



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



In the matter of:	)	
	)	
	)	ISCR Case No. 23-01349
	)	
Applicant for Security Clearance	)	

**Appearances**

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

March 4, 2024

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**Decision**

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LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of Case**

On August 1, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order (EO) 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 (AG) effective for cases after June 8, 2017.

Applicant answered the SOR on August 18, 2023. She requested that her case be decided by an administrative judge on the written record without a hearing. (Item 1.) On October 5, 2023, Department Counsel submitted the Government’s written case. A complete copy of the File of Relevant Material (FORM), containing seven Items, was mailed to Applicant and received by her on November 16, 2023. The FORM notified Applicant that she had an opportunity to file objections and submit material in refutation,

extenuation, or mitigation within 30 days of her receipt of the FORM. Applicant submitted no response to the FORM. Applicant did not object to Government Items 1 through 7, and they are admitted into evidence, referenced hereinafter as Government Exhibits 1 through 7.

### **Findings of Fact**

Applicant is 29 years old. She is not married and has no children. She has a Bachelor's degree. She has no military service. She is employed by a defense contractor as a Solid State Technician and is seeking to obtain a security clearance in connection with her employment.

### **Guideline F - Financial Considerations**

The Government alleged that Applicant is ineligible for a clearance because she made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about her reliability, trustworthiness and ability to protect classified information.

Under Guideline F, the SOR alleges that Applicant incurred delinquent debt owed to three creditors on accounts that were either charged off or placed for collection totaling approximately \$24,451. In her answer, Applicant admits each of the debts listed in the SOR. Credit reports of the Applicant dated January 18, 2023; and July 25, 2023, confirm this indebtedness. (Government Exhibits 5 and 6.)

Applicant was employed full time for Company A in March 2020, in addition to her employment with Company B. She sustained a back injury at Company B and was placed on a medical work hold during her recovery. When she attempted to be cleared to return to work, her employer would not clear her. Her income was reduced until she was allowed to return to work at Company B. Applicant began working for a defense contractor, Company C, in October 2022. She has never applied for a security clearance before.

The following delinquent debts are of security concern:

- a. A delinquent debt owed to a bank for an automobile loan was charged off in the approximate amount of \$21,529. Applicant admits the debt. She stated that she co-signed on a car loan in August 2018, for her boyfriend. She never saw the car after co-signing, and to her knowledge, her boyfriend never made any payments on the loan. She believes the car was repossessed. Her last contact with her old boyfriend was in May 2019. She stated that she is no longer with him, and she has no access to the car, so she did not believe she was responsible for the payment. (Government Exhibit 4.) She has provided no documentary evidence to show that she has addressed the debt in any fashion. The debt remains owing.

- b. A delinquent debt owed to a University was placed for collection in the amount of \$2,825. Applicant admits the debt. Applicant stated that she took an on-line course from this University to obtain her Master's degree in 2020, but after completing the one class, she changed her mind and did not want to continue. She stated that she plans to pay off the debt this year. (Government Exhibit 4.) Applicant provided no documentary evidence to show that she has addressed the debt in any fashion. The debt remains owing.
- c. A delinquent debt owed to a Federal Credit Union was placed for collections in the amount of \$97. Applicant admits the debt. Applicant stated that she took a loan out for \$5,000 to purchase a puppy. She stated that she thought that she had paid the entire loan off three or four years ago and did not know that it was charged off. (Government Exhibit 4.) She provided no documentary evidence to show that she has addressed the debt in any fashion. The debt remains owing.

During her enhanced subject interview dated March 1, 2023, Applicant stated that she does not have any debt resolution plan in effect. She is currently living with her mother to reduce expenses and intends to pay off all of her debts this year. (Government Exhibit 4.) According to her personal financial statement, she has a monthly net remainder after expenses of \$1,910. (Government Exhibit 5.) She failed to respond to the FORM and provided no evidence in mitigation.

## **Policies**

When evaluating an applicant's suitability for national security eligibility, 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 to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in 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 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, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable 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 access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F - Financial Considerations**

The security concern for Financial Considerations is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. 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 under AG ¶ 19. Three are potentially applicable in this case:

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

Applicant incurred delinquent debt that she has not resolved. There is insufficient information in the record to conclude that she is financially stable, or that she can afford her lifestyle, or that she has the financial resources available to resolve her financial obligations. There is no evidence in the record to show that any regular monthly payments of any sort are being made toward her debts. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under Financial Considerations are potentially applicable under AG ¶ 20:

- (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.

Applicant submitted no evidence in mitigation. There are no stated circumstances beyond her control which contributed to her financial indebtedness. Beyond the fact that she was injured while working for a previous employer and was on medical leave for a time before being cleared to come back to work, the record is void as to any further details. Applicant stated that she plans to pay her debts this year. At this time, there is nothing to show that any progress has made toward resolving her debts. She remains excessively indebted and a targeted security risk. None of the mitigating conditions apply.

## **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I conclude Applicant has not 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:

AGAINST APPLICANT

Subparagraphs 1.a. through 1.c.

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.

Darlene Lokey Anderson  
Administrative Judge