



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



In the matter of:	)	
	)	
	)	ISCR Case No. 21-01488
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Tovah Minster, Esq., Department Counsel  
For Applicant: *Pro se*

06/27/2022

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**Decision**

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Curry, Marc E., Administrative Judge:

Applicant failed to mitigate the financial considerations security concern generated by her delinquent debts. She also failed to mitigate the personal conduct security concern shown by her deliberate failure to disclose those debts, as required, on her security clearance application. Clearance is denied.

**Statement of the Case**

On September 21, 2021, the Department of Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, financial considerations, explaining why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The DOD CAF took the action 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 National Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017. On September 28, 2021, Applicant answered the SOR, admitting all of the allegations, and requesting a decision without a hearing. On

February 22, 2022, Department Counsel prepared a File of Relevant Material (FORM) setting forth the Government's argument in support of the SOR, together with supporting documentation. Applicant received a copy of the FORM on March 22, 2022, and was instructed to file any objections to this information, or to supplement the file within 30 days of receipt. Applicant did not respond. On May 13, 2022, the case was assigned to me.

### **Findings of Fact**

Applicant is a 37-year old married woman with three pre-teen children. Applicant earned an associate degree in 2006 and a bachelor's degree in 2008. (Item 3 at 11) She has been working for her current employer as a program control analyst since February 2011. (Item 3 at 13; Item 4 at 2)

Applicant incurred 11 debts, totaling approximately \$39,000, as alleged in the SOR. Applicant attributes incurring these debts to spending beyond her means and in a financially irresponsible manner using credit cards. (Item 4 at 9) Applicant contends that the debts alleged in subparagraph 1.b and 1.e, as well as those in 1.c and 1.d are duplicative; however, she provided no evidence. (Item 2 at 2) Also, she contends that she satisfied the debts alleged in subparagraphs 1.b, 1.c, 1.f, and 1.g, totaling \$27,000. (Item 2 at 2) She provided no documentary evidence.

Applicant did not disclose any delinquent debts, as required, on her February 2020 security clearance application. (Item 3 at 33-34) During her April 2020 subject interview, she was asked whether she had any delinquent debts and again failed to acknowledge any such debts to the investigator before being presented with proof of the delinquencies on her credit report. (Item 4 at 4) When the agent showed her the credit report containing these delinquencies, Applicant explained that she omitted the information because there was no place to enter it on the security clearance application. (Item 4 at 5) In her answer, she explained that she omitted the information because she "went through these specific questions too fast" when completing the application. (Item 2 at 3)

### **Policies**

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered 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 overall 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 ¶ 1(d) 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, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

## **Analysis**

### **Guideline F: Financial Considerations**

Under this concern, “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.” (AG ¶ 18) Applicant’s history of financial problems triggers the application of AG ¶ 19(a), “inability to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations.”

Applicant’s financial problems remain ongoing. Therefore, AG ¶ 20(a), “the behavior happened so long ago . . . that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment,” does not apply.

Applicant acknowledges that her financial problems were caused by irresponsible spending. Under these circumstances, AG ¶ 20(b), “the conditions that resulted in the

financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances,' does not apply.

Applicant provided no evidence supporting her contention that she has satisfied several of the debts, and she provided no evidence supporting her contention that she is working with a credit counselor to resolve her debts. I conclude that AG ¶20(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 AG ¶ 20(d), "the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts," do not apply.

In sum, Applicant has failed to mitigate the financial considerations security concerns.

### **Guideline E: Personal Conduct**

Under this guideline, "conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information." (AG ¶ 15) Moreover, "of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes." (*Id.*) Applicant's omission of relevant financial information from her security 2020 clearance application raises the issue of whether AG ¶ 16(a), "deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities," applies.

Applicant's explanation, set forth in her answer for omitting the debts contradicted her explanation that she told the investigative agent, earlier. Under these circumstances, I conclude Applicant is not credible, and that AG ¶ 16(a) applies without mitigation. Applicant failed to mitigate the personal conduct security concern.

### **Whole-Person Concept**

I have considered the whole-person concept factors in my analysis of the disqualifying and mitigating conditions, and they do not warrant a favorable conclusion.

### **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.k:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant

**Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Marc E. Curry  
Administrative Judge