



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-00976
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Jeff Kent, Esq., Department Counsel  
For Applicant: *Pro se*

03/23/2023

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**Decision**

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GARCIA, Candace Le'i, Administrative Judge:

Applicant mitigated the financial considerations security concerns, but she did not mitigate the foreign influence security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On June 24, 2022, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B, foreign influence, and Guideline F, financial considerations. The action was taken under Executive Order 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 the DOD on June 8, 2017.

Applicant answered the SOR on June 29, 2022, and she elected to have a hearing. (Item 2) In an email dated October 25, 2022, she changed her election and requested that her case be decided on the written record in lieu of a hearing. (Item 3) The Government's written case was submitted on November 2, 2022. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an

opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on December 8, 2022, and she did not submit a response. The case was assigned to me on February 27, 2023.

The Government exhibits identified as Items 1 through 15 are admitted in evidence without objection. Department Counsel requested that I take administrative notice of certain facts regarding the Russian Federation (Russia). Department Counsel's request is not admitted in evidence, but I have taken administrative notice of the facts contained therein, as summarized in the Findings of Fact, below.

### **Findings of Fact**

Applicant admitted SOR ¶¶ 1.a-1.c, and she denied SOR ¶¶ 2.a-2.k. She is 34 years old, married, and has three minor children. She was born in Russia and immigrated to the United States in 2008, at age 18, with her mother. She was educated in the United States, earning an associate degree in 2012, a bachelor's degree in 2014, and a Master of Business Administration degree in 2018. She has worked in financial management for her employer, a DOD contractor, since April 2019. She has never held a security clearance. (Items 1-2, 4, 15)

Applicant is a dual citizen of Russia and the United States. She became a naturalized U.S. citizen in March 2014. She was issued a Russian passport in December 2018, and it is not scheduled to expire until December 2023. She was issued a U.S. passport in July 2020, and it is not scheduled to expire until July 2030. Her spouse, born in Mexico, is a citizen of Mexico and a permanent resident of the United States. Their three children are native-born U.S. citizens residing with them. She and her spouse purchased their first home in the United States in February 2017. They sold it in July 2019 and purchased their current home. She does not have any financial interests in Russia. (Items 2, 4, 15)

Applicant's father is a citizen and resident of Russia, and she provided him with quarterly financial support as of the date of the SOR. (SOR ¶ 1.a) Her stepmother and three half-sisters are also citizens and residents of Russia. (SOR ¶¶ 1.b-1.c) Her 59-year-old father is a factory worker, and her 40-year-old stepmother does not work outside of the home. Two of her half-sisters, ages 11 and 9, are students, and her youngest half-sister is 4 years old. She has weekly telephonic and electronic contact with her father and stepmother and monthly electronic contact with her half-sisters. She saw her family in Russia when she traveled there in 2008, 2009, and 2011. Her father and stepmother are aware that she is seeking a national security position. (Items 2, 4, 15)

Applicant used Western Union to send her father \$3,500 between 2020 and 2021, so that he could financially support his family. She stated in her Answer that she previously sent her father quarterly financial support, and money for birthdays, holidays, and other special occasions. She stated that she no longer sends him money, as he supports himself with his job and his pension, their communication decreased, and

Western Union services are lacking. She also stated that her father “doesn’t fully know about my employment or exact company name that I work for.” (Items 2, 4, 15)

Although not alleged in the SOR, Applicant’s 60-year-old mother, born in Russia, is a dual citizen of Russia and the United States, residing in the United States. She was married to a native-born U.S. citizen, Applicant’s stepfather, who is recently deceased. She has never worked in the United States. Applicant has daily to weekly in-person and telephonic contact with her mother. While in Russia in 2017, Applicant’s mother renewed her Russian passport, and it is not scheduled to expire until 2027. Applicant’s mother also had yearly contact with the Russian consulate in the United States from 2017 to 2020, concerning her request that she receive her pension from the Russian government in the United States. Applicant’s mother is aware that Applicant is seeking a national security position. (Items 4, 15)

The SOR also alleged that Applicant had six delinquent consumer debts totaling \$24,212 (SOR ¶¶ 2.a-2.f), and five delinquent medical debts totaling \$1,463 (SOR ¶¶ 2.g-2.k). She listed her delinquent debts in her July 2021 security clearance application (SCA), and she discussed them during her August 2021 interview with a background investigator. The debts in SOR ¶¶ 2.a through 2.j are reported on the August 2021 credit bureau report (CBR), and all the SOR debts are reported on the March 2022 CBR. An incident report regarding Applicant’s self-reported debts was filed in the Defense Information System for Security (DISS) in June 2022, before the SOR was issued, and the report reflected that she provided payoff letters for five unalleged debts. She stated in her Answer that she settled and resolved all the SOR debts in June and July 2022. She provided documentation reflecting that she paid SOR ¶¶ 2.a, 2.b, 2.d, 2.e, and 2.f in June 2022. None of the SOR debts are reported on the October 2022 credit bureau report. (Items 2, 4-15)

Applicant attributed her delinquent debts to their home purchase in July 2019, which proved to be more expensive than they originally budgeted. In addition, her spouse experienced a reduction in hours at work, at a date not in the record, and they incurred legal expenses related to his April 2020 charge for driving under the influence. She also cited to the following circumstances that occurred in the several years prior to her Answer:

I didn’t have the money to pay them on time due to some medical reasons, financial issues due to my pregnancies, low[-]income jobs, high deductible insurance plans with high co-pays plans, mortgage, COVID-19 pandemic, and other family circumstances that prevented me from paying.

(Items 2, 4, 15)

Applicant indicated in her August 2021 background interview that she earned \$72,000 annually, and her spouse earned \$83,000 annually. They worked closely together to address their expenses, and she does not have any other delinquent debts. There is no evidence in the record that she received credit counseling. Two individuals,

one of whom is a friend of a decade, and the other a former co-worker, attested to her trustworthiness, reliability, and good judgment. (Items 2, 15)

## **Russia**

Russia has a highly centralized, authoritarian political system dominated by President Vladimir Putin. The bicameral federal assembly lacks independence from the executive. The 2018 presidential election and the 2021 lower-house elections were marked by accusations of government interference and manipulation of the electoral process. A July 2020 referendum on constitutional amendments did not meet internationally recognized standards, and the new constitutional amendments provide President Putin the opportunity to remain in power until 2036.

The U.S. Government has escalated sanctions on Russia since 2014, in response to Russia's incursions into Ukraine, cyberattacks, malign influence, use of chemical weapons, and election meddling. In its February 2022 Annual Threat Assessment, the Office of the Director of National Intelligence (ODNI) reported that Russia presents one of the most serious foreign influence threats to the United States, using its intelligence services, proxies, and wide-ranging influence tools to try to divide Western alliances and increase its sway around the world, while attempting to undermine U.S. global standing, amplify discord inside the United States, and influence U.S. voters and decision making. ODNI also assessed that Russia will remain a top cyber threat as it refines and employs its espionage, influence, and attack capabilities.

In July 2018, the National Counterintelligence and Security Center reported that besides cyberspace, other methods of collecting sensitive U.S. technologies include use of Russian commercial and academic enterprises that interact with the West; recruitment of Russian immigrants with advanced technical skills by the Russian intelligence services; and Russian intelligence penetration of public and private enterprises. Under Russian law, the Federal Security Service (FSB) can compel Russian firms doing business in the United States, or Russians working with U.S. firms, to comply with FSB information sharing and operational mandates, presenting additional routes for cyber espionage.

The U.S. Department of State issued a Level 4 travel advisory for Russia, advising U.S. persons not to travel to Russia due to unprovoked and unjustified invasion of Ukraine by Russian military forces; the potential for harassment against U.S. citizens by Russian government security officials; the singling out of U.S. citizens in Russia by Russian government security officials, including for detention; the arbitrary enforcement of local law; limited flights into and out of Russia; the U.S. Embassy's limited ability to assist U.S. citizens in Russia; COVID-19 and related entry restrictions; and terrorism. U.S. citizens residing or traveling in Russia should depart immediately.

U.S. citizens, including former and current U.S. Government and military personnel and private citizens engaged in business, who are visiting or residing in Russia have been interrogated without cause and threatened by Russian officials, and

may become victims of harassment, mistreatment, and extortion. All U.S. Government personnel should carefully consider their need to travel to Russia. Russian security services have arrested U.S. citizens on spurious charges, singled out U.S. citizens in Russia for detention and/or harassment, denied them fair and transparent treatment, and convicted them in secret trials and/or without presenting credible evidence. Russian officials may unreasonably delay U.S. consular assistance to detained U.S. citizens. Russia enforces special restrictions on dual U.S-Russian nationals and may refuse to acknowledge dual nationals' U.S. citizenship, deny their access to U.S. consular assistance, prevent their departure from Russia, and conscript dual nationals for military service.

Russia has used counterterrorism and "extremism" as pretexts to suppress the exercise of human rights, or for other objectives in both domestic and foreign policy. The formal counterterrorism dialogue framework between the United States and Russia remained on hold because of public, unfounded statements by Russian security officials alleging U.S. support for ISIS.

In its 2020 Human Rights Report, the U.S. Department of State reported that significant human rights issues in Russia included: extrajudicial killings and attempted extrajudicial killings; enforced disappearances; pervasive torture by law enforcement officers; harsh and life-threatening conditions prisons; arbitrary arrest and detention; political and religious prisoners and detainees; politically motivated reprisals against individuals located outside the country; severe arbitrary interference with privacy; severe suppression of freedom of expression and media; violence against journalists; blacking and filtering of internet content and banning of online anonymity; severe suppression of the right of peaceful assembly and freedom of association; severe restrictions of religious freedom; refoulement of refugees; inability of citizens to change their government peacefully through free and fair elections; severe limits on participation in the political process; widespread corruption at all levels and in all branches of government; lack of investigation of and accountability for violence against women; coerced abortion and forced sterilization; trafficking in persons; and crimes involving violence or threats of violence against persons with disabilities, members of ethnic minorities, and lesbian, gay, bisexual, transgender, and intersex persons. The government failed to take adequate steps to identify, investigate, prosecute, or punish most officials who committed abuses, resulting in a climate of impunity.

In March 2022, President Putin signed into law a bill criminalizing the spread of information in Russia that authorities deem as "false information" that contradicts the Russian narrative of its military actions in Ukraine. The Russian government censorship agency blocked access to social media platforms, and restricted access in Russia to international news outlets. In September 2022, the Russian government began a mobilization of its citizens to the armed forces in support of its invasion of Ukraine.

## 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 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(c), 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, 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 as to obtaining 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 as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 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 B: Foreign Influence

The security concern for foreign influence is set out in AG ¶ 6:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

The guideline notes several conditions that could raise security concerns under AG ¶ 7. The following are potentially applicable in this case:

- (a) contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and
- (b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology.

The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the United States. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue. *See generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing decision to grant clearance where administrative judge did not consider terrorist activity in area where family members resided).

AG ¶ 7(a) requires substantial evidence of a "heightened risk." The "heightened risk" required to raise one of these disqualifying conditions is a relatively low standard. "Heightened risk" denotes a risk greater than the normal risk inherent in having a family

member living under a foreign government. Applicant's father, stepmother, and half-sisters are Russian citizens residing in Russia. Russia presents one of the most serious foreign influence threats to the United States. The U.S. Department of State issued a Level 4 travel advisory for Russia, advising U.S. persons not to travel to Russia. Russia enforces special restrictions on dual U.S-Russian nationals. Although she stated that her communication with her father decreased, she had weekly telephonic and electronic contact with her father and stepmother, and monthly electronic contact with her half-sisters, as of her 2021 SCA. She also saw her family in Russia when she traveled there in 2008, 2009, and 2011. Her father and stepmother are aware that she is seeking a national security position. The totality of the evidence in the record demonstrates that Applicant's family in Russia creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, and coercion. AG ¶¶ 7(a) and 7(b) have been raised by the evidence.

Conditions that could mitigate foreign influence security concerns are provided under AG ¶ 8. The following are potentially applicable:

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest;

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation; and

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country.

AG ¶ 8(a) is not established for the reasons set out in the above discussion of AG ¶¶ 7(a) and 7(b). Although Applicant has not traveled to Russia since 2011, as of her 2021 SCA, she maintained weekly contact with her father and stepmother and monthly contact with her half-sisters there. AG ¶ 8(c) is not established. Applicant complied with reporting requirements, to include reporting her family in Russia in her SCA, during her background interview, and in her Answer. AG ¶ 8(e) applies.

Applicant has lived in the United States since 2008. She is a naturalized U.S. citizen and holds a U.S. passport. Her spouse is a permanent U.S. resident, and their



children are native-born U.S. citizens. They have owned their home in the United States since 2019. These are factors that weigh in Applicant's favor. However, her ties to her family in Russia are also strong. She failed to meet her burden to demonstrate that she would resolve any conflict of interest in favor of the U.S. interest. AG ¶ 8(b) is not established.

#### **Guideline F: Financial Considerations**

AG ¶ 18 expresses the security concern pertaining to 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.

AG ¶ 19 describes conditions that could raise a security concern and may be disqualifying. I considered as relevant ¶ 19(a), an "inability to satisfy debts" and ¶ 19(c), "a history of not meeting financial obligations." Applicant has a history of not paying her debts. AG ¶¶ 19(a) and 19(c) are established.

Of the mitigating conditions under AG ¶ 20, I have determined the following to be relevant:

(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; 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 delinquent debts. For the full application of AG ¶ 20(b), she must provide evidence that she acted responsibly under the circumstances. As demonstrated by the DISS incident report, she began resolving her self-reported debts before the SOR was issued. She paid SOR ¶¶ 2.a, 2.b, 2.d, 2.e, 2.f in June 2022. She stated that she paid all the SOR debts in June and July 2022, and none of the SOR debts are reported on the most recent credit bureau report from October 2022.

A security clearance adjudication is an evaluation of an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). The adjudicative guidelines do not require that an individual make payment on all delinquent debts simultaneously, pay the debts alleged in the SOR first, or establish resolution of every debt alleged in the SOR. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). Applicant does not have any other delinquent debts. While she did not provide documentation to corroborate her efforts that she paid SOR ¶¶ 2.c and 2.g through 2.k, she has demonstrated a good-faith effort to resolve her debts, and she has the means to continue to resolve them. I find that Applicant's finances do not continue to cast doubt on her current reliability, trustworthiness, and judgment. AG ¶¶ 20(a), 20(b), 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(a):

- (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. After weighing the disqualifying and mitigating conditions under Guideline B and Guideline F and evaluating all the evidence in the context of the whole person, I conclude Applicant mitigated the financial considerations security concerns, but she did not mitigate the security concerns raised by her foreign connections. Accordingly, I conclude she has not carried her burden of showing that it is clearly consistent with the national interest to grant her eligibility for access to classified information.

### **Formal Findings**

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline B:	AGAINST APPLICANT
Subparagraphs 1.a-1.c:	Against Applicant
Paragraph 2, Guideline F:	FOR APPLICANT
Subparagraphs 2.a-2.k:	For 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 Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Candace Le'i Garcia  
Administrative Judge