



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



In the matter of:	)	
	)	
	)	ISCR Case No. 21-02080
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: David Hayes, Esq., Department Counsel  
For Applicant: *Pro se*

03/22/2024

**Decision**

PRICE, Eric C., Administrative Judge:

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

**Statement of the Case**

On May 13, 2020, Applicant submitted a security clearance application (SCA). On March 21, 2022, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (Financial Considerations). The DOD CAF acted under 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), for all adjudicative decisions on or after June 8, 2017.

Applicant responded to the SOR (Answer) on April 8, 2022, and requested a hearing before an administrative judge. The case was assigned to another administrative judge on June 1, 2023. On July 6, 2023, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing via video teleconference for July 26, 2023.

The case was reassigned to me on July 17, 2023, because of a scheduling conflict. On July 25, 2023, Applicant requested to reschedule the hearing for personal reasons, and I granted her request. On August 13, 2023, DOHA issued a notice rescheduling the hearing for September 27, 2023, based upon Applicant's identified availability. On September 14, 2023, Applicant requested to reschedule the hearing but later withdrew her request. I convened the hearing as scheduled on September 27, 2023.

The Government's pre-hearing disclosure letter and hearing scheduling emails are marked as Hearing Exhibits (HE) I and II. Department Counsel offered five exhibits marked as Government Exhibits (GE) 1 through 5. Applicant testified and offered eight exhibits marked as Applicant's Exhibits (AE) A through H. The record was held open until October 31, 2023, to permit Applicant to submit additional documents. She timely submitted AE I and AE J. There were no objections to the proffered exhibits and GE 1 through GE 5, and AE A through J were admitted in evidence. DOHA received the hearing transcript (Tr.) on October 11, 2023.

### **Findings of Fact**

Applicant is a 52-year-old finance manager employed by a defense contractor since November 2014. She has worked for federal contractors since March 2002, except from August 2014 to November 2014 when she was unable to work because of a medical condition. She has held a security clearance since 2006. She earned a master's degree in May 2012. She married in June 2000 and divorced in October 2018. She has four children, ages 31, 29, 21, and 20. (GE 1; Tr. 15, 66-80, 93-94)

The SOR alleges nine delinquent accounts totaling \$79,896. In her Answer to the SOR, Applicant admitted the allegations in SOR ¶¶ 1.a through 1.h with explanations, but denied the allegation in SOR ¶ 1.i.

Applicant attributes her financial problems to divorce, her former husband's unemployment, marital debt, child-support costs, and unanticipated medical expenses. She said that after her former husband lost his job and left her without a home or a reliable car, she prioritized her debts. She rented two homes to pay the mortgages and moved into an inexpensive apartment, entered payment arrangements with other creditors, obtained and has timely paid auto loans for her and her daughter, worked part-time to earn extra income, and used loans from her retirement account to pay some bills. (Answer; GE 1 at 39-42, GE 2 at 6-11; Tr. 44-59, 64-68, 83-86)

The evidence concerning the specific SOR allegations is summarized below.

**SOR ¶ 1.a: credit card charged off for \$24,642.** Applicant admitted the debt but disputed the amount and said payment arrangements were underway. (Answer) Credit reports from July 2020, May 2021, and February 2022 show this individual account was opened in January 2008, with a last payment in March 2018, and charged off with a balance of \$24,342. (GE 3 at 17, GE 4 at 3, GE 5 at 7)

Applicant testified the debt was for a credit card she and her former spouse used to purchase building materials for a house. She thought her former spouse should be responsible for the debt because the home was in his name, and he lived there. However, the debt was not divided in the divorce proceedings because the credit card was in her name only. When she learned the debt was delinquent, she called the creditor, but they were closed and “it fell off [her] radar[.]” (Tr. 44-45, 60-62, 85-89)

After the hearing, she reported she could not find evidence of a payment plan. She contacted the creditor and said she was preapproved for a home equity loan to pay the debt. She submitted correspondence dated October 13 and 24, 2023, confirming receipt of documents required to process her “home equity loan application,” that her application had been forwarded to an “underwriting team for review,” and that unspecified credit accounts would be paid with “loan proceeds.” (AE D at 1, AE I at 1-2, 9)

**SOR ¶ 1.b: credit account charged off for \$7,992.** Applicant admitted the debt was hers but disputed the amount and said she had been in a payment plan since February 2022. (Answer) Credit reports from July 2020, May 2021, and February 2022 show the individual account was opened or assigned in November 2011, with a last payment in June 2016, and charged off with balances of \$7,085; \$7,561; and \$7,992, respectively. She testified payments were deducted from her bank account and she thought the debt had been paid. She contacted the creditor the day of the hearing, learned the balance was \$2,903, and submitted documentary evidence she paid it that day. (GE 3 at 18, GE 4 at 3, GE 5 at 6; Tr. 45-47, 50-52, 62-66; AE D at 1, AE G at 1-3, AE I at 10)

**SOR ¶ 1.c: credit account charged off for \$6,192.** Applicant admitted the debt was hers but disputed the amount and said she had been in a payment plan since February 2022. (Answer) Credit reports from July 2020, May 2021, and February 2022 show the individual account was opened or assigned in May 2004, with a last payment in April 2016, and charged off with a balance of \$6,192. (GE 3 at 18, GE 4 at 3, GE 5 at 9) She testified her payments reduced the balance to \$3,562, as of the hearing date. (Tr. 47-48, 58, 68-69) She made a \$597 payment over the phone on the day of the hearing and, after the hearing, submitted evidence her payments reduced the account balance to \$619 as of October 25, 2023, and of a “pending” \$597 payment. (AE D at 1-2, AE I at 11) This debt is being resolved or has been resolved.

**SOR ¶ 1.d: credit card account charged off for \$2,449.** Applicant admitted the debt had been delinquent, said she had been in a payment plan and paid the debt in full in May 2022. She submitted documentary evidence of payments totaling \$1,495 to the creditor from October 2021 to January 2022. (Answer) Credit reports from July 2020, May 2021, and February 2022 show the individual account was opened or assigned in October 2011, with last activity in November 2016, and charged off with balances of \$4,472; \$4,472; and \$2,449, respectively. (GE 3 at 18, GE 4 at 3, GE 5 at 9) She testified the creditor closed four credit card accounts when she defaulted on one account, that she paid the debt off in 2022, was later permitted to reopen a credit card account, and has made timely payments since. (Tr. 40-41, 54-55, 59, 69-71; AE D at 2, AE I at 12, 15)

Although there are variances in account numbers in the supporting documents, the evidence shows Applicant had four credit cards issued by this creditor, that she made payments that reduced the alleged account's overdue balance, that three of the accounts were closed including two accounts annotated with "paid charge off," and that one account had been reopened and was current. (Answer; AE D at 2, 6, 24, AE E at 3, 7, AE I at 12, 15; GE 3 at 12, 18-20, GE 4 at 3, 4, 13, GE 5 at 5, 9, 15, 17) I resolve this allegation for Applicant because the documentary evidence corroborates her testimony.

**SOR ¶ 1.e: credit account charged off for \$1,498.** Applicant admitted the debt had been delinquent, and said she paid \$1,358 on February 9, 2022, to resolve the debt. (Answer) Credit reports from July 2020, May 2021, and February 2022 show the account was opened or assigned in July 2014, and charged off with balances of \$7,880; \$4,219; and \$1,498, respectively. (GE 3 at 18, GE 4 at 4, GE 5 at 5) The debt was paid, and a judgment satisfied in March 2022. She made a \$148 payment on September 27, 2023, to fully resolve the debt. (AE E at 1, 3, AE F, AE I at 13; Tr. 39-41, 55-56)

**SOR ¶ 1.f: credit collection account for \$2,380.** Applicant admitted the debt had been delinquent, said she had a payment plan, and paid the debt in full. (Answer) Credit reports from July 2020, May 2021, and February 2022 show the account was opened or assigned in May 2017, and in collection for \$3,719; \$3,060; and \$2,380, respectively. (GE 3 at 19, GE 4 at 4, GE 5 at 4) She submitted documentary evidence of biweekly payments from October 2021 to February 2022, and that the debt was satisfied by May 2, 2023. (Answer, AE A, AE C, AE D at 2, 8-11, AE I at 14; Tr. 37-38, 56, 73-75)

**SOR ¶ 1.g: credit account charged off for \$714.** Applicant admitted the debt had been delinquent and said she had paid the debt in full. (Answer) Credit reports from July 2020, May 2021, and February 2022 show the individual account was opened or assigned in January 2005, charged off for \$714, and that she resolved the debt before the SOR was issued. (GE 3 at 19, GE 4 at 4, GE 5 at 17; AE I at 15; Tr. 39-41, 75-76)

**SOR ¶ 1.h: credit account charged off for \$33,613.** Applicant admitted the debt but said the balance due was incorrect because she had made weekly payments since 2018 in accordance with an agreement. (Answer; Tr. 57-58, 77-78) She submitted documentary evidence of weekly, \$50 payments from October 2018 to October 25, 2023, and an account balance of \$25,640, as of October 25, 2023. (AE D at 2-3, 12-16, AE I at 16, AE J) This debt is being resolved.

**SOR ¶ 1.i: credit account charged off for \$416.** Applicant denied the allegation and said the debt was not hers. (Answer) Credit reports from July 2020 and May 2021 show an individual credit-card account was opened or assigned in April 2017, charged off with a balance of \$416, and transferred or sold to another creditor. (GE 3 at 20, GE 4 at 5) A February 2022 credit report shows that an account opened the same month with a similar account number, but different creditor, was charged off for \$416, and transferred or sold with a balance of \$0. (GE 5 at 16) She testified she did not recognize the debt or creditor, that the debt was not listed in her credit reports, and that she contacted the creditor and was told they had no records of a debt associated with her social security

number. (Tr. 57-58, 79; AE D at 3, AE I at 1) I resolve this allegation for Applicant because her testimony is corroborated, in part, by documentary evidence.

Applicant's financial situation has apparently improved. She reported a gross annual income of about \$145,000 including salary and bonuses. She has about \$10,000 in her bank accounts and about \$50,000 in a retirement account. She has two homes in her name with current mortgages and at least \$133,000 in equity. She has not received formal financial counseling. She submitted a spreadsheet she uses to track expenses and a written budget. (Answer; GE 1-3; AE B, AE I; Tr. 81-101)

Applicant submitted a letter of recommendation from a friend and fellow social organization executive that comments favorably on her sincerity, trustworthiness, reliability, judgment, loyalty, and ethical standards. (AE I at 6-7)

### **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 his 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. . . .

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).

The record evidence, including credit reports and Applicant’s statements, 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 under AG ¶ 20 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;
- (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.

The SOR alleges nine delinquent accounts totaling \$79,896 and Applicant has resolved, is resolving, or successfully disputed eight debts totaling \$55,254. In October 2018, she entered a payment plan for the largest debt (SOR ¶ 1.h) and has reduced the balance from \$33,613 to \$25,640. She resolved two debts totaling \$2,212 (SOR ¶¶ 1.e, 1.g) before the SOR was issued. She entered payment plans for four debts totaling \$19,013 (SOR ¶¶ 1.b-1.d, 1.f) before the SOR was issued and has resolved all four debts. She successfully disputed a \$416 debt (SOR ¶1.i). The \$24,642 debt alleged in SOR ¶ 1.a is unresolved, but she has a plan to address it and has applied for a loan to do so.

AG ¶¶ 20(a), 20(b), and 20(d) are established. Applicant's divorce, former husband's unemployment, assumption of most marital debt, child support costs, and medical expenses were beyond her control. She acted responsibly by prioritizing her financial obligations, reducing her expenses, and has resolved or is resolving seven debts totaling \$54,838. (SOR ¶¶ 1.b-1.h). While one large debt remains unresolved (SOR ¶ 1.a), she recently implemented a plan to address it.

The adjudicative guidelines do not require that an applicant make payments on all delinquent debts simultaneously, pay debts alleged in the SOR first, or resolve every debt alleged in the SOR. An applicant 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). Although Applicant's financial records and finances are not perfect, she has implemented a plan to resolve her financial problems and has made substantial progress in doing so, she understands the importance of continued financial responsibility, and the behavior that resulted in her financial problems is unlikely to recur.

AG ¶¶ 20(c) does not apply because she has not received financial counseling.

AG ¶ 20(e) is established for the debt alleged in SOR ¶1.i.

### **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.

I have incorporated my comments under Guideline F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). I considered the entire record, including Applicant's work and security clearance history, and that her financial problems were caused by circumstances beyond her control. I also considered her debt resolution efforts, character evidence, and her understanding of the importance of financially responsible behavior.

After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the financial security concerns. Overall, the record evidence leaves me with no questions and doubts as to her eligibility and suitability for a security clearance.

### **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.i:	For Applicant

### **Conclusion**

I conclude that it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is granted.

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Eric C. Price  
Administrative Judge