



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



In the matter of:	)	
	)	
	)	ISCR Case No. 20-01634
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Ross Hyams, Esquire, Department Counsel  
For Applicant: *Pro se*

03/29/2021

**Decision**

MARSHALL, Jr., Arthur E., Administrative Judge:

**Statement of the Case**

On September 22, 2020, the Department of Defense (DOD) Consolidated Adjudication Facility (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 (AG) effective within the DOD on or after June 8, 2017.

In a response dated September 28, 2020, Applicant answered the six allegations raised in the SOR and requested a decision by a Defense Office of Hearings and Appeals (DOHA) administrative judge based on the written record. The Government's written brief with seven supporting documents (Items 1-7), known as the File of Relevant Material (FORM), was submitted by Department Counsel on December 27, 2020. A complete copy of the FORM was mailed to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns.

Applicant received the FORM and timely submitted various materials marked as Response to FORM, Attachments A-H. I was assigned the case on March 12, 2021. Based on the record before me, I find Applicant mitigated financial considerations security concerns.

### **Findings of Fact**

Applicant is a 51-year-old Identification Service Operator III (ISO III), a job she has held since 2014. She has not earned a diploma or degree. There is no record of a period of unemployment in the past two decades. She is single and has one adult child. As of April 2020, the time at which her financial information was last examined, her net yearly salary was approximately \$21,750, with a net monthly remainder of about \$600 to \$700. (FORM, Item 5 at 3-5)

A 2017 surgery contributed to Applicant's acquisition of delinquent debt. (FORM, FORM 5 at 2; Response to FORM, Narrative and Attachment F) It is unclear whether the surgery was an unexpected emergency surgery, but it was performed in far less than 72 hours after scheduling. This negated the hospital's requirement to have pre-admission testing one to two weeks before surgery, and to preregister for surgery no less than 72 hours before surgery. (Response to FORM, Attachment F) To address her debts, she solicited the aid of a debt resolution group. It has helped her address various debts through her regular monthly payments. (Response to FORM, Attachment G) In April 2020, she told investigators that she has been timely on her obligations since December 2017.

At issue in the SOR are six debts, noted in the SOR at allegations 1.a-1.f, amounting to approximately \$34,664. In her response to the SOR, Applicant admitted responsibility for all the debts except for the ones at allegations 1.c (\$1,402), 1.e (\$405), and 1.f (\$132). The SOR allegations pertain to the following:

1.a - \$12,265 Repossession Balance – *In repayment* - Applicant admits responsibility for this debt. It is the result of her having been a co-signer on an unreliable former partner's car purchase, which ultimately resulted in his cessation of timely payments on the vehicle. She has started making payments on a repayment plan. She provided documentation reflecting payment for October 2020 through January 2021, shortly before her FORM response was due. (Response to FORM, Attachment A)

1.b – *Poised for Repayment* - \$19,454 Charged-off Vehicle Loan – Applicant admits responsibility for this balance owed. It is also the result of her having been a co-signer on the same former partner's car purchase. As before, he ceased making payments on the vehicle unbeknownst to Applicant. Applicant laments having helped him get credit. She plans to start making payments on a repayment plan in March 2021, once she has more disposable income. (Response to FORM, Narrative)

1.c –\$1,402 Charged-off Credit Card – *Settled* - Applicant denies responsibility for this obligation. She provided a letter dated September 2020 that reflects that the account has been settled. (Response to FORM, Attachment B)

1.d - \$1,006 Medical Debt – *With debt relief entity for negotiation* - Applicant admits responsibility for this debt, noting that it is currently being negotiated by her debt relief entity. (FORM, Attachment C)

1.e - \$405 Telecommunications Collection – *Paid* – Applicant denies responsibility for this debt. She provided documentation showing the account has been paid in full. (FORM, Attachment D)

1.f - \$132 Medical Debt – *Paid* - Applicant denies responsibility for the debt. She presented documentation reflecting the account was satisfied. (FORM, Attachment E)

Applicant's intends to continue responsibly addressing her debts. She does not have an extravagant lifestyle. (Response to FORM, Attachment 5 at 3-5) Applicant has sufficient income to continue satisfying her obligations. She does not anticipate future problems with delinquent debt. (Response to FORM, Attachment 5 at 3-5)

### **Policies**

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

These guidelines are not inflexible rules of law. 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(c), the entire process is a conscientious scrutiny of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that any doubt concerning personnel being considered for access to classified information 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. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence, and transcends duty hours. The Government reposes a high degree of trust and confidence in those granted such access. Decisions necessarily include consideration of the possible risk an

applicant may deliberately or inadvertently fail to safeguard such information. Decisions shall be in terms of the national interest and do not question the loyalty of an applicant.

### **Analysis**

Under Guideline F, AG ¶ 18 sets forth that the security concern under this guideline is that failure or inability 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.

Here, the Government offered documentary evidence showing the existence of six delinquent debts, thus raising disqualifying conditions:

AG ¶ 19(a): inability to satisfy debts, and

AG ¶ 19(c): a history of not meeting financial obligations.

Under these facts, three conditions could mitigate related security concerns:

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;

AG ¶ 20(c) the individual has received or is receiving financial counseling for the problems 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 under control; and

AG ¶ 20(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

It is unclear whether Applicant's 2017 surgery was the result of an unexpected medical emergency. The urgency with which it was scheduled and performed, however, tends to indicate it was neither planned nor elective. Moreover, she then appropriately retained a debt relief professional to help her address her debts, thus attempting to responsibly deal with her debts and bills.

There is no documentary evidence showing Applicant has received financial counseling. There is, however, documentation showing she has paid two and settled one of the six delinquent debts at issue, noted at allegations 1.e, 1.f, and 1.c, respectively. She personally has begun repayment on one delinquent account (1.a), while her debt relief program is currently negotiating arrangements to settle another account (1.d). Only one delinquent account (1.b) remains unaddressed, but she credibly expressed her intent

to commence repayment on it in early 2021 when she has more available cash. In light of these considerations, I find AG ¶ 20(b) and AG ¶ 20(d) apply.

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of his conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d). Here, I have considered those factors. I am also mindful that, under AG ¶ 2(a), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based on careful consideration of the guidelines and the whole-person concept.

Applicant is a 51-year-old ISO III who has served in that capacity since 2014. She has been continuously employed for over 20 years. There is no evidence of post-secondary education. She is single and has one adult child. As of April 2020, the time at which her financial information was last examined, her modest net yearly salary was approximately \$21,750. She manages her new and regular bills while also satisfying the delinquent debts at issue. Applicant does not live an extravagant life and honors her obligations, leaving her a net monthly remainder of about \$600 to \$700.

In 2017, Applicant began to acquire delinquent debt. This started around the time she hastily underwent a surgical procedure. To help her manage the situation before things got worse, she solicited the aid of a debt relief organization. It has helped her organize her debt, make payments, and seek settlement of accounts. Today, half of the six delinquent debts at issue are paid or satisfied, one is in repayment, one is in negotiation with the debt relief program for resolution, and one is poised to start repayment this month. While Applicant has more to do to resolve all of her financial issues, she is well on her way to that end. She has the commitment and the finances to complete the task. In light of the foregoing, the progress noted, and Applicant's financial resources, I find that Applicant has mitigated financial considerations security concerns.

### **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.f:	For Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is granted.

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Arthur E. Marshall, Jr.  
Administrative Judge