



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 20-01259  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Nicole A. Smith, Department Counsel  
For Applicant: *Pro se*

June 27, 2022

**Decision**

LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of Case**

On June 27, 2019, Applicant submitted a security clearance application (e-QIP). On November 24, 2021, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended (EO); DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective within the DoD after June 8, 2017.

Applicant responded to the SOR (Answer) on a date uncertain. (Item 2.) She requested that her case be decided by an administrative judge on the written record. Department Counsel submitted the Government's written case on February 16, 2022. A complete copy of the File of Relevant Material (FORM), containing five Items was

received by Applicant on March 7, 2022. She was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. Applicant submitted a response to the FORM dated March 29, 2022, consisting of twelve pages, which was admitted into evidence without objection. DOHA assigned the case to me on May 18, 2022. Items 1 through 5 will hereinafter be referred to as Government Exhibits 1 through 5.

### **Findings of Fact**

Applicant is 57 years old. She is divorced, and has three adult children. She has a high school diploma. Since June 2019, Applicant has been self-employed as a contract Truck Driver for a defense contractor. She is seeking to obtain a security clearance in connection with her employment.

### **Guideline F - Financial Considerations**

The Government alleged that Applicant is ineligible for a clearance because she made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about her reliability, trustworthiness and ability to protect classified information.

The SOR alleged that Applicant is indebted to three creditors on accounts that were charged off totaling approximately \$31,000. In her answer, Applicant admits each of the allegations set forth in the SOR. A credit report of the Applicant dated July 27, 2019, confirms that each of these debts was at one time owing. (Government Exhibit 5.)

Applicant attributes her financial difficulties to her divorce in 2014, moving costs she incurred associated with starting over again, and simply not being able to earn enough money to pay off delinquent debts she incurred in the past. She states that her current financial status is improving now that she has a higher paying job. Applicant recently hired a credit counseling service to assist her in resolving her delinquent debt. (See, letter dated August 6, 2020 attached to Applicant's Answer to SOR.) She is now earning higher wages and has stable working hours that allow her to make payments toward resolving her delinquent debt. She is currently working diligently to resolve her outstanding accounts. She states that once she has eliminated her delinquent debt, she has no intent to have any financial problems in the future.

The SOR lists the following delinquent debts of security concern:

1.a. A delinquent debt owed to a creditor was placed for collection in the approximate amount of \$11,603. This was a vehicle (Honda) purchased in 2012, by the Applicant and her husband during their marriage. They made the payments for several years. They could no longer make the payments and the vehicle was voluntarily repossessed and sold at auction in 2016. The deficiency balance owed is \$11,603. Applicant has been working with a credit repair company to resolve this delinquent debt.

She provided a letter dated March 29, 2022, from an authorized representative of the creditor, which confirms receipt of Applicant's final payment of \$1,290. This settles the account in full for less than the full balance. (Applicant's Response to FORM.)

1.b. A delinquent debt owed to a creditor was charged off in the approximate amount of \$6,671. This was for a vehicle (Lincoln) purchased by the Applicant and her husband during their marriage. Her husband was to use the vehicle as a taxi. At some point, they could no longer afford to make the payments, and it was voluntarily repossessed. Applicant has been working with a credit repair company to resolve this delinquent debt. She provided a letter dated March 10, 2022, regarding the settlement arrangement in place to resolve the debt. Applicant agreed to pay \$1,000.69 by March 18, 2022, to settle the debt in full. (Applicant's Response to FORM.)

1.c. A delinquent debt owed to a creditor was placed for collection in the approximate amount of \$12,727. This debt is regarding the same vehicle discussed in 1.b., Applicant stated that when she could no longer afford the payments, she requested a loan refinance. The creditor refused to refinance the loan, and so Applicant voluntarily allowed the car to be repossessed. The car payments were not delinquent at the time Applicant had the car repossessed. Applicant has been working with a credit repair company to resolve this delinquent debt. Applicant provided a letter dated March 22, 2022, from the law firm representing the creditor, which sets forth the settlement agreement in place. The debt has increased to \$18,311.11. Applicant is required to make regular monthly payments of \$1,625, on the 30 of every month starting March 30, 2022, until the debt is paid in full. (Applicant's Response to FORM.)

## **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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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 clearance 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 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:

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 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.

Applicant has a history of financial hardship brought on by a divorce in 2014 and costs associated with it, as well as her inability to earn sufficient monies to pay her bills. Her actions or inactions since then demonstrated a history of not addressing her debt and an inability to do so. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under the Financial Considerations guideline are potentially applicable under AG ¶ 20.

- (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), 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 is now earning higher wages and has directed her focus at resolving her delinquent debts. She understands the importance of being responsible and trustworthy in every aspect of her life, including her finances. She has been working with a credit repair company and receiving financial counseling to assist in resolving her delinquent debts. She has made remarkable progress toward her goal. She has completely settled one of the debts in full, she has about \$1,000 left to pay toward settling a second debt, and she is making regular monthly payments toward resolving a third debt. Applicant has been working hard to get her delinquent debts in order, and has demonstrated responsibility and good judgment, reliability, and trustworthiness. Mitigating conditions 20(a), 20(b), and 20(d) are applicable.

There is sufficient evidence in the record to show that Applicant's delinquent debts are in the process of been resolved. Overall, Applicant has shown significant

progress towards this effort. There is sufficient evidence in the record to show that the Applicant has carried her burden of proof to establish mitigation of the government security concerns under Guideline F.

### **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. Applicant must follow through with her commitment to pay her delinquent debts, and continue to show financial responsibility in the future, or she will once again be in jeopardy of losing her security clearance and access to classified information.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I conclude Applicant has mitigated the Financial Considerations security concern.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a. through 1.c.	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 or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson  
Administrative Judge