



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



In the matter of: )  
)  
) ISCR Case No. 21-02369  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Karen Moreno-Sayles, Esq., Department Counsel  
For Applicant: *Pro se*

10/14/2022

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**Decision**

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LYNCH, Noreen A., Administrative Judge:

Applicant has not mitigated the security concerns under the financial considerations guideline. She did not provide sufficient documentation to meet her burden of proof. Eligibility for access to classified information is denied.

**Statement of the Case**

On December 1, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Adjudicative Guideline F (financial considerations). The action was taken under Executive Order (Exec. Or.) 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) implemented by DOD on June 8, 2017. Applicant responded to the SOR 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 (FORM) on April 21, 2022. Applicant received the FORM on May 11, 2022. She provided a response to the FORM. The Government’s evidence, included in the FORM

and identified as Items 1 through 5, is admitted without objection. The case was assigned to me on August 4, 2022. Based on my review of the documentary evidence, I find that Applicant has not mitigated the financial considerations security concerns.

### **Findings of Fact**

In response to the SOR, Applicant admitted 23 allegations, with the exception of SOR ¶¶ 1.h, 1.q, 1.r, 1.s, and 1.t, with explanations. (Item 2) She is 48 years old, married, with two adult children from a previous marriage. Applicant has two undergraduate degrees, which were obtained in 1996 and 2016. Applicant has been a psychiatric technician for a federal contractor since approximately September 2014. (Item 3) Applicant has not served in the military. She has not held a security clearance. Applicant completed her security clearance application (SCA) on May 21, 2021.

### **Financial Considerations**

The SOR alleges that Applicant has 23 delinquent debts, which include credit card debt, medical accounts, a car note she obtained for her daughter, education debts, and utility accounts. The total amount of delinquent debt, not including the car note is \$20,000. The car note is \$13,000. (Item 2) The allegations are supported by her admissions and A credit report. (Items 4 and 5)

In her answer to the SOR, Applicant attributed her delinquent debts to a one-year period of “volunteering” and not working for pay. (Item 2) She also stated that her husband was unemployed and she “got behind in her bills.” In her May 2021 SCA, Applicant noted that she was working on her debts and that she would begin repaying her debts in September 2021. (Item 3) With her answer, she submitted many pages of an Experian credit report, dated January 2022

During her June 2021 interview, Applicant volunteered that she was behind in the car note payments for her daughter’s car. She stated that she had no knowledge of the other SOR allegations, but then she agreed after confrontation that she was behind in the accounts due to low funds. As to the medical bills, she stated that she was not aware of them, but planned to call to set up payment plans. Applicant characterized her financial situation as “needing more work”. She is willing to repay all debts. She was considering debt consolidation. Applicant was given an opportunity to submit more information to the investigator, but did not do so. (Item 5) Applicant used two debt services in 2019 and 2021, but she terminated them without resolving any debts. At the time of the interview, Applicant had not paid any of the delinquent debts.

The following delinquent accounts that Applicant denied have not been paid: ¶¶1.h a collection account for \$305; 1.q a medical account for \$20; 1.r a medical account for \$14; 1.s another medical account for \$14; 1.s a medical account for \$14; 1.t a medical account for \$14.00. The accounts each have different numbers and do not appear to be duplicates.

The following accounts have been paid as evidenced by receipts presented: ¶¶ 1.i an account for \$300; 1.k an account for \$127; 1.m an electric account for \$72.44; 1.n a medical account for \$53; 1.p an account for \$20.83; and 1.u an account for \$321. (attachments to Item 2)

As to SOR ¶ 1.b, a charged-off-account in the amount of \$4,518, Applicant settled for \$3,800 and presented an agreement dated, January 5, 2021. However, she did not provide any receipts to show payments made to the account. In fact, she disputed this account to the credit bureau.

As to SOR ¶ 1.g, an account in the amount of \$819, Applicant settled the debt for \$283, evidenced by a receipt.

Applicant claimed that she made arrangements to settle the \$13,763 car loan alleged in the SOR ¶ 1.v for \$3,443.69, with a monthly payment of \$143.66. However, the payments do not begin until January 26, 2023.

When Applicant responded to the FORM, she presented three credit bureau reports which showed that she had disputed most of the accounts alleged in the SOR and some of which had been deleted. However, she is credited with having settled or paid all of the SOR debt. (Response to FORM) She did not present any new information to show progress, only her intent to make payments pursuant to the agreed settlements.

There is no information in the record concerning Applicant's income, expenses, or monthly net remainder. There is no record of financial counseling. She did not present a budget or a plan for most of the delinquent debts. She obtained debt services in 2019 and 2021, but stopped using them.

Applicant has addressed a few of the smaller accounts, but that is a fraction of what she currently owes. Approximately \$570 has been repaid. Most of the other payments occurred after the receipt of the SOR. She promised during her interview to begin paying last September, but she did not do so. She failed to provide evidence that she is making payments on the debts that she settled.

Applicant did not meet her burden of proof in this case. She failed to demonstrate that her financial issues have been or are being resolved. There is not a sufficient track record of payments. It is difficult based on the record to establish that Applicant is making a good-faith effort to repay or resolve overdue creditors or that her financial situation is currently under control.

### **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 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(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."

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 Exec. Or. 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* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F (Financial Considerations)**

The concern under this guideline 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 . . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's admissions, corroborated by her credit reports, establish disqualifying conditions under the guidelines: AG ¶¶ 19(a) inability to satisfy debts), and 19(c) a history of not meeting financial obligations.)

The security concerns raised in the SOR may be mitigated by the following potentially applicable factors:

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;

AG ¶ 20(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;

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.

Applicant admitted that she is responsible for the delinquent debts listed in the SOR, with the exception of the few that she has paid. She intends to pay her debts, but a promise to pay in the future is not sufficient. With respect to the remaining delinquent debts she listed one or two settlement agreements, but she has not made any payments. Her statement is vague about volunteering and not working in 2013. Applicant presented no information on her income. She has not received financial counseling. This is not sufficient evidence to shed positive light on her financial state. There is no meaningful track record of repayments. She did have some circumstances

beyond her control, some loss of income, and her husband's lack of employment at some time, but she did not act responsibly. Based on the record she does not have the requisite judgement, reliability, or trustworthiness needed to have access to classified information. She has not met her burden and none of the mitigating conditions apply. Any doubts must be resolved in favor of the Government.

### **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. Applicant suffered a loss of some income while volunteering but provided no nexus to the accumulation of her debts which largely remain unresolved. She has been working consistently, but there is insufficient evidence in the record for me to conclude that she will be able to meet her future financial obligations. I have incorporated my comments under Guideline F in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility for a security clearance.

### **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.c-1.f.:	Against Applicant
Subparagraphs 1.j, 1.l, 1.o, 1.q, 1.v:	Against Applicant
Subparagraphs 1.g, 1.i, 1.k, 1.m, 1.n, 1.p, 1.u:	For 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's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Noreen A. Lynch  
Administrative Judge