



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 20-03610  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Daniel O’Reilly, Esq., Department Counsel  
For Applicant: Pro se

February 16, 2022

**Decision**

LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of the Case**

On July 29, 2021, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective for cases after June 8, 2017.

Applicant answered the SOR on August 30, 2021. She requested that her case be decided by an administrative judge on the written record without a hearing. (Item 2.) On November 1, 2021, Department Counsel submitted the Government’s written case. A complete copy of the File of Relevant Material (FORM), containing six Items, was mailed to Applicant and received by her on November 11, 2021. The FORM notified Applicant that she had an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of her receipt of the FORM. Applicant

submitted a Response to the Form, a packet of documents, consisting of eight pages, which was marked as Applicant's Exhibit A, and admitted into evidence. Applicant did not object to Government Items 1 through 6 and they are admitted into evidence, referenced hereinafter as Government Exhibits 1 through 6.

### **Findings of Fact**

Applicant is 52 years old and divorced with four adult children (ages 24, 27, 29, and 30). She has a Master's degree. She holds the position of Delivery Senior Analyst for a defense contractor. She seeks to obtain a security clearance in connection with her employment in the defense industry.

The SOR alleges that Applicant has five delinquent debts totaling approximately \$154,000. Applicant has approximately \$140,000 in delinquent student loan accounts, and \$14,000 in delinquent consumer debt. In her Answer, Applicant admits each of the allegations and provides explanations. Credit reports of the Applicant dated July 14, 2020; and November 1, 2021, reflect that each of these debts were at one point owing. (Government Exhibits 5 and 6.)

Applicant began working for her current employer in 2018. Prior to this employment, she held a variety of government contracting jobs, and had various periods of unemployment ranging from one to three months. Applicant attributes her financial difficulties to numerous periods of unstable employment. During these challenging times, she was a mother and single parent raising and supporting four children. Throughout this period, she ensured that her children's basic needs were met. She maintained a home, worked full time, took college courses, chaperoned class trips, attended sporting events, and took her children on college tours. She accepted financial help from family when she had no other options. She was also earning her Bachelor's degree in 2010, and her Master's degree in 2016. Applicant contends that she is now in a much better financial situation as her children have now grown up and moved out and she no longer supports them financially.

The following delinquent debts set forth in the SOR were of security concern:

Allegation 1.a., is a debt to the U.S. Department of Education for multiple student loan accounts that were placed for collection in the total approximate amount of \$140,000.00. Applicant provided a letter from the U.S. Department of Education indicating that her student loan accounts have been successfully rehabilitated, are in good standing and are no longer delinquent. (Applicant's Exhibit A.)

Allegation 1.b., is a delinquent debt owed to a bank for an account that was charged off in the approximate amount of \$1,788. On August 4, 2021, Applicant settled the account for \$540, and it is no longer owing. (Applicant's Exhibit A.)

Allegation 1.c., is a delinquent debt owed to a bank for an account that was charged off in the approximate amount of \$1,581. Applicant contacted the creditor's

customer service department on July 29, 2021, to learn more about the account and how she can resolve it. The creditor requested that she send a letter to them. On August 7, 2021, Applicant sent the letter, and is currently awaiting a response. Applicant intends to resolve the debt soon.

Allegation 1.d., is a delinquent debt owed to a creditor for an account that was placed for collection in the approximate amount of \$1,029. On November 6, 2020, Applicant settled the account for \$575.67, and it is no longer owing. (Applicant's Exhibit A.)

Allegation 1.e., is a delinquent debt owed to a creditor for a vehicle that was charged off in the approximate amount of \$9,913. Applicant has contacted the creditor and set up a repayment plan of \$420.17 monthly that she plans to continue to follow. (Applicant's Exhibit A.)

Applicant's unstable employment made it difficult for her to keep up with her car payments. She has had to borrow money from her parents and she plans to pay them back. In tough times, her parents have been there to help her with her finances. Now that her children have moved out and have families of their own, Applicant is focused on resolving her debt and repairing her finances as soon as possible.

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 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, 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 protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to 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, as follows:

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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

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

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

Due to periods of unstable employment, and having to raise and support four children on her own, Applicant became excessively indebted and could not afford to pay her delinquent debts. The evidence is sufficient to raise the above disqualifying conditions.

Four Financial Considerations Mitigating Conditions under AG ¶ 20 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, or 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 experienced periods of unstable employment and unemployment while she raised and supported four children on her own. In 2018, she obtained stable employment and since then she has directed her efforts on resolving her delinquent debt. She has successfully rehabilitated her student loans, and they are no longer delinquent. She has settled two of the other delinquent accounts, and is making regular monthly payments toward resolving another. The one remaining delinquent debt listed in the SOR that has not been resolved, amounts to about \$1,500. Applicant is waiting for a response from the creditor and she intends to resolve the debt soon. Ideally, Applicant should have contacted these creditors before her security clearance became an issue. However, under the circumstances, Applicant has acted in a reasonable and responsible manner. She has shown good judgment, trustworthiness and reliability. There are clear indications that her financial indebtedness is being resolved and is under control. Applicant has demonstrated a good-faith effort to resolve her debts, and has demonstrated that future financial problems are unlikely. AG ¶ 20 provides full mitigation. The Financial Considerations concern has been mitigated.

### **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. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment. Applicant has shown maturity and responsibility. She understands the responsibilities involved in possessing a security clearance. She has shown the requisite good judgment, reliability, and trustworthiness required of this privilege.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has 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 through 1.e	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 national security eligibility for a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson  
Administrative Judge