



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ADP Case No. 14-02810
)
Applicant for Public Trust Position)

Appearances

For Government: Braden M. Murphy, Esquire, Department Counsel
For Applicant: *Pro se*

01/0/2015

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant mitigated the trustworthiness concerns regarding financial considerations. Eligibility to occupy a public trust position is granted.

Statement of the Case

On January 4, 2013, Applicant applied for a public trust position and submitted an Electronic Questionnaire for Investigations Processing (E-QIP).¹ On July 22, 2014, the Department of Defense (DOD) Consolidated Adjudications Facility – Division A (CAF) issued a Statement of Reasons (SOR) to her, pursuant to Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (effective within the Department of Defense on September 1, 2006) (AG) for all adjudications and other determinations made under the Directive. The SOR alleged trustworthiness concerns under Guideline F (Financial Considerations), and detailed reasons why the DOD adjudicators could not make a preliminary affirmative finding under the Directive that it is

¹ Government Exhibit 1 ((e-QIP), dated January 4, 2013).

clearly consistent with the interests of national security to grant or continue Applicant's eligibility for occupying a public trust position to support a contract with the Department of Defense, and recommended referral to an administrative judge to determine whether such eligibility should be granted, continued, denied, or revoked.

Applicant acknowledged receipt of the SOR on August 1, 2014. In an undated written statement, Applicant responded to the SOR allegations and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on September 29, 2014, and the case was assigned to me on October 14, 2014. A Notice of Hearing was issued on October 28, 2014, amended on October 31, 2014 to accommodate Applicant, scheduling the hearing for November 19, 2014. I convened the hearing, as scheduled.

During the hearing, three Government exhibits (GE 1 through GE 3) and six Applicant exhibits (AE A through AE F) were admitted into evidence, without objection. Applicant testified. The transcript (Tr.) was received on December 2, 2014. I kept the record open to enable Applicant to supplement it, and she took advantage of that opportunity by submitting six additional exhibits (AE G through AE L) which were admitted into evidence, without objection. The record closed on December 3, 2014.

Findings of Fact

In her Answer to the SOR, Applicant admitted nearly all of the factual allegations pertaining to financial considerations (¶¶ 1.b. through 1.p.) of the SOR. She denied the one remaining allegation (¶ 1.a.).

Applicant is a 46-year-old employee of a defense contractor, and she is seeking to retain her eligibility for occupying a public trust position to support a contract with the Department of Defense. She has never served with the U.S. military.² She is a 1986 high school graduate with about three to five years of college credits, but no degree.³ She was unemployed from December 2012 until February 2013.⁴ Applicant joined her current employer in February 2013, and serves as a customer service advocate.⁵ She was married in October 1999,⁶ and she has two daughters, born in 2001 and 2009.⁷

² GE 1, *supra* note 1, at 13.

³ Tr. at 54.

⁴ GE 1, *supra* note 1, at 9.

⁵ Tr. at 22, 25.

⁶ Tr. at 21, 53.

⁷ GE 1, *supra* note 1, at 17-18.

Financial Considerations

It is unclear when Applicant initially started experiencing financial difficulties for she acknowledged she was already struggling financially in 2009.⁸ Her January 2013 credit report reflects two accounts that were in collection in 2007.⁹ Applicant attributed her financial problems to a series of incidents and situations including the following: in 2009, after a “very hard pregnancy,” she gave birth to a slightly premature daughter who had a small hole in her heart, requiring extra days of hospitalization and unanticipated increased costs; her husband was working for the state and, because of the terrible economy, there were hiring freezes and no raises in seven years; the housing market had crashed, causing her to spend additional money simply to remain in their residence; tubes were inserted in her daughter’s ears, again costing unanticipated expenditures; in August 2012, Applicant injured her back, necessitating back surgery in October 2012 and again in December 2012; in May 2013, Applicant had surgery to fuse a neck vertebra; and because of the increased costs and financial problems, she was forced to short-sell their residence.¹⁰

Applicant’s plan was and is to pay her outstanding debts as soon as she is financially able to do so.¹¹ However, she was frustrated in doing so because none of the delinquent medical accounts listed in the SOR identify the actual medical provider, and when she has attempted to follow through with her efforts, various collection agents have refused to cooperate with her, furnish validation of a purportedly delinquent account, or identify the original creditor. Nevertheless, she contends she has been paying off approximately \$8,000 in medical bills but has been unable to pay them all off at once.¹² Applicant completed a personal financial statement in which she indicated a monthly family net income of approximately \$3,075; monthly expenses, including debt payments, of approximately \$3,010; leaving a net remainder of approximately \$65 available for discretionary spending or saving.¹³ The day before the hearing, Applicant’s family income improved substantially. Her husband received a promotion, and the current personal financial statement reflects a monthly family net income of approximately \$4,617, leaving a new net remainder of approximately \$1,607 available for discretionary spending or saving.¹⁴ In order to minimize family expenses, she, her husband, and children, moved into her parents’ residence.¹⁵ She no longer has any

⁸ Applicant’s Answer to the SOR, undated, at 4; Tr. at 56-57.

⁹ GE 2 (Combined Experian, TransUnion, and Equifax Credit Report, dated January 30, 2013), at 6.

¹⁰ Applicant’s Answer to the SOR, *supra* note 8, at 4; Tr. at 26-29, 54-56.

¹¹ Applicant’s Answer to the SOR, *supra* note 8, at 4.

¹² Applicant’s Answer to the SOR, *supra* note 8, at 4; Tr. at 42-43.

¹³ AE H (Personal Financial Statement, dated December 2, 2014). Applicant earns a salary of \$13.68 per hour, which computes to about \$1,600 per month. Tr. at 23-24.

¹⁴ AE I (Personal Financial Statement, dated December 2, 2014); Tr. at 24-25.

¹⁵ Tr. at 38.

credit cards.¹⁶ Except for the accounts listed in the SOR, Applicant has no other delinquent accounts.¹⁷

The SOR identified 16 purportedly continuing delinquencies as reflected by credit reports from January 2013¹⁸ and March 2014,¹⁹ totaling approximately \$8,555. All but one of those accounts are medical debts. Some of the accounts listed in the credit reports have been transferred, reassigned, or sold to other creditors or collection agents. None of the medical accounts in the credit reports, as well as in the SOR, reflect a creditor's name. Applicant indicated she was disputing the majority of the accounts listed in her credit reports because she did not know the identity of the medical providers.²⁰ She explained that each of the surgical procedures involved different unidentified specialists about whom she knew nothing. She also pledged to resolve her financial issues within the next six months.²¹ With her husband's promotion and increased salary, she intends to pay her debts because she doesn't want to see them and doesn't "want to sit in a place like this [a courtroom] again."²² Applicant eventually attempted to contact various creditors and collection agents but her efforts to obtain itemized statements and validation of the accounts was met with resistance because most of them refused to furnish her anything in writing until she paid the debts.²³ The debts listed in the SOR and their respective current status, according to the credit reports, other evidence submitted by the Government and Applicant, and Applicant's comments regarding same, are described below.

(SOR ¶ 1.a.): Applicant had a home mortgage account and an associated line of credit on a credit card. The residence was in a pre-foreclosure status when Applicant was able to sell it with a short sale, thereby resolving the delinquent mortgage. Applicant contends the line of credit, with an unpaid balance of \$1,328, should have been resolved when the residence was sold.²⁴ It apparently was not. The account was placed for collection in 2012, and subsequently sold to a debt purchaser.²⁵ Applicant made no effort to resolve the account before the hearing,²⁶ but after the hearing she contacted the debt purchaser and set up a partial repayment plan under which she

¹⁶ Tr. at 44.

¹⁷ Tr. at 44.

¹⁸ GE 2, *supra* note 9.

¹⁹ GE 3 (Equifax Credit Report, dated March 10, 2014).

²⁰ Applicant's Answer to the SOR, *supra* note 8, at 4; Tr. at 37-38, 59.

²¹ Applicant's Answer to the SOR, *supra* note 8, at 4.

²² Tr. at 46-47.

²³ AE G (Statement, dated December 3, 2014), at 1.

²⁴ Applicant's Answer to the SOR, *supra* note 8, at 1; Tr. at 30-36.

²⁵ GE 2, *supra* note 9, at 5, 9.

²⁶ Tr. at 36.

agreed to pay \$664.45 on December 26, 2014.²⁷ Applicant offered to make the remaining payment in January 2015, but the debt purchaser was unwilling to accept that offer and suggested she borrow the funds from her father to pay the debt off. It is Applicant's intention to make that January payment before she addresses any of her delinquent medical accounts. The debt purchaser promised to furnish her with an acknowledgment 30 days after the account is paid in full.²⁸ Applicant offered no documentation to support her contention that she made the initial payment. Nevertheless, the account appears to be in the process of being resolved.

There are 11 medical accounts (SOR ¶¶ 1.b. for \$1,349, 1.c. for \$422, 1.d. for \$366, 1.e. for \$289, 1.g. for \$143, 1.h. for \$90, 1.i. for \$59, 1.k. for \$246, 1.m. for \$147, 1.n. for \$1,329, and 1.p. for \$95) that were placed for collection.²⁹ Applicant disputed these accounts because she did not know the identity of the medical providers. She finally identified three of the medical providers after one (SOR ¶ 1.k.) furnished her a statement of services for \$246.48, and she intends to pay it.³⁰ As for one of the other accounts (SOR ¶ 1.e.), once she receives the mailed statement of services for \$289.94, she intends to pay that as well.³¹ She intends to pay the \$94.58 balance of the other account (SOR ¶ 1.p.) in early February 2015. Other than those three accounts, Applicant has not made any payments on the remaining accounts, but intends to do so when she can identify who they are. Three of the accounts are in the process of being resolved, and the other eight accounts have not been resolved.

There are 4 other medical accounts (SOR ¶¶ 1.f. for \$147, 1.j. for \$53, 1.l. for \$2,003, and 1.o. for \$489) that were also placed for collection.³² In her Answer to the SOR, Applicant contended she was in the process of paying each of the above creditors,³³ but failed to specify the terms of her repayment arrangements, and neglected to furnish documentation to support her contentions. She subsequently contacted a number of hospitals and doctors, specifically by name, but failed to identify to which of the SOR allegations the specific medical provider pertained. Several of the medical providers or collection agents agreed to return her calls but have not yet done so. Others indicated different balances than the ones alleged in the SOR.³⁴ In the absence of supporting documentation, it is unclear if the accounts are in the process of being resolved.

²⁷ AE G, *supra* note 23, at 2.

²⁸ AE G, *supra* note 23, at 2.

²⁹ GE 2, *supra* note 9, at 8-10; GE 3, *supra* note 19, at 1-3.

³⁰ AE G, *supra* note 23, at 1.

³¹ AE G, *supra* note 23, at 1.

³² GE 2, *supra* note 9, at 9-10; GE 3, *supra* note 19, at 2.

³³ Applicant's Answer to the SOR, *supra* note 8, at 2-3.

³⁴ AE J (Medical Statement of Services, dated December 1, 2014); AE K (Medical Receipts of Payment, various dates).

In an attempt to save their residence when it was in a foreclosure status, Applicant and her husband engaged the services of an attorney and paid him \$3,000.³⁵ She has never received financial counseling.³⁶

Character References

Applicant's supervisor has also been a peer. She characterized Applicant in very favorable terms, noting that Applicant "is beyond honest and would rather suffer a negative consequence of any caliber than betray herself and the integrity that she values so much." Her work is nearly flawless, and she is "so reliable." Applicant has a positive, cheery, and infectious attitude.³⁷ Other co-workers who also became close friends are equally supportive of Applicant. They refer to her as kind, trustworthy, honest, willing to go above and beyond, helpful, professional, loyal, compassionate, and dependable.³⁸ Another of Applicant's friends has known her for over 30 years. He noted that Applicant is honest, straightforward, hard-working, determined, and bright.³⁹

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance."⁴⁰ As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information. Positions designated as ADP I/II/III are classified as "sensitive positions."⁴¹ "The standard that must be met for . . . assignment to sensitive duties is that, based on all available information, the person's loyalty, reliability, and trustworthiness are such that . . . assigning the person to sensitive duties is clearly consistent with the interests of national security."⁴² Department of Defense contractor personnel are afforded the right to the procedures contained in the Directive before any final unfavorable access determination may be made.⁴³

³⁵ Tr. at 45.

³⁶ Tr. at 45.

³⁷ AE C (Character Reference, undated).

³⁸ AE A (Character Reference, dated November 10, 2014); AE B (Character Reference, undated); AE D (Character Reference, undated); AE E (Character Reference, dated November 18, 2014).

³⁹ AE F (Character Reference, dated November 18, 2014).

⁴⁰ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

⁴¹ Regulation ¶¶ C3.1.2.1.1.7 and C3.1.2.1.2.3.

⁴² *Id.* at ¶ C6.1.1.1.

⁴³ *See Id.* at ¶ C8.2.1.

When evaluating an applicant's suitability for a public trust position, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for a public trust position.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and common sense decision. The entire process is a conscientious scrutiny of a number of 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 meaningful decision.

In the decision-making process, facts must be established by "substantial evidence."⁴⁴ The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government's case. The burden of disproving a mitigating condition never shifts to the Government.⁴⁵

A person who seeks access to sensitive 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 as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of sensitive information. Furthermore, security clearance determinations, and by inference, public trust determinations, should err, if they must, on the side of denials.⁴⁶ 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.

⁴⁴ "Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record." ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

⁴⁵ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

⁴⁶ *Egan*, 484 U.S. at 531.

Analysis

Guideline F, Financial Considerations

The trustworthiness concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. . . .

The guideline notes several conditions that could raise trustworthiness concerns. Under AG ¶ 19(a), "an inability or unwillingness to satisfy debts" is potentially disqualifying. Similarly, under AG ¶ 19(c), "a history of not meeting financial obligations" may raise concerns. As noted above, Applicant has been struggling financially since about 2007, and while she may have recovered from some of those difficulties, she was beset by new and continuing financial issues in 2009. With insufficient funds to make her monthly payments, accounts were placed for collection. AG ¶¶ 19(a) and 19(c) apply.

The guideline also includes examples of conditions that could mitigate trustworthiness concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where "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." Also, under AG ¶ 20(b), financial concerns may be mitigated where "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." Evidence that "the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control" is potentially mitigating under AG ¶ 20(c). Similarly, AG ¶ 20(d) applies where the evidence shows "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts."⁴⁷

⁴⁷ The Appeal Board has previously explained what constitutes a "good-faith" effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the "good-faith" mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant's debts. The Directive does not define the term 'good-faith.' However, the Board has indicated that the concept of good-faith 'requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.' Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy [or statute of limitations]) in order to claim the benefit of [the "good-faith" mitigating condition].

AG ¶ 20(a) does not apply. AG ¶¶ 20(b), 20(c), and 20(d) apply. The conditions that contributed to Applicant's financial problems were as follows: in 2009, after a "very hard pregnancy," she gave birth to a slightly premature daughter who had a small hole in her heart, requiring extra days of hospitalization and unanticipated increased costs; her husband was working for the state and, because of the terrible economy, there were hiring freezes and no raises in seven years; the housing market had crashed, causing Applicant to spend additional money simply to remain in their residence; tubes were inserted in her daughter's ears, again costing unanticipated expenditures; in August 2012, Applicant injured her back, necessitating back surgery in October 2012 and again in December 2012; in May 2013, Applicant had surgery to fuse a neck vertebra; and because of the increased costs and financial problems, she was forced to short-sale their residence.

Over the years, Applicant attempted to act aggressively, timely, and responsibly to resolve some of her delinquent debts, but because of the continuing financial situation she was facing, she was unable to address other delinquent debts. Applicant's plan was and is to pay her outstanding debts as soon as she is financially able to do so. However, she was frustrated in accomplishing her goal because none of the delinquent medical accounts listed in the SOR identify the actual medical provider, and when she has attempted to follow through with her efforts, various collection agents have refused to cooperate with her, furnish validation of a purportedly delinquent account, or identify the original creditor. In this regard, I am aware of the Appeal Board decision that it is "well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government's obligations" under ¶ E3.1.14 of the Directive for pertinent allegations.⁴⁸ While the burden may shift to an applicant to establish either that he or she is not responsible for the debt or that matters in mitigation apply, in this instance, because of the poor quality of the contents of the credit reports, and the absence of more specific information pertaining to the actual creditors in the SOR, I have concluded that Applicant has not been furnished with adequate notice to enable her to identify those creditors. The combination of insufficient information and the actions by various collection agents in refusing to furnish validation of the various debts has made her task that much more cumbersome.

In order to minimize family expenses, Applicant, her husband, and children, moved into her parents' residence. She no longer has any credit cards. She contends she has been paying off approximately \$8,000 in medical bills but has been unable to pay them all off at once. As noted above, Applicant's family income improved substantially the day before the hearing when her husband was promoted. The current personal financial statement reflects a new net remainder of approximately \$1,607 available for discretionary spending or saving. Except for the accounts listed in the SOR, Applicant has no other delinquent accounts.

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

⁴⁸ See ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010).

There is one shortcoming in Applicant's presentation, and it is that she offered little documentary evidence to support her contentions that she has paid off approximately \$8,000 in medical bills. While that might reflect an absence of evidence by an applicant, in this instance, considering the nature of the delinquent debts (all but one are medical accounts), and her reputation for honesty, integrity, and trustworthiness, I have credited Applicant with efforts to resolve both non-SOR debts and SOR debts. With increased family income, her goal of resolving her delinquent debts appears to be within reach. While Applicant has not received financial counseling, it appears that she is at the precipice of a more aggressive repayment agenda. She has not ignored her debts and to the degree possible, Applicant has acted responsibly under the circumstances.⁴⁹

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a public trust position by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a public trust position must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

There is some evidence against mitigating Applicant's conduct. She has been struggling financially since 2007. While she claims to have taken steps to resolve a number of delinquent non-SOR accounts, most of her efforts, while described by Applicant, have not been supported by documentary evidence such as receipts, cancelled checks, or written acknowledgments from creditors or collection agents.

The mitigating evidence under the whole-person concept is more substantial. Applicant has an outstanding reputation for honesty, integrity, and trustworthiness. She was beset by an unexpected number of medical situations: a "very hard pregnancy;" the birth to a premature daughter with a small hole in her heart; tubes were inserted in her

⁴⁹ "Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005); ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999)).

daughter's ears; Applicant injured her back, necessitating back surgery on two separate occasions; and Applicant had surgery to fuse a neck vertebra. In addition to the medical costs, Applicant's husband endured seven years without a pay raise and was unable to obtain another job because of a hiring freeze; and the housing market crashed. Applicant was forced to short-sell their residence.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:

In evaluating Guideline F cases, the Board has previously noted that the concept of "meaningful track record" necessarily includes evidence of actual debt reduction through payment of debts." However, an applicant is not required, as a matter of law, to establish that he [or she] has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he [or she] has ". . . established a plan to resolve his [or her] financial problems and taken significant actions to implement that plan." The Judge can reasonably consider the entirety of an applicant's financial situation and his [or her] actions in evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) ("Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.") There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.⁵⁰

Applicant has demonstrated a "meaningful track record" of debt reduction and elimination efforts. Nevertheless, this decision should serve as a warning that her failure to continue her debt-resolution efforts or the actual accrual of new delinquent debts will adversely affect her future eligibility for a public trust position.⁵¹ Overall, the evidence leaves me without questions and doubts as to Applicant's eligibility and suitability for a public trust position. For all of these reasons, I conclude Applicant has mitigated the security concerns arising from her financial considerations. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

⁵⁰ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

⁵¹ While this decision should serve as a warning to Applicant, the decision, including the warning, should not be interpreted as being contingent on future monitoring of Applicant's financial condition. The Defense Office of Hearings and Appeals (DOHA) has no authority to attach conditions to an applicant's public trust position. See, e.g., ISCR Case No. 10-06943 at 4 (App. Bd. Feb. 17, 2012) (citing ISCR Case No. 10-03646 at 2 (App. Bd. Dec. 28, 2011)). See also ISCR Case No. 06-26686 at 2 (App. Bd. Mar. 21, 2008); ISCR Case No. 04-03907 at 2 (App. Bd. Sep. 18, 2006); ISCR Case No. 04-04302 at 5 (App. Bd. Jun. 30, 2005); ISCR Case No. 03-17410 at 4 (App. Bd. Apr. 12, 2005); ISCR Case No. 99-0109 at 2 (App. Bd. Mar. 1, 2000).

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
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	For Applicant
Subparagraph 1.i:	For Applicant
Subparagraph 1.j:	For Applicant
Subparagraph 1.k:	For Applicant
Subparagraph 1.l:	For Applicant
Subparagraph 1.m:	For Applicant
Subparagraph 1.n:	For Applicant
Subparagraph 1.o:	For Applicant
Subparagraph 1.p:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the interests of national security to grant Applicant eligibility to occupy a public trust position to support a contract with the Department of Defense. Eligibility is granted.

ROBERT ROBINSON GALES
Administrative Judge