



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



In the matter of: )  
)  
) ISCR Case No. 18-01661  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Aubrey De Angelis, Department Counsel  
For Applicant: *Pro se*

February 4, 2019

**Decision**

LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of Case**

On November 8, 2016, Applicant submitted a security clearance application (e-QIP). (Government Exhibit 1.) On July 6, 2018, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations. (Item 1.) The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, effective within the DoD after June 8, 2017.

Applicant answered the SOR on July 18, 2018, and requested a hearing before an administrative judge. The case was assigned to me on September 5, 2018. The Defense Office of Hearings and Appeals issued a notice of hearing on October 22, 2018, and the hearing was convened as scheduled on November 27, 2018. The

Government offered four exhibits, referred to as Government Exhibits 1 through 4, which were admitted without objection. The Applicant offered a set of documents, referred to as Applicant's Exhibit A collectively, which was admitted without objection. Applicant testified on her own behalf. The record remained open until close of business on December 3, 2018, to allow Applicant the opportunity to submit additional supporting documentation. Applicant submitted one Post-Hearing Exhibit, referred to as Applicant's Post-Hearing Exhibit A, which was admitted without objection. DOHA received the transcript of the hearing (Tr.) on December 13, 2018.

### **Findings of Fact**

Applicant is 54 years old and is divorced. She has a high school diploma and an Associates of Arts degree. She is employed by a defense contractor is as an IT Specialist. She is seeking to obtain a security clearance in connection with her employment.

### **Guideline F - Financial Considerations**

The Government alleged that Applicant is ineligible for a clearance because she made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about her reliability, trustworthiness and ability to protect classified information.

The SOR identified eleven delinquent debts totaling in excess of approximately \$75,000, which include student loans, credit card debt, and medical bills, among other miscellaneous debt. Applicant admitted each of the allegations set forth in the SOR. (Applicant's Answer to SOR.) Credit reports of the Applicant dated November 19, 2016; and May 10, 2018, confirm the debts listed in the SOR. (Government Exhibits 2 and 3.) Applicant began working for her current employer in October 2018 and she earns \$52,000 annually. Before that she worked for another company, temp agencies, and had other miscellaneous job and earned substantially less.

Applicant testified that she began to have financial problems after she was fired in 2014 by her employer. She explained that she did not get along with the director, who thought she could not do her job. At that time, Applicant was completely out of work for about ten months. During that period, she collected unemployment and went through a training program to become certified for Information Technology (IT). She was also working for a temp agency, but was still not earning enough to pay her bills.

In May 2018, while working for another employer, Applicant encountered a freak accident. While working as an IT Specialist, she grabbed a flat screen monitor that was sitting on the desk, and tried to lift it up. The power plug was jammed behind the desk, and Applicant twisted her knee, tore the cartilage, and was unable to walk. Applicant was off work completely for three or four months. During that period, she received workers compensation which was only 40 percent of her pay. While she was off work, trying to heal from the knee injury, she fell on her hand and broke her finger. As a result

of these accidents, she is no longer able to lift more than 25 pounds and cannot bend, twist, squat, or kneel repetitively.

Applicant believes that her long periods of unemployment and freak accidents caused her to be off work for a total of two and a half years, namely periods in 2014, 2015, and part of 2017. During this period of unemployment, she experienced financial hardship, and borrowed money from her mother, just to make ends meet, but was still unable to pay her delinquent bills.

In October 2018, Applicant was hired by her current employer, and since then she has earned a decent income. When she started working for her current employer, she still had personal debts she paid first that involved money that she borrowed from family. Once she paid those debts off, she started working to resolve the debt set forth in the SOR. Applicant also recently reduced her living expenses by moving out of her apartment and into a house where she is renting a room. The following delinquent debts set forth in the SOR are discussed below:

1.a. A delinquent student loan debt was placed for collection in the approximate amount of \$65,441. Applicant stated that she has consolidated her student loans and set up a payment plan to resolve her student loan debt. In November 2018, she started making payments to resolve the debt in the amount of \$200 every two weeks. (Tr. pp. 18 - 19.) At the time of the hearing, she had made one payment.

1.b. A delinquent credit card debt was charged off in the approximate amount of \$3,479. Applicant stated that she has tried to contact that creditor but has not been able to set up a payment arrangement yet. She plans to do so soon. (Tr. p. 32.)

1.c. A delinquent debt was charged off in the approximate amount of \$3,186. Applicant testified that she set up a payment plan with the creditor in November 2018, to pay \$50 every two weeks toward the debt. At the time of the hearing, she had made two payments. (Tr. p. 19 – 20.)

1.d. A delinquent debt owed to a bank was charged off in the approximate amount of \$1,169. Applicant claims that her niece opened the account in her name. When Applicant confronted her, she blamed it on her friend. Her niece is incarcerated. (Tr. pp. 33 – 34.)

1.e. A delinquent debt owed to a creditor was charged off in the approximate amount of \$679. Applicant contends that this is the same debt that is set forth in SOR allegation 1.j. Applicant stated that she set up a payment plan with the creditor of \$50 monthly to resolve the debt. Her first payment was on November 15, 2018. (Tr. p. 21.)

1.f. A delinquent medical debt is listed on Applicant's credit report in the amount of approximately \$152. Applicant stated that she set up a payment arrangement with the creditor to pay off the entire amount on the 30th of November 2018. (Tr. p. 38.)

1.g. A delinquent cellular debt was charged off in the approximate amount of \$33. Applicant stated that this debt is scheduled to be paid in full on the 30th of November 2018. (Tr. p. 40.)

1.h. A delinquent medical debt was placed for collection in the approximate amount of \$198. Applicant stated that this debt is scheduled to be paid in full on the 30th of November 2018. (Tr. p. 39.)

1.i. A delinquent medical debt was placed for collection in the approximate amount of \$198. Applicant stated that this debt is scheduled to be paid in full on the 30th of November 2018. (Tr. p. 39.)

1.j. A delinquent debt owed to a creditor was placed for collection in the approximate amount of \$679. Applicant contends that this is the same debt set forth in the SOR allegation 1.e. Applicant set up a payment plan in November 2018 with the creditor to pay \$50 monthly toward the debt. At the time of the hearing, she had made one payment and on the 30th of November 2018, she was scheduled to pay another. (Tr. p. 21.)

1.k. A delinquent cellular debt was placed for collection in the approximate amount of \$2,066. Applicant stated that she started making payments of \$200 every two weeks which started on November 16, 2018. (Tr. p. 40.)

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense 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 decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility 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, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable clearance 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 the 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.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F - Financial Considerations**

The security 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

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

- (a) inability or unwillingness to satisfy debts;

- (b) unwillingness to satisfy debt regardless of the ability to do so;
- (c) a history of not meeting financial obligations.

Applicant was fired from her job in 2014 and began to have financial problems. Unable to find steady employment, as time passed, her delinquent debts increased. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under the Financial Considerations are potentially applicable under AG ¶ 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, a death, divorce, or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Arguably, Applicant's financial problems began when she was fired from her job. They continued when she was unable to find steady employment, and then aggravated by her freak accident this past year that caused her to miss even more work. In regard to Applicant's delinquent debts, at this point, most of them remain owing. Given her situation, she has not been able to pay much toward her delinquent debts, since she only recently started working again. She has now been working for about three months straight and during that time she has demonstrated sound judgment and has made a diligent effort to resolve her debts. However, it is not clear from the record whether she is only paying them in order to obtain a security clearance, or whether she would pay them regardless of the situation. In either case, Applicant remains excessively indebted, and has not established a systematic pattern of payment demonstrating that she can and will resolve her delinquent debts. Based upon these facts, there is insufficient evidence in the record to show that she has acted responsibly under the circumstances. There remain questions about her current reliability, trustworthiness, and good judgment.

### **Whole-Person Concept**

Under the whole-person concept, the 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. The 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.

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.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I conclude Applicant has not mitigated the Financial Considerations security concern.

### **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
Subparagraphs 1.a.:	Against Applicant
Subparagraphs 1.b.:	Against Applicant
Subparagraphs 1.c.:	Against Applicant
Subparagraphs 1.d.:	Against Applicant
Subparagraphs 1.e.:	Against Applicant
Subparagraphs 1.f.:	Against Applicant
Subparagraphs 1.g.:	Against Applicant
Subparagraphs 1.h.:	Against Applicant
Subparagraphs 1.i.:	Against Applicant
Subparagraphs 1.j.:	Against Applicant
Subparagraphs 1.k.:	Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson  
Administrative Judge