



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



In the matter of:	)	
	)	
	)	ISCR Case No. 21-02456
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Brian Farrell, Esq., Department Counsel  
For Applicant: *Pro se*

11/30/2023

**Decision**

PRICE, Eric C., Administrative Judge:

Applicant has not mitigated the security concerns under Guideline F, financial considerations. Eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on October 14, 2020. (Government Exhibit (GE) 1) On November 12, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F. The action was taken under Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4 (SEAD 4), *National Security Adjudicative Guidelines* (December 10, 2016), effective for all adjudicative decisions on or after June 8, 2017.

Applicant submitted an undated response to the SOR (Answer) and requested a hearing before an administrative judge. The case was assigned to me on May 8, 2023. On May 22, 2023, the Defense Office of Hearings and Appeals (DOHA) issued a notice

of hearing scheduling the hearing via video teleconference. I convened the hearing as scheduled on June 21, 2023. The Government's exhibit list and pre-hearing disclosure letter are marked as Hearing Exhibits (HE) I and II. Department Counsel offered six exhibits marked as GE 1 through 6. Applicant testified and offered documents marked as Applicant Exhibits (AE) A through G. The record was held open until July 7, 2023, to permit Applicant to submit additional documents. She timely submitted AE H through N. I sustained Applicant's objection to GE 5 (unauthenticated summary report of her interview with a government investigator), and there were no other objections to the proffered exhibits. GE 1 through 4 and GE 6, and AE A through N are admitted in evidence. DOHA received the hearing transcript (Tr.) on July 3, 2023.

### **Findings of Fact**

Applicant is 29 years old. She has been employed by a defense contractor since June 2016 and has worked as a software test engineer since January 2022. She has had a security clearance since October 2016. She attended college from August 2012 to May 2016 and earned a bachelor's degree. She has not been married and has one child, age seven. (GE 1; AE G; Tr. 87-88)

The SOR alleges 28 delinquent debts totaling \$97,643, including 18 student loans totaling \$89,011. In Applicant's Answer to the SOR, she admitted the allegations in SOR ¶¶ 1.b-1.g, 1.i-1.x, with explanations, and denied the allegations in SOR ¶¶ 1.a, 1.h, 1.y-1.bb, with explanations. Her admissions are accepted as findings of fact.

Applicant attributes her financial problems to an abusive former fiancé and his failure to pay child support and her attorney fees, his underemployment and unemployment, her child support costs, and her lack of education and experience with credit. Applicant testified that she separated from her abusive former fiancé in May 2019 and hired an attorney in March 2020 to obtain child support, incurring legal fees of \$14,000. She provided documentary evidence that her former fiancé engaged in domestic violence against her, that in June 2021 a state court ordered him to pay child support of \$656 per month plus \$200 per month towards child support arrearages of \$19,392, that in May 2023 he requested to reduce his monthly child support obligation because he lost a job and was earning about 40% of his previous wages, and that a hearing was scheduled for August 2023 to consider his request. (Answer; GE 1; AE G; Tr. 46-51)

Applicant admitted that she had limited education and experience with credit. After being asked detailed financial questions by a government investigator during the security clearance investigation, she realized that she needed to better understand her financial situation and started to act on her delinquent accounts. During the hearing, Applicant still did not appear to fully comprehend the scope of her financial problems. She was informed of the importance of submitting documentary evidence of debt payments, efforts to contact creditors or to resolve or otherwise address delinquent debts. (Tr. 57-65, 69-70, 91-92, 101-102)

The evidence concerning the specific SOR allegations is summarized below.

**SOR ¶ 1.a: credit account placed for collection of \$318.** Applicant denied the allegation and said that she had paid the debt in full. (Answer) Credit reports from May 2021, November 2021 and June 2023 show the account as in collection for \$318. Applicant provided evidence that she paid the creditor \$318 in July 2021. (GE 2 at 2, GE 3 at 5, GE 6 at 1-2, GE 4 at 9) I find for Applicant on this allegation.

**SOR ¶¶ 1.b-1.f, 1.j-1.m: student loans charged off for \$7,831; \$7,019; \$8,316; \$8,317; \$10,437; \$6,133; \$6,986; \$5,984; \$5,946 totaling \$66,969.** Applicant admitted each allegation and explained that these student loan accounts had been consolidated with a monthly payment of about \$212. (Answer at 3-4) A May 2021 credit report shows the SOR accounts were joint account student loans from a private lender opened from June 2012 to August 2015 and were 90 to 120 days past due. (GE 3 at 8, 9, 12-14) A November 2021 credit report reflects the accounts were charged off in the amounts alleged. (GE 2 at 4-5, 7-8) A June 2023 credit report shows the balance of each charged-off account increased from November 2021 to June 2023 as follows: \$7,831 to \$9,025; \$7,019 to \$8,300; \$8,316 to \$9,733; \$8,317 to \$9,735; \$10,437 to \$12,259; \$6,133 to \$7,215; \$6,986 to \$8,218; \$5,984 to \$6,970; and \$5,946 to \$6,906. (GE 6 at 8-12)

Applicant testified that she started making payments on these loans in 2017 and acknowledged missing some payments. She said that she contacted the lender in 2020 or 2021 and after providing requested information, the lender specified a payment which is withdrawn from her bank account monthly. She said that she was current on the account and making payments under a payment plan. She submitted an extract from a June 2023 credit report showing a student loan account “in good standing” and with a balance of \$1,103, but with no other account information. After the hearing, she provided evidence showing payments from February 2017 to June 2023 on an account with the same lender but not alleged in the SOR. That account was opened in October 2014 in the amount of \$1,000, reported as current in credit reports, and with balance of \$1,089 in June 2023. (Tr. 52-65, 63, 90, 100-101; AE K; GE 3 at 14, GE 2 at 7, GE 6 at 9)

After the hearing, Applicant also submitted bank records showing payments to the creditor in February, June and July 2017 (about \$150 each); September 2017 (\$330); December 2017 through June 2019 (about \$288 per month); August 2019 (\$153); November 2019 (\$288); March 2020 (\$627), and August 2020 (\$1,419). Her bank records from March 2018 through June 2019 included loan account numbers and show payments on seven accounts alleged in the SOR. The bank records also show payments on two accounts with the same lender, but not alleged in the SOR. One of the non-SOR accounts is the student loan shown as current and discussed above. The other non-SOR student loan was opened in June 2016, shown as charged-off in a June 2023 credit report, and with a balance of \$1,704. (AE K, N; GE 3 at 14, GE 2 at 6; GE 6 at 7) Applicant provided no documentary evidence of a payment agreement for the delinquent student loans alleged in the SOR, or of payment on those loans since at least August 2020.

**SOR ¶ 1.g: credit account placed for collection of \$729.** Applicant admitted the allegation and said that she was working to pay the debt. Credit reports from May 2021 and November 2021, show the account as in collection for \$729. A June 2023 credit report

shows the account as in collection for \$267. Applicant testified that she had two payments remaining under an agreement with the creditor and provided documentary evidence that she entered a payment plan in February 2023, made the required payments from February to June 2023, and reduced the account balance to \$151. (Answer; GE 3 at 5, GE 2 at 5, GE 6 at 4; AE B, AE M; Tr. 74, 97-98) This debt is being resolved.

**SOR ¶ 1.h: credit account placed for collection of \$3,654.** Applicant denied the allegation. (Answer) Credit reports from May and November 2021 show the account was opened in June 2019, and in collection for \$3,654. A June 2023 credit report shows the account as in collection for \$3,599. Applicant testified that she contacted the creditor a few months before the hearing when she could afford to address this debt. She said that she had made one payment under the agreement and intended to make future payments. She provided evidence of a payment plan that required 66 monthly payments of \$55, and that she made the first required payment in June 2023 reducing the account balance to \$3,598. (GE 3 at 2, GE 2 at 6, GE 6 at 4; AE C; Tr. 74-77, 98-99)

**SOR ¶ 1.i: credit account placed for collection of \$392.** Applicant admitted the allegation and said that she was working to pay it. (Answer) Credit reports from May 2021, November 2021, and June 2023 show the account as opened or assigned in July 2019, and as in collection for \$392. (GE 3 at 5, GE 2 at 6, GE 6 at 4) She testified that she contacted the creditor a few months before the hearing when she could afford to address this debt and the debt alleged in SOR ¶ 1.h. She mistakenly believed she had negotiated a single payment plan for both debts. After the hearing she submitted evidence of a payment agreement with the creditor requiring monthly payments from July 2023 until September 2023 to resolve this debt. (AE J; Tr. 74-77)

**SOR ¶¶ 1.n-1.u: student loans placed for collection including \$3,171; \$1,552; \$2,426; \$1,471; \$3,894; \$1,932; \$1,561; and \$3,851 totaling \$19,858.** Applicant admitted each allegation and said that she was working with the U.S. Department of Education (DoED) to identify a monthly payment. (Answer at 4) Credit reports from May and November 2021 show the loans were individual accounts, opened from September 2012 to August 2015, and that each account was assigned to the Government for collection in the amounts alleged. A June 2023 Credit report shows the accounts with balances alleged in the SOR but no past due balance. Applicant submitted an extract from a June 2023 credit report showing nine DoED student loans including eight in the amounts alleged in the SOR as “In good standing.” Applicant testified that these loans were reflected as in good standing because of COVID federal student loan relief and her efforts to consolidate them. (GE 2 at 8-11, GE 3 at 2-4, GE 6 at 5-7; AE D; Tr. 99-100)

Applicant reported and testified that she was not aware of the federal student loans until about May 2018, when her federal income tax refund was withheld. She said some payments were made on these loans through garnishment of her wages starting in 2019, and with funds withheld from her federal income tax refunds from 2018 until COVID. She did not take any action after learning about these loans or try to determine how much she owed because she thought that “was how the payment process was going to be” and because she did not then understand how much financial considerations could affect her.

After the hearing, she submitted evidence of payments totaling about \$13,600 from November 2018 to April 2020 including treasury offsets totaling \$7,652. (GE 1 at 31-32; AE L; Tr. 67-72)

Applicant testified that some of her federal student loans had been consolidated, that she had not yet made a payment on those loans, and that she was trying to consolidate the remaining loans. She said that she applied to consolidate the loans in February 2023 and that she was awaiting terms for an income-based repayment plan. She submitted evidence that she had consolidated one loan with a principal balance of \$1,818 but had not yet made a payment, and that, as of May 2023, she had 10 federal student loans with a total principal balance of \$21,682. She also provided a June 2023 DoED letter acknowledging receipt of her request “to take full advantage of the Fresh Start Initiative and have [her] defaulted federal student loans transferred to a loan servicer.” (GE 1 at 36: AE L; Tr. 55-56, 65-73, 89-91, 99-102)

**SOR ¶ 1.v: credit account past due in the amount of \$2,496 with a total balance due of \$11,577.** Applicant denied the allegation, said the account was current, and that the remaining balance was \$8,963. (Answer) She testified that she purchased a vehicle in April 2017 but was unable to make all loan payments because her ex-fiancé had taken her to court over child custody and support. She said and provided evidence that her auto loan agreement was revised in August 2022, that she had made required payments, and would complete all payments in 2024. A November 2021 credit report shows the account was at least 120 days past due, with a past due balance of \$2,496 and total balance of \$11,577. A June 2023 credit report shows the account as “not more than two payments past due,” with a past due balance of \$1,269, total balance of \$3,428, and payments from at least September 2022 through April 2023. (GE 3 at 7, GE 2 at 11, GE 6 at 3; AE A; Tr. 36-46) This debt is being resolved.

**SOR ¶ 1.w: credit card account past due in the amount of \$617.** Applicant admitted the allegation and said the account was closed. (Answer) Credit reports from May 2021, November 2021 and June 2023 show the credit card account was opened in November 2016, closed by the creditor, more than 120 or 180 days past due with a balance of \$617, and that this was her only credit card with the listed creditor. She testified that she had paid the creditor \$600 and was working to pay the remaining balance. She provided evidence of a \$623 payment in July 2021. (GE 3 at 9, GE 2 at 11, GE 6 at 14, GE 4 at 1,9; Tr. 21-22, 77-78) I find for Applicant on this allegation.

**SOR ¶ 1.x: student loan from her university placed for collection of \$2,184.** Applicant admitted the allegation, stated that she was working with the creditor, and that a recent report showed a balance of \$1,830. (Answer) A May 2021 credit report shows the student loan assigned in August 2013 in the amount of \$1,500 and placed for collection of \$2,184. (GE 3 at 3) Credit reports from November 2021 and June 2023 do not list this student loan. (GE 2, GE 6) Applicant testified that she had not made any payments on this loan since 2016, but had been communicating with the creditor to establish a payment plan. She said that she could obtain and submit copies of her communications with the creditor but did not do so. After the hearing she submitted

documentary evidence that a consolidated, unsubsidized loan with a balance of \$1,818 was placed with a federal student loan servicer, in forbearance and that there had been no payments to the loan servicer. Applicant asserted this was the student loan from her school in an annotation on the document she submitted. (Tr. 78-80; AE L)

**SOR ¶¶ 1.y-1.bb: medical accounts placed for collection of \$116; \$110; \$110; and \$90.** Applicant denied each allegation and said that she had paid each debt in full. (Answer) Credit reports from May and November 2021 show the accounts as assigned from June 2017 to March 2019, and as in collection in the amounts alleged in the SOR. (GE 3 at 5-6, GE 2 at 2) A June 2023 credit report does not list any of the accounts. (GE 6) She provided documentary evidence that she paid medical debts of \$116 and \$110 in July 2021. (GE 4 at 1, 10; Tr. 80) I find for applicant on these allegations.

Applicant's gross annual income has steadily increased since June 2016. She initially earned about \$51,000 annually and by 2021 her salary increased to about \$66,000. In January 2022, she was promoted to her current position and earns about \$82,000 annually. She receives child support payments of about \$760 monthly, but not consistently. She had not received child support payments from March 2023 until the hearing because her child's father lost his job and was seeking to decrease his child support payments because of financial hardship. She reported a remainder of about \$1,100 after monthly expenses. She said that that she maintains a written budget and would submit a copy but did not do so. She reported about \$4,200 in her bank accounts and estimated her retirement account balance at more than \$50,000. (Answer; Tr. 53-55, 80-87, 94-97, 102-103; AE G)

Applicant submitted an email and letter stating that she was actively seeking the guidance and assistance of a named and qualified financial advisor employed by her credit union. She said that she was committed to working with the advisor to implement effective strategies and achieve financial stability. (Tr. 72-73, 93-94; AE H, I)

Applicant submitted letters of recommendation and emails from colleagues and friends that favorably commented on her parenting skills, loyalty, work ethic and performance, professionalism, demeanor, compliance with rules, character, and suitability for a security clearance. (AE F)

### **Policies**

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.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines (AG). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

"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." Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue h[er] security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988); see AG ¶ 2(b).

The protection of the national security is the paramount consideration. Under AG ¶ 2(b), any doubt "will be resolved in favor of the national security." 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

The security 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. 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.

This concern is broader than the possibility that a person might knowingly compromise classified or sensitive information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting

classified or sensitive information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified or sensitive information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's admissions and record evidence including credit reports and documentary evidence submitted by Applicant establish two disqualifying conditions under this guideline: AG ¶ 19(a) ("inability to satisfy debts") and AG ¶ 19(c) ("a history of not meeting financial obligations"). The following mitigating conditions 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.

AG ¶ 20(a) is not established. Applicant's delinquent debts are numerous, ongoing, and not incurred under circumstances making recurrence unlikely. Her delinquent debts and behavior cast doubt on her current reliability, trustworthiness, and good judgment.

AG ¶ 20(b) is not fully established. Applicant's former fiancé's violence against her, his failure to provide child support and her associated litigation costs, his unemployment and underemployment were largely beyond her control. However, she has not provided sufficient evidence that she acted responsibly under the circumstances.

AG ¶ 20(c) is not fully established. Applicant is actively working with a qualified financial advisor but has not submitted sufficient evidence that her financial problems are being resolved or are under control.

AG ¶ 20(d) is established for the debts alleged in SOR ¶¶ 1.a, 1.g, 1.v-1.w, and 1.y-1.bb because Applicant has either paid the debts or negotiated payment agreements with the creditors and established a meaningful record of payments in compliance with those agreements. AG ¶ 20(d) is not fully established for the remaining SOR debts. The timing of her contact with the creditor and agreements to address longstanding debts



alleged in SOR ¶¶ 1.h -1.i, including her recent \$55 payment on a \$3,654 debt and agreement to make future payments on that debt and the debt alleged in SOR ¶ 1.i impact upon the degree to which this mitigating factor applies and do not constitute good-faith efforts to pay this creditor or resolve these debts.

None of the mitigating conditions are fully established for Applicant's delinquent student loans. She provided no documentary evidence to support claims that her nine student loans from a private lender (SOR ¶¶ 1.b-1.f, 1.j-1.m) have been consolidated or that she has continued to make payments on these loans. The evidence shows some payments on these loans until about August 2020 but no payments since, and that the student loans were charged off no later than November 2021. As of June 2023, the balance due on these student loans increased by more than \$11,000 to \$78,361, and, though not alleged in the SOR, one additional student loan (\$1,704 balance) with this creditor has recently been charged off.

Applicant said she first learned of her federal student loan debt (SOR ¶¶ 1.n-1.u) in about May 2018 but took no affirmative steps to contact the creditor, voluntarily pay, or otherwise resolve these debts until February 2023 when she applied to consolidate the loans and applied for an income-based repayment plan. Involuntary payroll deductions and tax refund interception resulted in payments totaling about \$13,600 from November 2018 to April 2020 and reduced the principal balance from \$30,319 to \$21,682. However, involuntary payments are not the equivalent of good-faith payments. See ISCR Case No. 17-04110 at 4 (App. Bd. Sept. 26, 2019). Applicant's involuntary payments and recent efforts to address these student loans are insufficient to fully mitigate security concerns.

Although it appears that Applicant's student loan from her school (SOR ¶ 1.x) is in forbearance and has been placed with a federal loan servicer at her request, her recent efforts are insufficient to mitigate security concerns attributable to her admitted failure to make a payment on this student loan since 2016.

### **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.

