



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 19-00812  
)  
)  
Applicant for Security Clearance )

**Appearances**

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

August 29, 2019

**Decision**

Lokey Anderson, Darlene D., Administrative Judge:

On September 5, 2017, Applicant submitted a security clearance application (e-QIP). On April 30, 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. (Item 1.) The action was taken under Executive Order (EO) 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 AG dated June 8, 2017.

Applicant answered the SOR on May 16, 2019, and requested a hearing before an administrative judge. The case was assigned to me on July 8, 2019. The Defense Office of Hearings and Appeals issued a notice of hearing that same day, and the hearing was convened as scheduled on July 17, 2019. The Government offered four exhibits, referred to as Government Exhibits 1 through 4, which were admitted without objection. The Applicant did not offer any documentary evidence, nor did she request that the record be left open following the hearing. Applicant testified on her own behalf. DOHA received the transcript of the hearing (Tr.) on July 24, 2019.

## **Findings of Fact**

Applicant is 60 years old. She is married with two adult children. She has a high school diploma and two years of college. She is employed with a defense contractor as an Administrative Assistant. She is seeking to retain a security clearance in connection with his 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 thirteen delinquent debts that have been charged off or placed for collection totaling in excess of \$30,000. Applicant admits to each of the delinquent accounts listed in the SOR. Credit Reports of Applicant dated September 13, 2017; and June 25, 2019; confirm the indebtedness listed in the SOR. (Government Exhibits 3 and 4.)

Applicant lives in the small town where she was born and raised, and because she is not willing to work for minimum wage, she must drive a long way to get a job. Applicant drives two hours each way to go to work with the defense contractor. Applicant has never held a security clearance before, but she has held a position of public trust.

Due to a history of job insecurity and health problems, over the past fifteen plus years, Applicant has incurred delinquent debt that she has been unable to pay. Her financial problems began in 2001 when she was out of work for shoulder surgery. When she returned to work, she was laid off. It took her about a year or so to find a job. Following this, she encountered a series of situations where she would be hired by an employer, work for a year or so, and was then laid off due to no fault of her own. This cycle continued over and over again, until she obtained her present job with her current employer. Applicant explained that her husband's work history has also been unstable. He had a roofing business that at one time was doing well, but was forced to shut down due to the crash in the economy. He incurred business debt that he has been unable to pay. He had difficulty finding stable employment and has worked several small jobs, but has had nothing steady until recently. In 2009, Applicant took out a home equity loan in the amount of \$90,000 to do home improvements. This loan also fell in arrears. For the past year, Applicant's husband has worked as a handyman for a local housing tract. (Tr. p. 30.)

In addition to a history of job insecurity, Applicant and her husband have suffered health issues in the last couple of years. She was diagnosed with Rheumatoid Arthritis and the medical deductibles have been high. Her husband suddenly lost about 80 pounds, and after numerous tests, it was determined that he had a thyroid problem. (Tr. p. 26.) As a result, they were unable to work as much as they wanted to. Applicant incurred a number of delinquent debts, and almost lost her home to foreclosure.

Recently, she has been able to catch up on the payments required by the mortgage lender, and was able to prevent her home from foreclosure. Applicant has been in constant contact with her creditors regarding her financial hardship. She does not have a financial budget that she follows at the present time.

Applicant began working for her current employer in 2018. Although it has been a slow process, she states that she is trying to resolve one debt at a time to get them paid. She was told by an attorney that if she filed Bankruptcy, she would be “red flagged” and it could jeopardize her chances of obtaining a security clearance.

The following delinquent debts became owing:

1.a. A Federal student loan is past due the approximate amount of \$1,088, with a total balance of \$30,699. Applicant states that she opened the account in 2003 and made some payments until she could no longer afford to. She has contacted a debt consolidation company that is going to help her restructure the loan. (Tr. p. 25.) The account remains owing.

1.b. A medical bill is past due in the approximate amount of \$134. Applicant explained that the debt is in dispute because she believes her insurance should pay the debt. The account remains outstanding. (Tr. p. 27.)

1.c. A medical bill is past due in the approximate amount of \$101. The account remains outstanding. Applicant explained that the debt is in dispute because she believes her insurance should pay the debt. The debt remains outstanding. (Tr. p. 27.)

1.d. A delinquent debt was charged off in the approximate amount of \$5,400. This was for the cost of her daughter’s braces. She last made a payment of \$50 about March 2019. She claims that she is paying it slowly. The account remains outstanding. (Tr. p. 28.)

1.e. A delinquent debt was charged off in the approximate amount of \$1,084. This was a credit card used to purchase clothing. The account remains outstanding. (Tr. p. 32.)

1.f. A delinquent debt was placed for collection in the approximate amount of \$575. This was a credit card used to purchase food and necessities. The account remains outstanding. (Tr. p. 32.)

1.g. A delinquent debt owed to a bank was charged off. This was either for a safe deposit box that Applicant had at the bank or a loan that went delinquent. The account remains outstanding. (Tr. p. 32.)

1.h. A delinquent debt owed to a department store was charged off. This was a credit card used to purchase clothes. The account remains outstanding. (Tr. p. 34.)

1.i. A delinquent debt was placed for collection in the approximate amount of \$7,807. This was a credit card used for household necessities. The account remains outstanding. (Tr. p. 35.)

1.j. A delinquent debt was placed for collection in the approximate amount of \$6,897. This was a credit card from her husband's business. The account remains outstanding. (Tr. pp. 44 - 45.)

1.k. A delinquent debt was placed for collection in the approximate amount of \$6,709. This was a credit card from her husband's business. The account remains outstanding. (Tr. p. 47.)

1.l. A delinquent debt was placed for collection in the approximate amount of \$877. This was for food and utilities. The account remains outstanding. (Tr. p. 48.)

1.m. A delinquent debt was placed for collection in the approximate amount of \$154. This was for equipment that the cable company claims the Applicant did not return. The account is in dispute. The account remains outstanding. (Tr. p. 48.)

Applicant has experienced financial difficulties due to loss of employment and health problems both she and her husband have suffered. She may have even spent more than she could afford from time to time; but for the most part, she has not had stable employment nor has she had proper financial counseling. Applicant plans to pay her delinquent debts, but has not made any headway as of yet. There is no documentary evidence to show that she has done anything to resolve even one of her delinquent debts. Furthermore, it is not certain whether she can or will pay her delinquent debt and whether it is likely to recur. There is insufficient documentation in the record to show that Applicant can control her finances and live within her means without difficulty. She remains excessively indebted.

## **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. 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.

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 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.

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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who applies for access to classified information seeks to enter 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 protect or 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 relating to the guideline 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 to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant is excessively indebted to the creditors listed in the SOR. Although she now has stable employment and her husband is working, she is just now able to start the process of paying her delinquent debts. The evidence is sufficient to raise the above disqualifying conditions.

AG ¶ 20 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 20 including:

- (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.

Applicant states that she plans to pay off her delinquent debts, one by one. At the present time, they all remain owing. Under the particular circumstances here, Applicant has failed to establish that she has acted reasonably or responsibly with respect to her debts. As it stands, Applicant has started to address her debts and has demonstrated nothing more. She has not demonstrated that future financial problems are unlikely. Most importantly, it has not been demonstrated that her current financial problems are under control.

### **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 facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Applicant states that she plans to address her debts one by one until they are all resolved. However, at that present time, they all remain outstanding. There is insufficient documentation in the record to show that Applicant has resolved or continues to work toward resolving her delinquent debt. Accordingly, Applicant has not demonstrated that she is financially responsible.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the Financial Considerations security concerns.

### **Formal Findings**

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

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

Darlene Lokey Anderson  
Administrative Judge