



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



In the matter of: )  
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Applicant for Security Clearance )

ISCR Case No. 19-01833

**Appearances**

For Government: Chris Morin, Esq., Department Counsel  
For Applicant: *Pro se*

11/18/2019

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**Decision**

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MASON, Paul J., Administrative Judge:

Applicant's divorce and child support issues in 2015, 2016, and 2017, followed by property loss and damage due to a hurricane in September 2018, were primary reasons for falling behind in three credit card accounts. She has established a budget to manage her finances and a payment plan for repayment of the creditors in order to restore her financial responsibility. She has stopped purchasing items that she cannot afford, and is trying to live within her means. Eligibility for security clearance access is granted.

**Statement of the Case**

On February 21, 2018, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP, Item 3) requesting security clearance eligibility so that she could work for a defense contractor. On March 6, 2018, she provided an interview (Item 7) to an investigator from the Office of Personnel Management (OPM). The Department of Defense (DOD) could not make the necessary affirmative findings to grant

or continue Applicant's security clearance, and issued a Statement of Reasons (SOR) on June 8, 2019 detailing security reasons under the financial considerations guideline (Guideline F). The action was taken under Executive Order (E.O.) 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 Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), made effective in the DOD on June 8, 2017.

Applicant provided her notarized answer to the SOR on July 17, 2019. She decided to have her case decided on the written record. Department Counsel submitted a copy of the File of Relevant Material (FORM) on August 22, 2019. The FORM contains eight exhibits (Items 1-8). Applicant received the FORM on August 28, 2019. Her response to the FORM was submitted on September 11, 2019, without objection. The case was assigned to me on September 26, 2019.

### **Rulings on Evidence**

In a footnote on the first page of the FORM, Department Counsel advised Applicant that the PSI (Item 4) would be excluded from evidence if she objected to the exhibit. Alternatively, Department Counsel advised her that she could correct, update, or modify the exhibit to improve its clarity or accuracy. Applicant did not object, and the exhibit was admitted into evidence. See, E3.1.20. of DOD Directive 5220.6, page 52.

On October 28, 2019, I reopened the record to allow Applicant an opportunity to submit additional evidence based on her assertions that she had plans in place to begin paying the three listed creditors twice a month. I recommended that she include documentation establishing that she had "settled numerous other debts," and she would have a student loan satisfied in the middle of October 2019. (Hearing Exhibit (HE) 1).

On November 7, 2019, Applicant submitted her second response (A2R) to the FORM. Without objection by the Government (HE 2), A2R, 19 pages in length, was entered into evidence.

### **Findings of Fact**

The SOR identifies three delinquent credit card debts totaling \$24,563. The accounts, which Applicant is individually liable for, became delinquent between August and November 2016. In her answer to the SOR, she admitted she owes the debts. Applicant explained that the first two credit card debts, were caused by a divorce and child custody issues. The cards were used to pay attorney fees, living expenses, and children's clothes, when alimony and child support payments were either modified or

suspended. Applicant lost her car and sustained major damage to her home by a hurricane in September 2018. She and her new husband have a budget and, with the help of her husband's retirement loan, they will repay the debts in full by December 1, 2019. The third account (SOR 1.c) became delinquent when her former husband never paid for dental services that he charged to the account. In the future, Applicant intends: (1) to stop purchasing items she cannot afford; and (2) to live within her means. (Item 4 at 10-12; Item 5 at 3, 13; Item 6 at 3; answer to SOR)

Applicant is 48 years old. She has four daughters from her former husband whom she married in 1994 and divorced in January 2015. She has been working on a part-time basis for a survivalist team since March 2017. Her previous jobs were retail cashier (part time) and construction administrator. She was an office manager for her former husband's security firm from July 2009 to February 2016. In December 2000, she received a certificate in medical transcription. She attended college part time and online in 2012 and 2015, but did not receive a degree. She has never been investigated or held a security clearance. (Item 3 at 15-18, 44; Item 4 at 7)

Following three separations from her former husband, with the most recent separation in January 2013, Applicant filed for divorce in September 2014, and was granted a divorce in January 2015. She received alimony and child support which was reduced when one daughter became 18 years old. At other times, the former husband did not regularly pay alimony and child support. She lost her alimony when she moved in with her then-boyfriend in November 2017. Applicant indicated they married on August 10, 2018, before the September 2018 hurricane swept through the area and damaged her property. (Item 4 at 7; answer to SOR)

In her September 11, 2019 response to the FORM, Applicant indicated she intended to begin payments to the three listed creditors on October 1, 2019. She also noted she had settled numerous unlisted debts. (September 2011 response to FORM)

In the additional information that she submitted on November 7, 2019, she provided documented payments to the SOR 1.a creditor on October 31 and November 4, 2019. She provided a documented payment to the SOR 1.b creditor on November 1, 2019. She made a documented payment to the SOR 1.c creditor on October 4 and October 30, 2019. She claimed that she made a payment to the SOR 1.c creditor on November 7, 2019. However, her payment ledger reflects that this payment was made on November 1, 2019. (A2R at 3-7)

Though Applicant claimed in her September 2019 response to the FORM that she had settled numerous unlisted accounts, she only submitted documentation of two credit card accounts that are in a current status. (A2R at 10-13)

Returning to her March 2018 PSI, she informed the OPM investigator that she settled an account (#3499920975428883) in the summer of 2017 for about \$300. The applicable credit bureau report show that Applicant paid the charged off account (same account number) in August 2017. The same credit report displays only the three delinquent debts listed in the SOR. Before her current payment plan, she never attempted to settle or arrange a payment plan with the three listed creditors. Though there are balances on three or four other unlisted accounts, there are no amounts appearing in the “past due” column of the report. (Item 6 at 1-7)

### **Policies**

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines and all available, reliable information about the applicant, past and present, favorable and unfavorable, in making a decision. These guidelines, which are flexible rules of law, are applied together with common sense and the general factors of the whole-person concept. The protection of the national security is the paramount consideration. AG ¶ 2(d) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

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 in seeking a favorable security decision, whether he or she chooses to present her case by live hearing or on an administrative record.

### **Analysis**

#### **Financial Considerations**

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.

Managing one's finances is generally a private matter between a debtor and her creditors. However, legitimate security concerns are raised when information is uncovered showing that the debtor is demonstrating financial irresponsibility by not paying her bills in a timely manner. If a security clearance aspirant does not responsibly handle their finances, then there is a probability they may adopt the same kind of irresponsible attitude toward security rules and regulations.

AG ¶ 19. The disqualifying conditions relevant in this case are:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant owes three SOR creditors delinquent debt totaling \$24,563. The accounts, which Applicant is individually liable for, became delinquent between August and November 2016. AG ¶¶ 19(a) and 19(c) apply.

AG ¶ 20. Conditions that could mitigate security concerns include:

- (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;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a nonprofit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

AG ¶ 20(a) has only limited application because the delinquent debts total over \$24,000 and are less than four years old. Applicant has known about the debts since she submitted her e-QIP in February 2018. She took no documented action to address the debt until October 4, 2019.

AG ¶ 20(b) recognizes that a person's financial problems may be caused by conditions beyond their control. Applicant experienced marital problems as she was separated three times before she received her divorce in January 2015. Because of the contentious divorce litigation, subsequent alimony and child support issues, she had to turn to her credit cards to pay attorney fees, living expenses, and her children's clothing. In September 2018, she lost her car and a large amount of her household property because of a hurricane. The first prong of AG ¶ 20(b) applies.

The second prong of AG ¶ 20(b) “acting responsibly under the circumstances” must be given some consideration based on Applicant’s March 2019 credit bureau report showing the three SOR creditors as the only delinquent debts.

There is no evidence that Applicant has ever had financial counseling. However, she does have a budget and a plan to repay the debt with the help of her husband. Based on A2R, there are growing indicators that Applicant is reestablishing control over her finances. Given the documented payments she has made to resolve the debts, she is entitled to some mitigation under AG ¶¶ 20(c) and 20(d).

### **Whole-Person Concept**

I have examined the evidence under the guideline for financial considerations in the context of the nine general factors of the whole-person concept 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 access to classified information must be an overall common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

Applicant’s third separation occurred in January 2013. She received her divorce in January 2015. Unfortunately, she had to abuse credit cards after the divorce to pay attorney fees, living expenses, and her children’s necessities because her former husband was not honoring the alimony and child support obligations under the decree. Between August and November 2016, the three listed accounts became delinquent.

Though Applicant took no documented action to address the listed indebtedness in 2018, she produced credible documentation in October and November 2019 that she is taking action to pay off the delinquencies. Based on the encouraging status of Applicant’s March 2019 credit bureau report showing only the three listed creditors as delinquent, and her budgetary plan to satisfy the remaining debt, Applicant has overcome the security concerns arising from the guideline for financial considerations.

### **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
Subparagraphs 1.a-1.c:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the security interests of the United States to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is granted.

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Paul J. Mason  
Administrative Judge