all of her student loans.
k	Sallie Mae student loan.	\$4,737	Applicant is working with the Federal Direct Consolidation Loan Company to consolidate all of her student loans.
	Total debt listed in SOR	\$20,925	
	Debts paid	\$-1,234	1, 3, 7, and 9.
		\$-17,001	Student loan and vehicle loan debts.
		\$2,690	Amount of debt owed excluding vehicle and student loans.

POLICIES AND BURDEN OF PROOF

The Revised Adjudicative Guidelines list factors to be considered in evaluating an applicant's suitability for public trust positions. Administrative judges must assess both disqualifying and mitigating conditions under each adjudicative issue fairly raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in Section 6.3 of the Directive. The presence or absence of a disqualifying or mitigating condition is not determinative for or against an applicant. However, specific adjudicative guidelines should be followed whenever a case can be measured against them,

as they represent policy guidance governing the grant or denial of access to classified information. Consideration the SOR allegations and the evidence as a whole, the relevant, applicable, adjudicative guideline is Guideline F (Financial Considerations).

Public trust determinations resolve whether it is clearly consistent with the national interest to grant or continue an applicant's eligibility for public trust positions. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against eligibility. Applicant must then refute, extenuate, or mitigate the government's concern. Because no one has a right to eligibility for a position of trust, the applicant bears a heavy burden of persuasion.

Persons with access to public trust information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability, and trustworthiness of those who must protect the national interest as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the government.¹

CONCLUSIONS

The Government has satisfied its initial burden of proof under Guideline F, Financial Considerations. A person's relationship with her creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to repay debts under agreed upon terms. Absent evidence of strong extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is in a position of risk that is inconsistent with the holding of a security clearance. An applicant is not required to be debt-free, but is required to manage his finances so as to meet his financial obligations.

Financial considerations become a security concern when a person has significant delinquent debts. An individual who is financially overextended is at risk of having to engage in illegal or unethical acts to generate funds to meet financial obligations. Additionally, an individual who is financially irresponsible may also be irresponsible, unconcerned, or careless in their obligations to protect classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

Applicant owed approximately \$21,000 on 11 delinquent debts. Disqualifying Conditions (DC) 19(a) "inability or unwillingness to satisfy debts," and 19(c) "a history of not meeting financial obligations" apply.

Applicant's debt does not show an individual living beyond their means. Applicant's debt less vehicle debt, student loan obligations, and debts paid is approximately \$2,700. Other than the car debt and student loans, her unpaid debt consists of telephone bills and a single credit card debt (SOR 1.b). Mitigating Condition MC 20(d) "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," applies to the jewelry store and the medical debts.

¹See, *Department of Navy v. Egan*, 484 U.S. 518 (1988).

Applicant's largest debt, her student loans, has been consolidated. This debt does not show an individual living beyond her means. It shows a person trying to better themselves. When tuition was too high at one university, Applicant left and attended technical college. The student loan debt was incurred to improve her life. It is unlikely the holders of the student loans would bring undue methods to collect this debt. It would be unusual for someone to engage in illegal or unethical acts to generate funds to pay a student loan debt. The potential for pressure, coercion, exploitation, or duress by the creditor to collect a student loan is non-existent. Excluding the student loan obligation, Applicant's debt is not so large she is financially overextended.

MC 20(b) "the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances," has some applicability. Applicant is helping to take care of her mother who suffers from cancer. Applicant has obtained financial counseling through her job.

Until the end of 2006, Applicant's income was insufficient for her to make payment on her past due obligations. Applicant intends to pay her debts when her finances permit. She is paying obligations not listed in the SOR and helping to support her mother. The debts she has already paid, those she is paying, and the support she gives to her mother lends credence to her claim that she will ultimately pay her debts. This is also supported by her obtaining a part-time job in August 2007 to supplement her income. Applicant appears to be doing what she can with the funds she has available. Applicant is not highly paid in her position as a technical support technician.

In addition to the adjudicative guideline cited, consideration should be given to information bearing on the whole person. The adjudicative process must include examination of a sufficient period of a person's life to make an affirmative determination that the person is an acceptable security risk. Therefore, I have also considered: the nature, extent, and seriousness of the conduct; Applicant's age (now age 26) and maturity at the time of the conduct; the circumstances surrounding the conduct; Applicant's voluntary and knowledgeable participation; the motivation for the conduct; the frequency and recency of the conduct; presence or absence of rehabilitation (she has taken a part-time job to supplement her income); and the probability that the circumstance or conduct will continue or recur in the future.

Looking at the nature of her debts, the debts she has paid, and the amount she owes, the record before me support a conclusion Applicant has mitigated the security concerns.

FORMAL FINDINGS

Formal Findings as required by Section 3, Paragraph 7, of Enclosure 1 of the Directive are hereby rendered as follows:

Paragraph 1 Financial Considerations:	FOR APPLICANT
Subparagraphs 1.a-j:	For Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Claude R. Heiny
Administrative Judge