



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 20-00826  
)  
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Applicant for Security Clearance )

**Appearances**

For Government: Aubrey M. De Angelis, Esq., Department Counsel  
For Applicant: *Pro se*

05/10/2021

**Decision**

COACHER, Robert E., Administrative Judge:

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

**Statement of the Case**

On June 12, 2020, the Defense Counterintelligence and Security Agency (DCSA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The DCSA acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines effective June 8, 2017 (AG).

Applicant answered the SOR with an undated response, and elected to have her case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's File of Relevant Material. The evidence included in the FORM is

identified as Items 4-7 (Items 1-3 include pleadings and transmittal information). The FORM was received by Applicant on February 2, 2021. Applicant was given an opportunity to file objections and submit material in refutation, extenuation, or mitigation. (See administrative exhibit (ADE) I) She submitted a seven page response to the FORM, marked as Applicant exhibit (AE) A. She did not file objections to the Government's evidence. Items 4-7 are admitted into evidence without objections, as is AE A. The case was assigned to me on April 12, 2021.

### **Findings of Fact**

Applicant admitted all of the SOR allegations. The admissions are adopted as findings of fact. After a careful review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is 46 years old. She has worked for a government contractor since December 2019. Before that she experienced unemployment from July 2019 until December 2019. She was fully employed for approximately 10 years before then. She received her bachelor's degree in 1996. She is divorced for the second time (dates of divorce: 2015 and 2019) and has two children for whom she pays \$350 monthly in child support. (Items 4-5)

The SOR alleged 12 delinquent debts totaling approximately \$29,100. The debts are comprised of collections, charge offs, and past-due accounts (credit card, consumer debt, medical debt, student loans, and an auto repossession). The debts are established by Applicant's security clearance application (SCA), her background interview in December 2019, credit reports from November 2019 and December 2020, and her SOR admissions in her answer. (Items 3-7)

Applicant attributes her financial problems to marital instability, as she had gone through two divorces in the past four years. She believed her most recent divorce was inequitable and required her to pay most of the marital debt, which caused her to rely on credit cards. She entered into a debt management plan in March 2019 and made several payments into the plan, but discovered that the fees were so high none of her money was going toward paying her debts. From January 2020 to January 2021 she paid \$2,248 to the debt management company, which was less than half of what it required. No payments were made towards her debts. She ended the contract. (Item 5; AE A)

Applicant failed to present documentation showing that she made payments on any of her debts. She provided a current budget that reflects that she has a monthly remainder of \$39 after she pays all her expenses. She documented that she ended her lease in March 2021 and planned to move in with her mother, thereby saving her \$1,400 monthly. She believes she can use this amount to pay her delinquent debts. She also proposed a payment plan over the course of 11 months whereby she could settle all of her debts. This plan assumes that she can pay \$2,500 each month toward her debts and that each creditor agrees to accept a 50 per cent settlement. She does not explain

where the \$1,100 monthly surplus will come from to make her plan payments (assuming \$1,400 comes from her rent savings). She did not provide any documentation reflecting settlement discussions with any creditors. None of her SOR debts have been resolved. (AE A)

## **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. Instead, 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(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 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.

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. 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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that 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**

AG ¶ 18 expresses the security concern for financial considerations:

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. I have considered all of them under AG ¶ 19 and the following potentially apply:

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

All of Applicant’s delinquent debts remain unpaid or unresolved. She has a history of unpaid debts. I find the above disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

- (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;

(c) the individual has received or is receiving financial counseling for the problem 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 is under control; and

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

Applicant has a history of financial difficulties. The SOR debts are ongoing and therefore recent. They all remain unresolved. She did not provide sufficient evidence to show that her financial problems are unlikely to recur. On the contrary, the evidence shows that she does not currently have the financial resources to resolve her debts. AG ¶ 20(a) does not apply. Although her two divorces since 2015 and her period of unemployment in 2019 are circumstances beyond her control, she failed to act responsibly in addressing her debt. I find AG ¶ 20(b) does not apply. Her hiring of a debt management company turned out to be an unwise decision because it failed to help her, and even cost her by taking funds away from her ability to pay her debts. Her efforts thus far are insufficient to conclude that her overall financial problems are being resolved or are under control. Her speculative plan to pay her debts in the next 11 months does not amount to a good-faith effort to resolve her delinquent debts. AG ¶¶ 20(c) and 20(d) do not fully apply.

### **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 the 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 guideline and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant has not established a track record of financial stability.

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 security concerns arising under Guideline F, 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:	AGAINST APPLICANT
Subparagraphs 1.a - 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 Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Robert E. Coacher  
Administrative Judge