



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



In the matter of:	)	
	)	
	)	ISCR Case No. 20-00312
	)	
Applicant for Security Clearance	)	

**Appearances**

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

02/17/2021

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**Decision**

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LOUGHRAN, Edward W., Administrative Judge:

Applicant did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On April 8, 2020, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. Applicant responded to the SOR on May 6, 2020, and requested a decision on the written record in lieu of a hearing.

The Government’s written case was submitted on July 22, 2020. A complete copy of the file of relevant material (FORM) was provided 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 on July 29, 2020. As of September 1, 2020, she had not responded. The case was assigned to me on January 26, 2021. The Government exhibits included in the FORM are admitted in evidence.

## Findings of Fact

Applicant is 40 years old. It is unclear whether she is an employee or a prospective employee of a defense contractor. She is applying for a security clearance for the first time. She has a bachelor's degree, which she earned in 2011, and additional college credits, but no post-graduate degree. The most recent information available indicates that she is married for the second time. She has a 15-year-old child. (Items 2, 3)

Applicant has a history of financial problems. The SOR alleges eleven delinquent debts totaling about \$27,400. The debts include four defaulted student loans totaling \$19,240 and seven miscellaneous debts ranging from a \$162 payday loan to a \$2,825 medical debt. Applicant admitted owing all the debts.

Applicant asserted that her student loans were being paid by garnishment, and then were consolidated. The credit reports support her assertions. The April 2019 credit report listed the four student loans with balances totaling \$21,673, with the annotation: "Paid by Garnishment." The December 2019 credit report listed the four student loans with balances totaling \$19,240, which indicates that payments were made since the previous credit report. She also had student loans that were in deferment and not alleged in the SOR. The July 2020 credit report showed that she was current and in good standing on all of her student loans. (Items 1-6)

Applicant attributed her financial problems to the sudden death of her father in 2013 and the associated funeral and burial expenses. She stated that "[t]he year following his death was a very rough time for [her] and [her] family and [they] went through a period of frivolous spending." She and her husband met with a bankruptcy attorney in 2014, who advised them to stop paying all of their debts, with the exception of car payments, rent, and utilities. They decided not to file bankruptcy. She indicated that they paid some debts over the years, focusing on her husband's debts first, as he would be taking over his family's business. She stated that she moved; she has a better-paying job; and their current bills are being paid. Other than her student loans, there is no evidence that Applicant paid or is paying any of the other debts alleged in the SOR. There is no evidence of financial counseling. (Items 1-6)

## Policies

This case is adjudicated 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 adjudicative guidelines (AG), which became effective on June 8, 2017.

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 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 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 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."

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 security 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 of 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.

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

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

Applicant has a history of financial problems, including delinquent debts and defaulted student loans. The evidence is sufficient to raise the above disqualifying conditions.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (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;
- (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 attributed her financial problems to the sudden death of her father in 2013 and the associated funeral and burial expenses. She also admitted that she went through a period of frivolous spending. Her student loans were being paid by garnishment. However, court-ordered or otherwise involuntary means of debt resolution, such as garnishment, are entitled to less weight than means initiated and carried through by the debtor himself. See, e.g., ISCR Case No. 17-04110 at 4 (App. Bd. Sep. 26, 2019). She then consolidated the student loans. She is now current and in good standing on all of her student loans. The allegations related to her student loans are mitigated.

With the exception of the student loans, there is no evidence that Applicant paid or is paying any of the debts alleged in the SOR. She did not present a plan to resolve

her financial problems, and she does not have a sufficient track record to enable me to trust that she will pay her debts. There is insufficient evidence for a determination that her financial problems will be resolved within a reasonable period. I am unable to find that she acted responsibly under the circumstances or that she made a good-faith effort to pay her debts. Her financial issues are recent and ongoing. They continue to cast doubt on her current reliability, trustworthiness, and good judgment. Applicant may reach a point where her finances are sufficiently in order to warrant a security clearance, but she has not established that she is there at this time. I find that financial considerations security concerns remain despite the presence of some mitigation.

### **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 the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not 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 section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	Against Applicant
Subparagraphs 1.a-1.d:	For Applicant
Subparagraphs 1.e-1.k:	Against Applicant

## **Conclusion**

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Edward W. Loughran  
Administrative Judge