



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



In the matter of: )  
)  
) ISCR Case No. 20-03359  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Tara R. Karoian, Esq., Department Counsel  
For Applicant: *Pro se*

02/01/2023

**Decision**

COACHER, Robert E., Administrative Judge:

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

**Statement of the Case**

On July 6, 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 DOD CAF acted 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 adjudicative guidelines effective June 8, 2017 (AG).

Applicant answered the SOR on December 31, 2021, and she requested a hearing before an administrative judge. I was assigned the case on September 2, 2022. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on October 14, 2022, and the hearing was convened as scheduled on November 7, 2022. The Government offered exhibits (GE) 1-6, which were admitted into evidence without

objection. The Government's exhibit list and pre-hearing discovery letter were identified as hearing exhibits (HE) I-II. Applicant testified and offered four exhibits (AE A-D), which were admitted without objection. The record remained open to allow Applicant to submit additional documentary evidence. She submitted AE E-G, which were admitted without objection. DOHA received the transcript (Tr.) on November 17, 2022.

### **Findings of Fact**

Applicant admitted some of the SOR allegations, with explanations, and denied other allegations. Her admissions are incorporated into these findings of fact. After a review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is a 42-year-old employee of a federal contractor. She began working with her current employer in November 2018. She has worked for one federal contractor or another as a technical writer since 2001. She is a high school graduate with some college credits. She married for the first time in June 2021. She has three adult children. She has held a security clearance since 2005. (Tr. 6, 23, 25, 42, GE 1)

The SOR alleged four delinquent debts including a vehicle repossession, two consumer debts, and a debt from an educational advance given by a previous employer, all totaling \$31,152. (SOR ¶¶ 1.a-1.d) Three debts were listed in a credit report from January 2020 (SOR ¶¶ 1.a-1.c) and the fourth (SOR ¶ 1.d) is supported by her admissions to a background investigator in January 2020. None of the debts are listed in the most recent credit report contained in the record from October 2022. (GE 2-3, 6)

Applicant credibly explained that her financial difficulties resulted from helping her daughter, who was in an abusive relationship, and her brother. She provided living arrangements for both of them and both abused Applicant's generosity. When she recently married, her husband made it a point to help her resist her family from abusing her generosity. She no longer loans money or allows her family members to stay with her. (Tr. 25-26, 34, 43)

The status of her delinquent debts listed in the SOR is as follows:

**Vehicle repossession deficiency-\$13,514 (SOR ¶ 1.a).** This debt was assigned for collection in December 2015. It was charged off in April 2019. Applicant admitted that she financed this vehicle. She stated that she was working about 100 hours a week when she financed this car and simply forgot to make the payments. Once it was repossessed, she attempted to negotiate a settlement with the creditor but it would only accept full payment. She could not afford to make full payment at the time, so it was charged off. For tax year 2021, Applicant documented receiving an IRS Form 1099-C, cancelation of debt, from the creditor for SOR debt ¶ 1.a. Applicant indicated she would file an amended return and claim the amount as income as required. This debt is resolved. (Tr. 27-30; AE D)

**Consumer debt-\$110 (SOR ¶ 1.b).** Applicant explained that this debt was for a milk-delivery service. When she stopped the delivery, the company continued to bill her

for the service. She contacted them and the debt was cancelled. It no longer appears on her credit report. This debt is resolved. (Tr. 31; GE 6; AE A-B)

**Consumer debt-\$528 (SOR ¶ 1.c).** Applicant credibly explained that she was charged this expense for failing to turn in telecommunication equipment. She denied that failure and documented communication with the creditor showing that she turned in the disputed equipment. This debt no longer appears on her credit report. It is resolved. (Tr. 31; AE E)

**Educational debt to former employer-\$17,000 (SOR ¶ 1.d).** Applicant credibly explained that this educational debt was incurred when she received financing from a former employer to attend school. This debt would be paid by the company with no payback obligation from Applicant, as long as she remained employed by the company for 12 months. Short of that 12-month period, Applicant took a job with another employer. She talked to her former employer's human resources (HR) office about the ramifications of this decision. Applicant believed that even though she did not stay at the company for 12 calendar months, when her work hours were computed, including overtime for the time she worked there, it amounted to more than one year's worth of work. She was told by HR that the debt should not be a problem. Apparently her former company did not see it that way, and filed a lawsuit seeking recoupment of the funds. After the fact, Applicant learned that her daughter, who was staying at Applicant's house, was served with process on her mother's behalf. Her daughter failed to tell Applicant about being served or give her the paperwork. As a result, Applicant failed to appear for the court date and a default judgment was entered against her in February or March 2019. Upon receiving the judgment, the creditor executed a garnishment against Applicant's wages. The judgment was satisfied in April 2021. This debt is resolved. (Tr. 33-34; GE 2; AE C)

During cross-examination, Applicant admitted that she had some earlier financial delinquencies that resulted in the issuance of an SOR in approximately 2015. That SOR was withdrawn when Applicant provided sufficient evidence showing that she had resolved or was resolving the debts. Since this information was not alleged in the current SOR, I will not use this evidence for disqualifying purposes, but I may use it in assessing Applicant's credibility, the applicability of any mitigating conditions, and during my whole-person analysis. (Tr. 36)

Applicant was also asked about her plan to pay her student-loan debt of approximately \$40,000, which is currently deferred under the COVID-relief executive order. She provided a written budget that shows that between her and her husband, they have approximately \$5,000 remaining each month after paying all their obligations and debts. This includes budgeting for a \$500 per month student-loan payment. They recently purchased a home and they have about \$67,000 in savings. Applicant's husband's net income is approximately \$4,200 monthly and hers is approximately \$5,200 monthly. (Tr. 34, 39, 41-42; AE F-G)

## 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 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, these guidelines are applied 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." 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, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and 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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that 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

AG ¶ 18 expresses the security concern for financial considerations:

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. I have considered all of them under AG ¶ 19 and the following potentially apply:

- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant incurred two unpaid consumer debts, had a car repossessed resulting in a deficiency balance, and was required to pay a judgment to a former employer for an educational debt. I find the above disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

- (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;

(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's generosity and enablement of family members contributed to her financial problems. With the help of her husband, she understands that she can no longer help family members that let her down. She resolved the educational debt through wage garnishment before the issuance of the SOR, and she resolved the two minor consumer debts. The car repossession deficiency was resolved through a cancellation of debt that she will claim as income on her tax return. Applicant's current financial status, based upon both her and her husband's income, is such that it is unlikely that she will be placed in this position in the future. All the above mitigating conditions have some applicability.

### **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 the 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 guideline and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all relevant 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.

I considered Applicant's long contractor service while holding a clearance, the circumstances surrounding her indebtedness, and her efforts to resolve the delinquent debts. Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude 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.d:	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 eligibility for a security clearance. Eligibility for access to classified information is granted.

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Robert E. Coacher  
Administrative Judge