



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



In the matter of:	)	
	)	
	)	ISCR Case No. 19-00074
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Andrew H. Henderson, Department Counsel  
For Applicant: *Pro se*

September 9, 2019

\_\_\_\_\_

**Decision**

\_\_\_\_\_

LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of Case**

On January 4, 2018, Applicant submitted a security clearance application (e-QIP). (Government Exhibit 1.) On April 25, 2019, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations. 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 *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, effective within the DoD after June 8, 2017.

Applicant responded to the SOR (Answer) on May 14, 2019. (Government Exhibit 1.) She requested that her case be decided by an administrative judge on the written record. Department Counsel submitted the Government’s written case on June 11, 2019. A complete copy of the File of Relevant Material (FORM), containing six

Items was received by Applicant on June 21, 2019. She was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. Applicant submitted a response to the FORM within the 30-day period. Her response dated July 15, 2019, consists of 40 pages, referred to as Applicant's Response to FORM, was admitted into evidence without objection. DOHA assigned the case to me on August 12, 2019.

### **Findings of Fact**

Applicant is 40 years old and an Air Force Veteran. She has an associate's degree from the Community College of the Air Force. She has one minor child, and is married. She is employed by a defense contractor as a Senior Logistics Manager. 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 fourteen delinquent debts totaling approximately \$22,000. Applicant admits each of the allegations set forth in the SOR. Credit reports of the Applicant dated March 1, 2018; December 18, 2018; and June 11, 2019, reflect that the debts were at that time still owing. (Government Exhibits 4, 5 and 6.)

Applicant served in the United States Air Force from 1997 to 2018, when she retired honorably as a Master Sergeant E-7. During her military career, she held a security clearance without incident, and was deployed numerous times. She received accolades from these deployments, to include Good Conduct Medals, longevity ribbons, Achievement and Commendation Medals, and campaign ribbons. Applicant receives a retirement pension of \$1,557 monthly and 100% disability compensation of \$3,364 monthly. She also receives \$400 monthly in child support. (Response to FORM.)

Applicant began working for her current employer in January 2019, and earns a yearly salary of \$92,700. She attributes her excessive debt and financial difficulties to a number of unfortunate events. In 2002, she was married to a man who had bad credit. Everything they purchased was in her name, and when they divorced in 2006, she was left with all of the debt incurred during the marriage totaling approximately \$20,000. At that time she was a Staff Sergeant E-5. A year after the divorce, she was unwed and became pregnant, and had a premature child in 2008. But her real financial difficulty started in January 2016, when her father was diagnosed with stage 4 pancreatic cancer. Applicant applied for a humanitarian assignment and received orders that moved her closer to her parents, although they were still in different states. Applicant incurred moving costs and child care expenses. Applicant also got married. She incurred even more debt as she attempted to maintain two households, making the mortgage payment

on her house in state A, and paying the rent on her townhouse in state B. When she rented out her house in State A to tenants, they failed to pay the electric, water, trash and rent in a timely manner. The tenants never actually put the utilities into their name and so the Applicant received an electric bill of \$500; a water bill of \$200; and a trash bill, and was paying the mortgage while waiting for them to pay their rent, on top of paying her own rent in state B. In addition, Applicant provided financial assistance to her father by visiting on the weekends, and assisting with some of his financial obligations. Applicant's spouse was then diagnosed with Lupus and was unable to work. After her gall bladder was removed, she spent two weeks in the hospital and filed for disability. (Response to FORM.)

The bills continued to accumulate. Applicant states that she attempted to get credit counseling and a consolidation loan to pay off her debt, but eventually cancelled the program because they did not adhere to the contract. Applicant states that she then started to pay off the debt on her own, which subsequently turned the debts into charge-offs. (Response to FORM.)

The following delinquent debts are set forth in the SOR:

1.a. Applicant is indebted to a creditor for an account that was charged off in the approximate amount of \$9,136. This was money Applicant used to help with the humanitarian assignment she took in 2016. Applicant had included it in the credit counseling program. She states that she intends to pay the debt as soon as possible. (Government Exhibit 3.)

1.b. Applicant is indebted to a creditor for an account that was charged off in the approximate amount of \$6,002. This debt was included in the credit counseling program. She states that she intends to resolve the debt as soon as possible. (Government Exhibit 3.)

1.c. Applicant is indebted to a creditor for an account that was charged off in the approximate amount of \$2,266. This debt was included in the credit counseling program. She states that she intends to resolve the debt as soon as possible. (Government Exhibit 3.)

1.d. Applicant is indebted to a creditor for an account that was charged off in the approximate amount of \$687. This debt was included in the credit counseling program. She states that she is currently paying on this account, but provided nothing more. (Government Exhibit 3.)

1.e. Applicant is indebted to a creditor for an account that was charged off in the approximate amount of \$554. This debt was included in the credit counseling program. She states that she is currently paying on this account, but provided nothing more. (Government Exhibit 3.)

1.f. Applicant is indebted to a creditor for an account that was charged off in the approximate amount of \$538. This debt was included in the credit counseling program.

She states that she intends to resolve this debt as soon as possible. (Government Exhibit 3.)

1.g. Applicant is indebted to a creditor for an account that was placed for collection in the approximate amount of \$468. She disputes this debt. Applicant contends that she was erroneously charged for cable equipment that was turned in. Applicant provided nothing more. (Government Exhibit 3.)

1.h. Applicant is indebted to a creditor for an account that was placed for collection in the approximate amount of \$344. This loan was included in the credit counseling program. She states that she is currently paying on this account, but provides nothing more. (Government Exhibit 3.)

1.i. Applicant is indebted to a creditor for an account that was charged off in the amount of approximate amount of \$1,613. This loan was included in the credit counseling program. Applicant claims that she paid this debt off in February 2018, but provides nothing more. (Government Exhibit 3.)

1.j. Applicant is indebted to a creditor for an account that was placed for collection in the approximate amount of \$872. This was for a home monitoring service that Applicant believes she has paid. She states that she wanted to dispute the debt but has now decided to pay it. (Government Exhibit 3.)

Applicant states that there were other debts that were not listed in the SOR that she has paid in full. (Government Exhibit 3.) She also states that she is making payments on the ten debts listed in the SOR. She prepared a financial budget plan that was scheduled to start on July 5, 2019, that would include each of the delinquent debts listed in the SOR. (Response to FORM.) However, there is no evidence in the record that she has started or followed this budget.

Applicant explained that she became indebted not because she was involved in frivolous spending, but because she spent money to help take care of her family during hardships. She hopes to be able to purchase another home in the future, and so she is working hard to improve her credit. She believes that if her security clearance is granted she will be able to have all of the debts listed in the SOR paid off within one year.

Letters of recommendation from professional associates and friends attest to Applicant's high integrity, excellent work ethic, professionalism, and respect honoring the Air Force values. She is described as loyal to her country, reliable and trustworthy. Without hesitation, they recommend Applicant for a security clearance. (Applicant's Exhibits 4, 5 and 6.)

## 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; and
- (c) a history of not meeting financial obligations.

Applicant incurred excessive debt that she has been unable to pay. She states that she intends to pay it, but has not provided proof of payment in any form. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under the Financial Considerations guideline 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, or a death, divorce, or separation), 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.

It is not clear from the record evidence whether Applicant spent beyond her means in accumulating this debt. What is clear is that Applicant's financial distress was partially caused by circumstances beyond her control, namely life circumstances. What is also clear is the fact that Applicant earns a good living. Why her indebtedness is so

great is puzzling. She acknowledges the debts in the SOR and avers that she intends to handle them, but she does not explain what she is doing specifically to resolve them. There are no receipts in the record, proof of payment, or letters from the creditors that confirm that the debts have been paid or are being paid. In fact, there are no payment plan agreements from any of the creditors to show that she is adhering to them to resolve her debts. At this point, Applicant states that one of the debts in the SOR has been paid off and the others remain owing. Applicant has offered insufficient mitigation in response to the SOR. Thus it cannot be determined if her debt is being resolved or is under control. Applicant has not explained if she has set up payment plans with the creditors, or what those payment plans are or have been. Mitigating conditions ¶ 20(a) and (d) do not provide full mitigation in this case. There is no clear evidence in the record that she has acted reasonably and responsibly under the circumstances. Her inactions reflect unreliability, untrustworthiness, and poor 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 ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a.: through 1.i:	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 national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson  
Administrative Judge