



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



In the matter of:	)	
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	)	ISCR Case No. 22-00367
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government:  
Rhett Petcher, Esquire, Department Counsel

For Applicant:  
*Pro se*

March 6, 2023

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**Decision**

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ROSS, Wilford H., Administrative Judge:

**Statement of the Case**

Applicant submitted her Electronic Questionnaires for Investigations Processing (e-QIP) on June 16, 2020. (Item 2.) On May 4, 2022, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline F (Financial Considerations). (Item 1.) The action was taken under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines effective within the Department of Defense after June 8, 2017.

Applicant answered the SOR in writing (Answer) with an attachment (Attachment) on May 9, 2022. She requested her case be decided on the written record in lieu of a hearing. (Item 1.) On June 10, 2022, Department Counsel submitted the Department's written case. A complete copy of the file of relevant material (FORM), consisting of Items 1 to 6, was provided to Applicant, who received the file on June 20, 2022.

Applicant was given 30 days from receipt of the FORM to file objections and submit material in refutation, extenuation, or mitigation. Applicant submitted additional information in a timely fashion. The information consisted of an undated statement from Applicant (Statement) and one exhibit (Applicant's Divorce decree dated January 12, 2022). Department Counsel had no objection to the admission of the exhibit, and it is admitted into evidence as Applicant Exhibit A. The case was assigned to me on August 9, 2022. Items 1 through 6 are hereby entered into evidence. Based upon a review of the pleadings and exhibits, national security eligibility for access to classified information is denied.

### **Findings of Fact**

Applicant is 35 years old and divorced with two children. She has a high school diploma. Applicant has been employed by a defense contractor since January 2020. (Item 2 at Sections 12, 13A, 17, and 18; Applicant Exhibit A.)

#### **Paragraph 1 (Guideline F, Financial Considerations)**

The Government alleges in this paragraph that Applicant is ineligible for clearance because she is financially overextended and therefore potentially unreliable, untrustworthy, or at risk of having to engage in illegal acts to generate funds. Applicant admitted all the allegations under this guideline with explanations.

1.a. Applicant and her husband filed for relief under Chapter 7 of the Bankruptcy Code in 2013. They had approximately \$89,235 in unsecured debt, along with secured debt in the amount of \$91,263. Their unsecured debts were discharged in June 2014. (Item 4.)

The SOR alleged that Applicant has 16 debts that were charged-off, or in collection, in the total amount of approximately \$38,709. (SOR 1.b through 1.q.) The existence and amount of these debts is supported by her admissions to all SOR allegations in her Answer. The debts are also confirmed by credit reports submitted by the Government and Applicant dated June 30, 2020; August 18, 2021; and May 9, 2022. (Items 5, and 6; Attachment to Answer.) The existence of the debts is also supported by Applicant's answers on Section 26 of her e-QIP (Item 2) and during an interview with an investigator from the Office of Personnel Management on July 21, 2020. (Item 3.)

Applicant stated that most of her debt issues began when she was married to her now ex-husband. He had a prescription drug problem and also drank to excess. They both suffered from periods of unemployment or underemployment for several years. Applicant indicated in her Answer and Statement that most of the delinquent debt would fall off of her credit report due to age. She also stated in her Answer and Statement that she is now financially stable but did not indicate an ability or desire to pay any of her past-due debts.

The status of the debts is as follows:

1.b. Applicant admitted that she is indebted to a wireless telephone company in the amount of \$2,239. Applicant stated in her June 2020 e-QIP about this debt, "Just started job and will be making payments on all my debts so I can raise my score and get out of debt." (Item 2 at Section 26.) In her Answer to the SOR Applicant did not indicate that she had paid or made arrangements to pay this debt. It is not resolved.

1.c. Applicant admitted that she is indebted to a creditor for a medical debt in the amount of \$1,173. Applicant stated in her June 2020 e-QIP about this debt, "Just started job and will be making payments on all my debts so I can raise my score and get out of debt." (Item 2 at Section 26.) In her Answer to the SOR Applicant stated that this debt was related to medical care obtained for her son in approximately 2015 that she thought would be covered by insurance. She further stated that the debt is not listed on her most recent credit report. (Attachment to Answer.) Applicant did not indicate that she had paid or made arrangements to pay this debt. It is not resolved.

1.d. Applicant admitted that she is indebted to a collection agency for a charged-off debt in the amount of \$914. Applicant stated in her June 2020 e-QIP about this debt, "Just started job and will be making payments on all my debts so I can raise my score and get out of debt." (Item 2 at Section 26.) The most recent credit report continues to show this as a past-due debt. (Attachment to Answer.) In her Answer to the SOR Applicant stated that she has been working with this particular collection agency to rebuild her credit, but did not specify how that was happening. Applicant did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

1.e. Applicant admitted that she is indebted to a creditor for a past-due debt in the amount of \$696. In her Answer to the SOR Applicant stated, "I have tried to dispute this on my credit report because I'm not sure what it was for but it was denied. I think it has switched creditors and the original creditor is not listed on my credit report." The most recent credit report shows the dispute and that it was resolved against Applicant. (Attachment to Answer.) Applicant did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

1.f. Applicant admitted that she is indebted to a creditor for a past-due debt involving unreturned satellite television equipment in the amount of \$607. In her Answer

to the SOR Applicant stated that she has not reached out to this creditor to make payment arrangements. Applicant did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

1.g. Applicant admitted that she is indebted to a creditor for a past-due medical debt in the amount of \$604. In her Answer to the SOR Applicant stated, "This is from 2017 and possibly from one of my children's medical bills we were unable to pay at the time." Applicant did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

1.h. Applicant admitted that she is indebted to a creditor for a past-due utility debt in the amount of \$389. In her e-QIP she stated, "Moved and lost job so couldn't pay." She also stated, "Just started job and will be making payments on all my debts so I can raise my score and get out of debt." (Item 2 at Section 26.) Applicant did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

1.i. Applicant admitted that she is indebted to a creditor for a past-due telephone debt in the amount of \$365. In her e-QIP she stated, "Moved and was on contract and didn't need it and didn't have job to pay." She also stated, "Just started job and will be making payments on all my debts so I can raise my score and get out of debt." (Item 2 at Section 26.) In her Answer Applicant stated that this debt had fallen off her most recent credit report. She did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

1.j. Applicant admitted that she is indebted to a creditor for a past-due medical debt in the amount of \$314. In her Answer to the SOR Applicant stated, "This was actually for my ex-husband because we were married I have to take responsibility as the guarantor." Applicant did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

1.k. Applicant admitted that she is indebted to a creditor for a past-due utility debt in the amount of \$307. In her e-QIP she stated, "Moved and didn't pay bill because no job." She also stated, "Just started job and will be making payments on all my debts so I can raise my score and get out of debt." (Item 2 at Section 26.) Applicant did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

1.l. Applicant admitted that she is indebted to a creditor for a past-due medical debt in the amount of \$206. She stated in her e-QIP, "Didn't have money and also thought insurance was covering bills." She also stated, "Just started job and will be making payments on all my debts so I can raise my score and get out of debt." (Item 2 at Section 26.) Applicant did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

1.m. Applicant admitted that she is indebted to a creditor for a past-due utility debt in the amount of \$192. In her e-QIP Applicant stated that this debt might be a duplicate of 1.k. No further information was provided. She also stated, "Just started job and will be making payments on all my debts so I can raise my score and get out of debt." (Item 2 at Section 26.) Applicant did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

1.n. Applicant admitted that she is indebted to a creditor for a past-due cable bill for \$87. In her Answer Applicant stated that this debt had fallen off her credit report due to age. Applicant did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

1.o. Applicant admitted that she is indebted to a creditor for a past-due medical debt in the amount of \$66. She stated in her Answer that this was a medical bill for her ex-husband. Applicant did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

1.p. Applicant admitted that she is indebted to a bank for a repossessed automobile account in the amount of \$20,902. She stated in her Answer, "This was a joint account and charged off. Once again my ex-husband was unemployed and we were unable to afford our vehicle." Applicant did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

1.q Applicant admitted that she is indebted to a lender for a second repossessed automobile account in the amount of \$9,648. Applicant did not indicate in her Answer that she had paid or made arrangements to pay this debt. It is not resolved.

Applicant elected not to submit a budget or any information as to her salary or the status of her current debts. Applicant also elected not to submit any information about her work performance or ability to safeguard classified information. I am unable to make a credibility assessment as Applicant elected not to have a hearing.

## **Policies**

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

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 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 applicable guidelines in the context 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, “Any 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. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to 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, and has the ultimate burden of persuasion as to obtaining 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of Executive Order 10865, “Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

## **Analysis**

### **Paragraph 1 (Guideline F, Financial Considerations)**

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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.

AG ¶ 19 describes two conditions that could raise security concerns and may be disqualifying in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant has incurred over \$38,000 in past-due indebtedness over the past several years, following the discharge of \$89,235 in previous consumer debt through her 2013 bankruptcy. She has not paid any of the debts alleged in the SOR, nor does she have any current plans to do so. These facts establish prima facie support for the foregoing disqualifying conditions, and shift the burden to Applicant to mitigate those concerns.

The guideline includes three conditions in AG ¶ 20 that could mitigate the security concerns arising from Applicant's alleged financial difficulties:

- (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, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; 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.

The evidence does not establish that any of the above mitigating conditions apply to Applicant. She failed to submit sufficient evidence that would tend to support any of them. There is some evidence that these debts may have been created during her marriage, and that both she and her husband were unemployed at various times.

However, there is little to no evidence that she has acted responsibly under the circumstances. She indicated in her e-QIP a desire to repay these debts. However, her Answer indicated that she was waiting for these debts to fall off her credit report. Applicant is under the mistaken impression that the fact a debt is old means it no longer exists. In security clearance cases such as this that explanation for non-payment is not one that shows good judgment, reliability, or trustworthiness on Applicant's part. There is no basis in the record evidence for me to find that Applicant has mitigated the security concerns arising from her financial situation. Paragraph 1 is found against Applicant.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's potential for national security eligibility 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 national security 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 pertinent facts and circumstances surrounding this case. Applicant has not mitigated the concerns over her considerable past-due indebtedness. The significant potential for pressure, coercion, or duress remains undiminished. Overall, the record evidence creates substantial doubt as to Applicant's present suitability for national security eligibility and a security clearance.



### **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:

AGAINST APPLICANT

Subparagraphs 1.a through 1.q:

Against Applicant

### **Conclusion**

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

WILFORD H. ROSS  
Administrative Judge