

National Security Adjudicative Guidelines (AG), which became effective within the DOD on June 8, 2017.

Applicant answered the SOR on May 15, 2024, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The case was assigned to me on February 3, 2025. On February 20, 2025, following consultation by email with the parties, DOHA issued a notice scheduling the hearing for March 4, 2025, to occur by video teleconference.

The hearing was held as scheduled. Department Counsel submitted Government Exhibits (GE) 1 through 4. Applicant submitted several documents, grouped together as Applicant Exhibit (AE) A. All exhibits were admitted without objection. Applicant also testified.

I left the hearing record open until March 18, 2025, to allow Applicant the opportunity to submit additional documentation. On March 17, 2025, she submitted various documents with a cover email (AE B). The documents were labelled AE C through AE L, and included: a W-2 Tax form for 2024 (AE C), a March 2025 paystub (AE D), a document regarding credit counseling (AE E), a personal financial statement (PFS) (AE F), documentation regarding settlement of the debts at SOR ¶¶ 1.b and 1.c (AE G, AE H), a 2021 payment notice from the IRS for 2017 taxes (AE I), a March 2025 payment notice from the IRS (AE J), documentation of various tax payments 2024-2025 (AE K), IRS account transcripts (AE L), and a March 18, 2025 email from Applicant with additional tax payment details (AE M). All post-hearing exhibits were admitted without objection. DOHA received the transcript (Tr.) on March 18, 2025, the day the record closed.

Findings of Fact

Applicant is 44 years old. She earned an associate degree in 2003, a bachelor's degree in 2006, and a master's degree in 2009. She has worked for various employers in recent years, mostly in the human resources (HR) field. She has worked for her current employer as an HR manager since May 2023. (GE 1; Tr. 19-21)

Applicant has never married and has no children. (GE 1) However, in December 2019, she moved from a one-bedroom apartment to a larger home when she decided to cohabitate with her then partner and his three children. She also purchased a more expensive car that was suitable for the size of her family. Her rent increased from about \$850 a month to \$1,500 a month and her car payment doubled from \$278 a month to \$574 a month. Utilities and food expenses also increased. Her partner was employed when they moved in together but was soon unemployed because he worked in construction and his job was impacted by the pandemic. Their relationship ended in

February 2021, and she ended the lease and moved out. Applicant is also diabetic and has chronic medical issues, leading to various medical debts. (Tr. 15-24, 26-28, 34-36)

When Applicant's partner lost his job, she became the sole breadwinner of the household. She was earning about \$60,000 annually. She began a job in 2022 that increased her salary to \$85,000. She has held her current job since March 2023. She earned almost \$96,000 in 2024, and now earns just over \$107,000 annually, a significant increase. She works remotely from home, full time. (Tr. 24, 29-30; AE C, AE D)

Applicant listed various delinquent debts on her May 2023 SCA. The seven past-due debts in the SOR, mostly consumer debts, total just over \$19,000. They are established by her admissions, and by credit reports from June 2023, January 2024, and February 2025. (GE 1, GE 2, GE 3, GE 4)

SOR ¶ 1.a (\$7,616) is an account placed for collection by a lending company. (GE 3) The debt was later charged off for \$7,143. (GE 2) This is for a personal loan. Applicant settled the debt for \$4,800 with two payments in August or September 2024, verified by a letter of satisfaction from the creditor from October 2024. (Tr. 38-39; AE A at 8) This debt is settled and resolved.

SOR ¶¶ 1.b (\$3,821) and 1.c (\$3,427) are credit card accounts, both with Bank C, both placed for collection with collector M. (GE 2, GE 3, GE 4; Tr. 40-43) After the hearing, Applicant provided letters from collector M on both accounts, showing the accounts valid and owed in full as of February 2025. (AE G, AE H) Applicant said she had scheduled \$50 payments per month on these accounts. (AE B, AE F) These accounts are not yet resolved but repayments are scheduled.

SOR ¶¶ 1.d (\$1,097) and 1.e (\$597) are past-due medical debts owed to an eye doctor and placed for collection with collector W. (GE 2, GE 3, GE 4) They were active at the time of the hearing. (AE A at 2, 3, 4) Other debts to the same doctor's office are also past due. (AE A at 5) Applicant was told that her debts to the doctor amounted to about \$2,800, which she does not agree with, but she intends to pay them. (AE B, AE F; Tr. 44-47) These debts are not resolved. She has other medical debts, not alleged, for which she is also making payments. (Tr. 34-36)

SOR ¶ 1.f (\$256) is a past-due gas bill that has been placed for collection. (GE 3) Applicant verified that it has been resolved as of August 2024. (Tr. 47-48; GE 2; AE A at 6)

SOR ¶ 1.g (\$2,260) is a cell phone bill that has been placed for collection. (GE 4) It did not appear on later credit reports. Applicant verified that it has been resolved as of August 2024. (Tr. 48; AE A at 7) This account is resolved.

During the hearing, Applicant revealed under questioning that she also owes more than \$20,000 in past-due federal income taxes, going back several years. She also said she has been on a repayment plan to address the debt for two or three years. She attributed her tax debts to inexperience and insufficient tax withholdings. She said she always filed her tax returns on time, but she had to revise her repayment plan each year to account for additional debts. She said she pays about \$170 per month to the IRS, with some variances since her payments are made manually and not automatically. She says she now uses a well-known tax preparation service to prepare her tax returns. (Tr. 51-69) This is largely verified by post-hearing account transcripts from the IRS, showing on-time tax filings, followed by issuance of refunds, and then recalculations of taxes owed, with penalties and interest. (AE J, AE K, AE L)

Applicant's post-hearing documentation, including IRS tax payment notices and account transcripts, show that as of 2021, she owed \$4,959 in past-due taxes, penalties, and interest for tax year (TY) 2017. (AE I) As of March 2025, she owed \$2,788 for TY 2017 (down from \$4,959 as of 2021), \$7,000 for TY 2018, \$2,342 for TY 2020, \$10,650 for TY 2022, and \$1,408 for TY 2023, for a total owed in taxes, penalties and interest of about \$23,287. (AE J, AE L)

According to her March 2025 IRS tax account transcript for TY 2017, Applicant first entered an installment agreement in September 2021. She made two payments later that year, dropped out of the agreement between April 2022 and April 2023, resumed making regular payments from about June 2023 to February 2024 per a new agreement. She renewed the repayment agreement in May 2024, with regular \$170 monthly payments since then. All these payments have gone to address her TY 2017 tax debt, with later years to follow. (AE J, AE K, AE L, AE M)

Applicant has cut down on monthly expenses. She drives a more practical, less expensive car, and her rent is less than it was in the house she lived in with her former partner. (Tr. 32-34) Her annual income has also increased by about \$47,000 since then. Applicant took a financial "coaching" class (credit counseling) through her employer about a year ago. (Tr. 50-51; AE E) She said she is doing what she can to get ahead of her debts. (Tr. 70, 74-75)

Applicant said she has been managing her current expenses, including three credit cards, rent, and a car payment, and is improving financially overall. (Tr. 17) Her post-hearing PFS shows net monthly income of \$5,687, monthly expenses of \$3,515, and debt payments towards her SOR debts of \$165 (medical debts and credit cards). She listed about \$14,600 in assets. Her PFS did not list her IRS debts or debt payments, though it listed a net remainder of about \$2,337, which comfortably allows for her stated monthly \$170 tax payments. (AE F) As noted, evidence of those tax payments is documented elsewhere.

Applicant submitted several character reference letters from people she knows well, either personally or professionally. All of them attested to her fine character, including her professionalism, integrity, trustworthiness, responsibility, honesty and respect for confidentiality. (AE A at 10-15)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.” *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

The adjudicative guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of several variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision. The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable security decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline for financial considerations is set out, in relevant part, in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. . . .

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's delinquent debts, as alleged in the SOR, total about \$19,000. They are sufficient to raise financial considerations security concerns under AG ¶¶ 19(a) (inability to satisfy debts) and 19(c) (a history of not meeting financial obligations).

Applicant also has about \$23,600 in past-due federal income tax debt, going back to TY 2017, largely due to under-withholdings. Those tax debts are not alleged in the SOR, so they cannot be considered as disqualifying conduct, though they may be considered in weighing mitigation.

The following mitigating conditions under AG ¶ 20 are potentially applicable:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(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, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

AG ¶ 20(a) has some application because many of Applicant's debts are several years old. However, several debts, both alleged consumer and medical debts and unalleged tax debts, remain unresolved and ongoing. AG ¶ 20(a) therefore does not fully apply.

Applicant fell behind on her debts, in part, during the COVID-19 pandemic when she moved in her with partner, and then she became the sole breadwinner in the household when he lost his job during the economic downturn that followed. That relationship then ended and she has had increased income in the years since, and, thus, increased financial stability. Some of her debts are medical debts, attributable, in part, to her medical condition. However, her financial problems are not entirely due to circumstances beyond her control. She has several years of past-due taxes, all attributable to under-withholdings. This lessens the mitigating effect here, as it cannot be said that her debts are largely attributable to circumstances beyond her control. AG ¶ 20(b) does not fully apply.

The Appeal Board has held that it is not necessary to pay off all the debts alleged in the SOR, nor is it required that they be paid off in any particular way. What is required is only that an applicant have a reasonable plan to pay off his debts, and have taken some steps towards execution of that plan. See, e.g., ISCR Case No. 09-08462 at 3 (App. Bd. May 3, 2011; ISCR Case No. 14-00504 at 2 (App. Bd. Aug. 4, 2014). Rather, an applicant is required to demonstrate that he or she has "established a plan to resolve his [or her] financial problems and taken significant actions to implement that plan."

Applicant has participated in credit counseling. She has established that several of her SOR debts have been paid and resolved. She has repayment agreements in place for several of her debts. Although her tax debts remain significant, she has established a track record of agreed-upon, steady payments towards addressing them, and she has the means to continue to do so, through demonstrated increased income and lessened expenses in recent years. AG ¶ 20(g) applies to her tax debts, which are being paid under

an agreement with the IRS. While several of Applicant's debts remain unresolved, I conclude that her debts are sufficiently under control and under a responsible repayment plan so that AG ¶ 20(c) applies. She does not have to show that all her debts are paid. She needs to show that she has a reasonable plan for addressing her debts and has taken documented, concrete steps towards putting it in place, so the problem does not recur. I conclude that Applicant has shown enough good faith to repay her creditors and to resolve her overdue debts, backed by corroborating documentation. AG ¶ 20(d) also applies.

Whole Person Concept

I weighed the evidence as a whole and considered that the favorable evidence substantially outweighed the unfavorable evidence. I also gave due consideration to the whole-person concept, her credible testimony, her several years of experience on the base where she works, and to her strong character evidence, under the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Overall, the record evidence leaves me with no questions or doubts as to Applicant's eligibility and suitability for a security clearance. I conclude she provided sufficient evidence to mitigate the security concerns arising under Guideline F, financial considerations.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a-1.g:	For Applicant

Conclusion

Considering all the circumstances presented, it is clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is granted.

Braden M. Murphy
Administrative Judge