



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



In the matter of:	)	
	)	
	)	ISCR Case No. 20-02802
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: William H. Miller, Esq., Department Counsel  
For Applicant: *Pro se*

02/28/2023

**Decision**

GARCIA, Candace Le'i, Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

**Statement of the Case**

On September 10, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under 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 (Answer) on January 10, 2022, and she requested a hearing before an administrative judge. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on October 14, 2022, scheduling the hearing for November 3, 2022. I convened the hearing as scheduled.

At the hearing, I admitted Government Exhibits (GE) 1 through 7 and Applicant's Exhibits (AE) A through I without objection, and Applicant testified. At Applicant's request, I kept the record open until December 1, 2022, for additional documentation. Applicant

submitted additional documentation, which I collectively marked as AE J and admitted without objection. DOHA received the hearing transcript (Tr.) on November 10, 2022.

### **Findings of Fact**

Applicant admitted SOR ¶¶ 1.a and 1.c-1.h, and she denied SOR ¶¶ 1.b and 1.i. She is 46 years old, unmarried, and has three adult children. She graduated from high school in 1994, and she attended some college but did not earn a degree. She worked for various DOD contractors since 2007, to include stints overseas from approximately 2019 to 2022. She was first granted a security clearance in 2007. She had a period of unemployment from December 2018 to April 2019. As of the date of the hearing, she had worked for her current employer in state A since 2022. As of the date of the hearing, she was renting in state A. She has owned a home in state B since August 2014. (Answer; Tr. at 6, 8-9, 26-32, 59-60, 62; GE 1; AE J)

The SOR alleged that Applicant filed Chapter 7 bankruptcy in March 2012, and the bankruptcy was discharged in June 2012. (SOR ¶ 1.a) It also alleged that she had eight delinquent consumer debts totaling \$35,353. (SOR ¶¶ 1.b-1.i) The SOR allegations are established by Applicant's admissions in her Answer, her SCA, four credit bureau reports from 2019 to 2022, and bankruptcy court records. (Answer; GE 1-7)

Applicant attributed her financial difficulties, including her Chapter 7 bankruptcy, to beginning in 2012, when her relationship with the father of her two younger children ended and he ceased contributing to expenses for which he was previously responsible. In addition, she was hospitalized for a severe illness in March 2012 and again in January 2016. She incurred significant medical expenses for which her medical insurance only covered approximately 50%. She received short-term disability, consisting of 60% of her pay, from April to October 2017. Before her move to state A, she maintained her household overseas and that of her children in state B. Her annual income decreased from \$150,000 to \$95,000 when her contract overseas ended. She prioritized her health and paid her medical expenses but was overwhelmed and elected to resolve her delinquent debts through bankruptcy. (Answer; Tr. at 28, 30-36, 38-39, 44, 49-54, 65-68; GE 1, 2, 7; AE J)

Applicant claimed \$67,249 in liabilities in her 2012 Chapter 7 bankruptcy. (SOR ¶ 1.a) She received credit counseling as part of her bankruptcy. (Tr. at 33, 36, 62-63, 67-68; GE 1, 2, 5-7)

SOR ¶ 1.b is for a \$630 charged-off credit card. Applicant resolved this debt in October 2020 with a payment of \$531. The 2022 credit bureau reports reflect that this debt was paid. (Answer; Tr. at 36-38; GE 2-5; AE A, B)

SOR ¶ 1.c is for a \$1,820 credit card in collection. Applicant used this credit card for household expenses when she bought her home in 2014. In April 2022, she made a \$100 payment. In October 2022, she reached a payment plan and authorized recurring monthly payments of \$86 for 20 months until May 2024 to resolve this debt. (Answer; Tr. at 38-40, 68-69; GE 2-6; AE A, C)

SOR ¶ 1.d is for a \$609 credit card in collection. Applicant used this credit card to pay some of her daily living and medical expenses. She paid this debt in October 2022. (Answer; Tr. at 40-42, 68; GE 2, 4-6; AE A, D)

SOR ¶ 1.e is for a \$1,087 credit card in collection. Applicant used this credit card to pay some of her medical expenses. In October 2022, she reached a payment plan to resolve this debt. She made her first payment and authorized recurring bi-weekly payments of \$14 until September 2024. (Answer; Tr. at 42-43, 69; GE 2-6; AE A, E, J)

SOR ¶¶ 1.f and 1.g are for two accounts with the same creditor, in collection for \$12,377 and \$17,246, for a personal loan and a credit card, respectively. Applicant initially contacted to the creditor in January 2021. She again contacted the creditor in October 2022, and she negotiated payment plans consisting of monthly payments of \$173 and \$124, respectively. She made her first payment towards both debts in October 2022. (Answer; Tr. at 43-47, 69; GE 2-6; AE A, F, G, J)

SOR ¶ 1.h is for a \$575 cable account in collection. Applicant paid this debt in October 2022. (Answer; Tr. at 47; GE 2, 6; AE A, H)

SOR ¶ 1.i is for a \$1,009 medical account in collection. Applicant initially believed this debt was for medical equipment that she had already returned. When she later learned it was for a home alarm system, she settled it for \$750 and paid it in October 2022. (Answer; Tr. at 48-49; GE 2, 4, 6; AE A, I)

As of the date of the hearing, Applicant's annual income was \$95,000. She received a \$12,000 employment bonus for moving to state A for work. Her monthly income was \$5,820. Her monthly net remainder after expenses, to include her \$1,154 monthly mortgage, was \$943. On occasion, her sons contribute to her mortgage and household expenses. She expected to receive a bonus every six months from her employer, and she also intended to obtain a part-time job so that she could continue addressing her debts. She established a budget and receiving financial counseling in November 2022. She did not have any other delinquent debts. She understood that it was her responsibility to continue to gain control of her finances. (Tr. at 27-32, 38-40, 42, 51, 54-67, 69-72; AE J)

## **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 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.

Applicant has a history of not paying her debts. The evidence is sufficient to raise AG ¶¶ 19(a) and 19(c) apply.

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;

(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.

Conditions beyond Applicant's control contributed to her financial problems. The first prong of AG ¶ 20(b) applies. For the full application of AG ¶ 20(b), she must provide evidence that she acted responsibly under her circumstances. She paid SOR ¶ 1.b in 2020, and she reached out to the creditors for SOR ¶¶ 1.f and 1.g in 2021, before she received the SOR. She paid SOR ¶¶ 1.d, 1.h, and 1.i in October 2022. She has had payment plans in place since October 2022 to address SOR ¶¶ 1.c, 1.e, 1.f, and 1.g. She received credit counseling in 2012, through her Chapter 7 bankruptcy, and again in 2022. She developed a budget, and her \$943 monthly net remainder provides her with the means to continue to address her remaining debts. She does not have any other delinquent debts. Her finances are under control, and they do not continue to cast doubt on her judgment, trustworthiness, and reliability. I find that ¶¶ 20(a), 20(b), 20(c), and 20(d) are established.

### **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. 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.i:	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's eligibility for a security clearance. Eligibility for access to classified information is granted.

---

Candace Le'i Garcia  
Administrative Judge