



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



In the matter of:)
)
) ADP Case No. 24-01636
)
Applicant for Public Trust Position)

Appearances

For Government: Andre M. Gregorian, Esq., Department Counsel
For Applicant: Eric Leckie, Esq.

08/21/2025

Decision

LAFAYE, Gatha, Administrative Judge:

Applicant failed to provide sufficient evidence to mitigate trustworthiness concerns raised under Guideline F (financial considerations). Eligibility for access to public trust information is denied.

Statement of the Case

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) on January 14, 2023, seeking eligibility for a public trust position. On November 6, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) detailing trustworthiness concerns under Guideline F. Applicant answered the SOR on December 10, 2024 (Answer) and requested a decision on the written record in lieu of a hearing. She included documents with her Answer, which I labeled as Applicant Exhibit (AE) A for ease of reference.

The Government's written case was submitted on January 29, 2025, and Department Counsel amended the SOR through the file of relevant material (FORM), alleging additional concerns under Guideline F. Specifically, SOR ¶¶ 1.h, 1.i, and 1.j allege that Applicant has delinquent federal income tax debts of varying amounts for tax years 2018, 2020, and 2021.

A complete copy of the file of relevant material (FORM) was provided to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on February 10, 2025. She submitted a memorandum with supporting documents, but she did not respond to the three allegations in the SOR amendment, nor did she object to the Government's evidence. The case was assigned to me on June 4, 2025.

Evidence

Government Exhibit (GE) 1 and GE 2 consist of the SOR and Applicant's answer. GE 3 through GE 9 are admitted in evidence without objection. Applicant's response to the FORM and her attached documents are marked as AE B through AE E and admitted in evidence without objection. As stated above, documents Applicant included with her Answer are referred to as AE A in the decision.

Findings of Fact

In her Answer, Applicant admitted the allegations in SOR ¶¶ 1.b – 1.g and denied the allegation in SOR ¶ 1.a. She did not respond to the allegations in the SOR amendment, SOR ¶¶ 1.h – 1.j, which I have deemed a denial of each. Her admissions are incorporated in my findings of fact. After careful review of the evidence, I make the following additional findings of fact.

Applicant is a 48-year-old residential manager employed by a defense contractor since June 2022. She previously worked as medical technician and manager for a private company from April 2015 to June 2022. This is her first application for a public trust position. She earned her high school diploma in June 1996. She has not attended college. She has never married and does not have children. She has four siblings, two sisters and two brothers. One sister, age 47, resides with her. (GE 3)

Applicant completed her public trust application in January 2023. In Section 26 – Financial Record, she disclosed she filed for Chapter 7 bankruptcy in August 2021, and that her debts were discharged in January 2022. (GE 3) She said her delinquent debts at the time totaled about \$11,000. However, the bankruptcy court records show that her discharged debts totaled \$47,024. The records also show Applicant completed a financial management and training course, which was required as a condition of the bankruptcy. (GE 6) In Section 26, Applicant listed 14 delinquent debts involving routine accounts that she included in her bankruptcy petition, and said all 14 debts were discharged by the bankruptcy court. Applicant did not disclose that she had previously filed for Chapter 7 bankruptcy in July 2013, and that her debts in that action totaled \$20,455 and were discharged in November 2013. She acknowledged that she filed for bankruptcy in 2013 to the DOD investigator but said she did not list it in her application because it was older than seven years and was not required to be listed. (GE 3, 5, 9)

Applicant also disclosed in Section 26 of her public trust application that she filed a federal income tax return for 2021, but did not pay the taxes due. In the comments, she said she established a payment plan with the Internal Revenue Service (IRS) to pay the debt. She did not disclose any additional income tax issues in her public trust application but she mentioned income tax issues she had in other tax years during her background interview with a DOD investigator. (GE 3, 9)

Applicant did not provide financial or budgeting information in her documentary submissions. There is no indication she is currently receiving or recently received financial counseling. The record does not include her current income and expenses. It is unknown whether she has a budget, savings or checking accounts, whether she has a 401(k) retirement plan or other financial assets to properly assess her current financial situation. She informed the DOD investigator that her current financial situation is good, she is caught up on all bills, she pays all her bills on time, and her current balance on outstanding debts is "zero." She also said she currently earns enough money to start a payment plan with the IRS for her delinquent income tax debts, but she provided no specific details about her current financial circumstances. (GE 9 at 6)

The record shows that Applicant received several federal tax relief credits provided to taxpayers qualifying for the relief during the COVID-19 pandemic. She received \$1,200 in May 2020, \$600 in January 2021, and \$1,400 in April 2021. (GE 4 at 10-12)

In September 2023, Applicant explained why she did not timely file her federal income tax returns or pay any income taxes due in her response to interrogatories. She said she was having health issues, that there had been "a lot going on for some time," and she procrastinated after she had missed filing her tax returns for a few years. She was "overwhelmed," she lost track of her W2s for a few years and did not know how to obtain them (other than asking her previous employer). (GE 4) The nature of Applicant's medical issue(s) referenced in the case was not disclosed. A one-page medical history document was provided with the comment "all before 11/14/2016." Without more context, the information is unclear and lacks probative value. (AE C)

The SOR, as amended, alleges 10 financial concerns, including the failure to timely file Federal income tax returns for tax years 2018, 2020, and 2021; two bankruptcy actions, and delinquent debts totaling over \$19,000. (SOR; Amended SOR; GE 3 - 9)

The evidence regarding the SOR allegations is summarized below:

SOR ¶ 1.a (failed to file 2018, 2020, 2021 federal income tax returns, as required): Applicant denied she failed to file her federal income taxes for tax years 2018, 2020, and 2021. She agreed that she did not file her returns on time, but said she has filed her income tax returns since that time. Applicant's 2018, 2020, and 2021 federal income tax returns were received by the IRS in August 2023 and processed in September 2023. Though not alleged, in a letter dated August 29, 2023, Applicant's state department of taxation indicated it had not received her state income tax returns for tax years 2018, 2019, and 2020. (GE 4 at 6, 10-12, 21; AE A)

SOR ¶ 1.b (Federal income tax debt of \$5,818, tax year 2019): Applicant admitted this debt but said she made payment arrangements with the IRS, and that she would provide proof of the arrangements upon receipt of the agreement, which she did. (AE E)

In December 2024, Applicant established payment arrangements with the IRS. The agreement addresses overdue federal income taxes, interest and penalties, totaling \$20,937.37, for tax years 2018 through 2022. Under the agreement, Applicant agreed to pay \$328 per month from January 2025 through November 2031, and a final payment of \$294 in December 2031. (AE E) She did not provide any proof of payments made to the IRS in compliance with the agreement.

For tax year 2019, Applicant owes \$6,716.19. She filed her 2019 income tax return in August 2020. She originally owed \$4,387, but was assessed penalties and interest for late payment of the tax. She established an installment agreement in July 2020. Multiple payments she made were dishonored, and she was again assessed additional civil penalties for each dishonored payment. The IRS cancelled the agreement in November 2022 and referred Applicant's debt to a private debt collection agency. (GE 4 at 7-9)

SOR ¶ 1.c (Chapter 7 bankruptcy of July 2013, discharged November 2013), and SOR ¶ 1.d (Chapter 7 bankruptcy of August 2021, discharged January 2022): Applicant admitted she filed Chapter 7 bankruptcy petitions in 2013 and again in 2021, and that her delinquent debts were discharged in both actions.

In the 2013 bankruptcy petition, Applicant said she had medical debts exceeding \$100,000 after a major surgery in 2011 or 2012, and that filing Chapter 7 bankruptcy "seemed to be the easiest solution to remedy that debt at the time." She filed and concluded her bankruptcy as a "pro se" petitioner. As indicated above, her debts discharged under Chapter 7 bankruptcy exceeded \$20,000. (SOR Answer; GE 5, 7, 9; AE C)

Applicant said she filed Chapter 7 bankruptcy in 2021 due to co-signing for a vehicle that became repossessed and for delinquent medical bills from two other surgeries she had within the previous five years. She confirmed to the DOD investigator that all debts she disclosed in her public trust application were discharged in January 2022 pursuant to bankruptcy. (SOR Answer; GE 6 - 9)

Most of Applicant's delinquent debts in her 2021 bankruptcy petition were from credit card accounts she used for general living expenses. She said she was not earning enough money in her previous job, and in 2015 she began using credit cards to cover her living expenses. She said she fell behind and was unable to pay her debts. She also listed two debt consolidation loans that became delinquent, and were ultimately discharged in bankruptcy. She did not list an auto loan debt of \$22,884 in her public trust application by mistake, but said it too was discharged in bankruptcy. (GE 6, 8, 9 at 3-6)

SOR ¶ 1.e (\$637 collection account): Applicant admitted this debt and said she made payment arrangements with the creditor to satisfy it. This debt is an individual account that was placed for collection in about August 2023. (GE 8) Applicant provided proof she made payment arrangements with the creditor to pay about \$106 each month starting in December 2024 until paid in full. (AE A) No proof of payments made in compliance with the arrangements was included in the record.

SOR ¶ 1.f (\$507 collection account): Applicant admitted this debt and said she made payment arrangements with the creditor to satisfy it. This is an individual credit card account that was originally charged off but later purchased by a different creditor. (GE 8) Applicant provided proof she settled this debt for \$304.56 in January 2025. (AE A, D) This debt is resolved.

SOR ¶ 1.g (\$506 collection account): Applicant admitted this debt and said she made payment arrangements with the creditor to satisfy it. This is an individual account that was placed for collection in about late 2023. (GE 8) Applicant provided proof she made payment arrangements with the creditor to pay about \$42 every two weeks starting in January 2025 and ending in mid-June 2025. (AE A) No proof of payments made in compliance with the arrangements was included in the record.

SOR ¶¶ 1.h (Federal income tax debt of \$4,001, tax year 2018); 1.i (Federal income tax debt of \$7,000, tax year 2020); and 1.j (Federal income tax debt of \$713, tax year 2021): The SOR was amended and allegations in SOR ¶¶ 1.h through 1.j were added. Applicant's nonresponse to these allegations was deemed a denial of each allegation. As indicated in the discussions of SOR ¶ 1.b above, Applicant provided proof she made payment arrangements with the IRS from January 2025 to December 2031 to satisfy her delinquent income taxes for tax years 2018 through 2022. The agreement includes overdue taxes of \$2,505 for tax year 2022. However, she did not provide proof of any payments made in compliance with her agreement with the IRS. (AE E)

Policies

This case is adjudicated under DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a public trust position, the administrative judge must consider the disqualifying and mitigating conditions in the AG. These guidelines are not inflexible rules of law. Instead, recognizing 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 commonsense decision. According to AG ¶ 2(a), 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 decision.

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

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. The government reposes a high degree of trust and confidence in 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 of potential, rather than actual, risk of compromise of sensitive information.

Analysis

Guideline F, Financial Considerations

The trustworthiness concern for financial considerations is set out 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. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The guideline notes several conditions that could raise trustworthiness concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

Applicant has a history of financial problems, including two Chapter 7 bankruptcy actions, failure to timely file income tax returns, delinquent income taxes, and other delinquent debts. AG ¶¶ 19(a), 19(c), and 19(f) are applicable.

Conditions that could mitigate the financial considerations trustworthiness concerns are provided under AG ¶ 20. The following 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, 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), 20(c), and 20(d) are not fully established. Applicant has a history of financial problems as evidenced by two Chapter 7 bankruptcies filed "pro se" in 2013 and 2021, about seven years apart. Her evidence is insufficient to establish that her financial problems are behind her and will be resolved in a reasonable time. Her federal income tax delinquencies remain a concern as they are unresolved at this time. She has not presented evidence of recent financial counseling, separate from the bankruptcy court's training requirement imposed on individuals petitioning for relief under bankruptcy laws. She is credited with taking steps to resolve three more recent debts that became delinquent after her other debts were discharged under Chapter 7 bankruptcy in January 2022. AG ¶ 20(d) is established for the debts alleged in SOR ¶¶ 1.e, 1.f, and 1.g, and those debts are resolved in her favor.

AG ¶ 20(b) is not established. Applicant claimed she filed Chapter 7 bankruptcy in 2013 because she had delinquent medical debts exceeding \$100,000 after undergoing a major surgery in 2011 or 2012, and that Chapter 7 bankruptcy "seemed to be the easiest solution to remedy that debt at the time." She claimed she filed bankruptcy Chapter 7 the second time in 2021 because she "co-signed" for a vehicle that was repossessed and she had delinquent medical bills from two additional surgeries that occurred after her first bankruptcy in 2013. No medical bill records were provided to support her assertions, nor was information provided about surgeries she said she underwent in 2011 or 2012, and later.

The evidence establishes that most of Applicant's delinquent debts in her 2021 petition were from credit card accounts she used for general living expenses. She claimed she was not earning enough money in her previous position, she used credit cards to cover her living expenses, and eventually fell behind and could not pay her debts. She had at least two debt consolidation loans that became delinquent and were discharged in her 2021 bankruptcy action. All told, Applicant's delinquent debts totaling over \$47,000 were discharged under Chapter 7 bankruptcy as recent as January 2022. I find that Applicant's evidence is insufficient to establish that her financial problems were beyond her control, and that she acted responsibly under the circumstances. She is unable to mitigate the financial conditions trustworthiness concerns in SOR ¶¶ 1.c and 1.d through her evidence.

AG ¶ 20(g) is established for SOR ¶ 1.c. Although Applicant failed to timely file federal income tax returns for tax years 2018, 2020, and 2021, she subsequently filed all three income tax returns before the SOR was issued.

AG ¶ 20(g) is not fully established for delinquent income tax debts alleged in SOR ¶¶ 1.b, and 1.h through 1.j. Applicant is credited with making payment arrangements with the IRS to pay her delinquent income tax debts starting in January 2025 and ending in December 2031. However, she provided no proof of any payment under her agreement with the IRS. It is also noteworthy that Applicant failed to comply with a previous payment agreement she made for her 2019 delinquent income taxes. She established an installment agreement with the IRS in July 2020, and multiple payments she made were dishonored and subjected to additional penalties. The IRS ultimately cancelled that agreement in November 2022 and referred the debt to a private debt collection agency. Applicant's evidence is insufficient to mitigate financial security concerns alleged in SOR ¶¶ 1.b, and 1.h through 1.j.

Overall, there is insufficient evidence to determine that Applicant's financial problems are behind her. I am unable to find that she acted responsibly under the circumstances. Her financial issues continue to cast doubt on her reliability, trustworthiness, judgment, and her ability and willingness to comply with government rules and regulations. I find that financial considerations security concerns remain unresolved in this case despite the presence of some mitigation.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. In applying the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. An administrative judge should consider 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.

I have incorporated my comments under Guideline F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because this case is decided on the written record, I had no opportunity to question Applicant about any of the security concerns in the case, nor did I have an opportunity to observe her demeanor and thereby assess her credibility.

Therefore, after weighing the disqualifying and mitigating conditions under Guideline F and evaluating all evidence in the whole-person context, I conclude Applicant failed to mitigate the trustworthiness concerns raised in this case.

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:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b – 1.d:	Against Applicant
Subparagraph 1.e - 1.g:	For Applicant
Subparagraphs 1.h – 1.j:	Against Applicant

Conclusion

It is not clearly consistent with the national interest to grant Applicant eligibility for a public trust position. Eligibility for access to sensitive information is denied.

Gatha LaFaye
Administrative Judge