



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



In the matter of:	)	
	)	
	)	ISCR Case No. 20-03280
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Jeff A. Nagel, Esq., Department Counsel  
 For Applicant: *Pro se*  
 03/08/2022

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**Decision**

HYAMS, Ross D., Administrative Judge:

Applicant resolved most of the delinquent debts alleged in the SOR. Several circumstances beyond her control impacted her finances and ability to repay debts. Applicant provided sufficient evidence to mitigate the financial considerations security concerns arising from her delinquent debts. Applicant’s eligibility for access to classified information is granted.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on June 11, 2019. On January 8, 2021, 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 February 17, 2021 (Answer was mistakenly dated 2020), and requested a decision based on the administrative (written) record in lieu of a hearing. With her Answer, she provided two exhibits, which I have marked as Applicant’s Exhibits (AE) A and B, and admitted them into evidence.

On November 15, 2021, Department Counsel submitted the Government’s file of relevant material (FORM) including Items 1-7. A complete copy of the FORM was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. She received the FORM on November 17, 2021. As of January 4, 2022, she had not responded. The case was assigned to me on February 9, 2022.

Item 1 is the SOR and the Answer, which are the pleadings in the case. The SOR submitted was a draft version, as it was not dated or electronically signed. A copy of the final SOR sent to Applicant was obtained from DOHA administrative staff. Comparing the two documents, the SOR allegations are identical. The “formal” SOR, dated January 8, 2021 and electronically signed was attached to the record as Item 8. Items 2-7 are admitted into evidence without objection.

### **Findings of Fact**

In her Answer, Applicant admitted SOR ¶¶ 1.a - 1.d, 1.g – 1.j, 1.l – 1.v, and 1.x. Applicant denied SOR ¶¶ 1.e, 1.f, 1.k, and 1.w. She also provided brief explanations for the SOR allegations, and a longer narrative statement about her financial problems. Applicant’s admissions are incorporated into the findings of fact. After a thorough and careful review of the pleadings and evidence submitted, I make the following additional findings of fact.

Applicant is 52 years old. She has been employed as a security specialist since 1991, and has worked for her current employer since 2013. She has held a security clearance since 1991, and it was last renewed in 2016. She earned a bachelor’s degree in 2017. She has been married since 2004, and has three adult children. (Item 2)

Applicant stated that her financial problems are due to reasons beyond her control, including medical issues that have required treatment and short term medical leave from work. Her spouse also had medical issues and disabilities, which impacted his employability. Her adult daughter and two grandchildren live in Applicant’s home. Her daughter and grandchild were severely injured in a car accident in 2019, which created a personal and financial strain on the family. (Items 1, 2, 3)

In her Answer, Applicant stated that she has been trying to resolve her outstanding debts by contacting her creditors, and making payment arrangements that fit within her budget. She also disputed debts that she believes are reported in error. She stated that she is committed to continue resolving outstanding debts, and improving her financial situation. (Item 1)

In her February 2020 interview, Applicant provided information about her monthly budget to the government investigator. It showed she had approximately \$275 monthly that she could apply to debt payments, beyond the debt payments she was already making. Applicant did not provide evidence that she has received credit counseling. (Item 3)

The SOR alleges 24 delinquent debts, totaling about \$61,000. About \$50,000 of the debt resulted from Applicant’s student loans. Applicant also has seven small past-due medical debts and nine past-due consumer and utility accounts. The allegations are established by Applicant’s admissions, and the four credit reports in the record: October 10, 2019 (Item 4); January 24, 2020 (Item 5); September 6, 2020 (Item 6), and November 10, 2021 (Item 7). The status of the debts are as follows:

SOR ¶¶ 1.a, 1.c, 1.g, 1.h, 1.i, 1.j, and 1.x are medical debts totaling \$755. Applicant contacted the creditor and consolidated these debts into one combined bill. She is making payments as she is able, and contested some of the debts as duplicates. She provided documentation showing that the combined balance of the debts has been reduced to about \$595. (Item 1; AE A)

SOR ¶¶ 1.m – 1.t are delinquent student loans totaling \$50,190. In her SCA, she stated that her student loans became delinquent because of the loss of her spouse's income, and a medical condition that required her to be on short-term medical leave for two months. Applicant reached out to the creditors, and made a payment arrangement with them, to bring the accounts current. Her two most recent credit reports in the record, September 2020, and November 2021, show all eight of her student loan accounts as current, with no amount past due. These credit reports also report the status of each account as "pays as agreed". (Items 1, 2, 5, 7)

SOR ¶¶ 1.b and 1.l are duplicated allegations for the same past-due debt of \$376. One is owed to the original creditor, and the other is owed to a subsequent collection agency. Applicant reached out to the creditor to verify the debt, but has been unable to get documentation from the creditor to make payment arrangements. (Items 1, 6, 7) SOR ¶ 1.l is resolved for Applicant as a duplicate.

SOR ¶ 1.d is a \$139 debt in collection to an insurance company. In her Answer, Applicant states that she spoke to the creditor to make arrangements, but they could not find the account in their records. (Items 1, 6, 7)

SOR ¶ 1.e is a \$137 charged-off debt for home furnishings. Applicant documented that the debt has been paid. (Items 1, 6; AE B)

SOR ¶ 1.f is a \$117 debt in collection to an insurance company. In her Answer, Applicant states that the debt is now paid, and that this creditor is her current insurance provider. However, no documentation was provided. (Items 1, 6, 7)

SOR ¶ 1.k concerns an auto repossession, and a charged off debt of \$8,188. Applicant leased a vehicle in early 2018. She missed a payment in mid-2019, because her husband had lost his job due to medical issues. The lender told her that she had to pay the remaining balance in full, or turn in the vehicle. She was unable to pay the balance in full, and opted to return the car. She asserts that the account was closed when the vehicle was turned in, and she owes them nothing, however, she did not provide any documentation to corroborate her claim. (Items 1, 3, 4, 5, 6, 7)

SOR ¶ 1.u is a credit account that was charged off in the amount of \$661. Applicant asserts that this debt was a loan she obtained while out of work due to a medical condition. Her spouse was also out of work at that time. Applicant contacted the creditor, and she was told that they could no longer locate the account in their records. The debt appeared as a charge off on her October 2019 and January 2020 credit reports. However, the September 2020 and November 2021 credit reports show a zero balance. (Items 1, 3, 4, 5, 6, 7)

SOR ¶ 1.v is a debt in collection to an insurance company in the amount of \$176. Applicant asserts that she contacted the creditor several times to settle this account, and they have repeatedly failed to provide her with the necessary paperwork to repay the debt. (Items 1, 3, 5)

SOR ¶ 1.w is a debt in collection to a phone company in the amount of \$72. Applicant denies this debt and has disputed it. She states that the creditor told her that they no longer possessed this account. (Items 1, 2, 3, 5)

### **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;

The SOR debts are established by the credit reports in the record, and Applicant’s admissions. AG ¶¶ 19(a) and 19(c) apply. SOR ¶ 1.1 is a duplicate of SOR debt ¶ 1.b, so it is not established.

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;

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

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant's debts are largely due to a variety of circumstances beyond her control, including medical issues, job instability for both her and her husband, and a serious car accident involving several family members that caused a personal and financial strain that impacted her ability to address her debts. The first prong of AG ¶ 20(b) therefore applies.

Applicant's evidence shows that she is paying her debts and making reasonable efforts to investigate and resolve them. The bulk of Applicant's alleged delinquencies are her approximately \$50,000 in student loans. These debts (SOR ¶¶ 1.m – 1.t) are now current, as established by recent credit reports. Applicant has also consolidated her medical debts (SOR ¶¶ 1.a, 1.c, 1.g, 1.h, 1.i, 1.j, and 1.x), and is making payments on them. She has also established that she is paying and seeking to resolve her various other debts. Several of her consumer debts, such as SOR ¶¶ 1.e and 1.u, have also been resolved.

Similarly, Applicant provided sufficient evidence that she has undertaken good-faith efforts to address her debts. She has contacted her creditors to verify her debts and make payment arrangements. She provided evidence that some of the debts have been paid or are being paid, and her recent credit reports show that some of the debts are resolved.

Applicant is not required to show that she has paid or resolved all of her debts, or that she has done so in any particular way. She need only show that she has a reasonable plan in place to resolve her debts, and that she has taken steps towards implementing it. Applicant has done so. AG ¶¶ 20(b) and 20(d) fully apply.

AG ¶ 20(a) does not fully apply because Applicant still has unresolved debts.

Applicant documented that the debt at ¶ 1.e has been paid, so AG ¶ 20(e) applies. It does not apply to the other debts she denied as she did not document the basis of her dispute. AG ¶ 20(e) does 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 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.

Applicant established that a significant portion of her SOR debts are resolved or being paid. She has contacted creditors, and made payment arrangements, where possible. Applicant's debts became delinquent due to circumstances beyond her control. Given her long career as a security specialist, and her good faith efforts in resolving her debts, I believe that she has met her burden of mitigating the financial considerations security concerns arising out of her delinquent debts under Guideline F. Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. I conclude that Applicant mitigated 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:	FOR APPLICANT
Subparagraphs 1.a - 1.x:	For Applicant

## **Conclusion**

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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Ross D. Hyams  
Administrative Judge