



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-00828
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Jenny Bayer, Esq., Department Counsel  
For Applicant: *Pro se*

03/21/2024

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**Decision**

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HYAMS, Ross D., Administrative Judge:

Applicant did not provide sufficient information to mitigate the financial considerations security concerns arising from her delinquent debts. Eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on October 29, 2020. On July 11, 2022, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). Applicant answered the SOR on July 25, 2022, and requested a hearing before an administrative judge. The case was assigned to me on June 15, 2023.

The hearing convened on November 3, 2023. Department Counsel submitted Government Exhibits (GE) 1-7, which were admitted in evidence without objection. Applicant did not submit any documentation at the hearing. I held the record open for two weeks to allow her to submit documentation. She timely submitted Applicant's Exhibits (AE) A-E, which were admitted in evidence without objection.

## Findings of Fact

In her answer, Applicant denied all the SOR allegations. She claimed that the debts should have been removed from her credit report. Her statements in her answer are incorporated into the findings of fact. Based on my review of the pleadings, evidence submitted, and testimony, I make the following additional findings of fact.

Applicant is 54 years old. She works for a government contractor as an eligibility specialist. She was married in 2005 and has three adult children. She earned a bachelor's degree in 2000, and a master's degree in 2016. (Tr. 15-18; GE 1)

Applicant has delinquent debt going back to at least 2012. She claimed she had been working with a credit repair company from 2014-2022, but their role was only to get debts removed from her credit report, not negotiate payment arrangements. She admitted she has not paid any of the debts alleged or personally contacted any of the creditors to make payment arrangements. (Tr. 18-28; AE A).

In 2018, Applicant was fired from a job she had been working for two years. She was unemployed from about March 2018 through February 2020. Her next period of unemployment was from October 2022 through May 2023. She received about \$1300 monthly in unemployment benefits. (Tr. 18-29; GE 1)

Applicant has been with her current employer since June 2023. Her income has varied over her last several jobs. She reported now earning about \$2000 net monthly. She and her husband keep their finances separate. He pays most of the house bills and their mortgage, and they split some utility costs. She pays for her car loan, phone bill, and groceries. She has about \$100 left over monthly, which she spends on gasoline. Her husband is retired, and she does not know his monthly income. She has no retirement account or savings. She does not maintain a monthly budget, because she does not have enough money leftover at the end of the month for discretionary spending or debt payments. The credit repair agency has given her financial advice, but she has not taken any kind of financial literacy training. (Tr. 28-56)

The SOR alleges 10 delinquent debts totaling about \$195,000, and it alleges that she was terminated from her job in 2018 for submitting a fraudulent expense report. The status of the allegations is as follows:

SOR ¶¶ 1.a, 1.b, and 1.e, are student loan accounts placed for collection for \$67,548. Applicant denied these allegations and claimed in her answer that her loans associated with ¶¶ 1.a and 1.b had been consolidated or removed from her credit report, however, student loans appear on all her credit reports. She claimed her student loans went into collection in 2019, but she has never paid them since finishing her master's degree in 2016. She was unable to provide any information about when they were consolidated or with what lender. She does not know the status of the loan associated with ¶ 1.e. She stated that she has no ability to make payments at this time. These debts are unresolved. (Tr. 28-56; AE C, D, E; GE 3, 4, 6, 7)

SOR ¶ 1.c is an account placed for collection for \$955. Applicant denied this allegation and claimed in her answer she was working with a credit repair agency to remove the debt from her credit report. She is unaware of the creditor or the origin of this debt. This debt is unresolved. (Tr. 28-56; AE C, D, E; GE 3, 4, 7)

SOR ¶ 1.d is a credit card account placed for collection for \$202. Applicant denied this allegation and claimed in her answer it should have been removed from her credit report in November 2020. She claimed that she could not pay the debt because of unemployment. Her credit report from October 2023 shows this debt still in collection. This debt is unresolved. (Tr. 28-56; AE C, D, E; GE 3, 4, 6, 7)

SOR ¶¶ 1.f, 1.g, and 1.i are medical debts placed for collection for \$328, \$188, and \$113, respectively. Applicant denied these allegations and claimed in her answer that these debts should have been removed from her credit report in 2020 and 2022. She does not know the origin of these debts. She has not paid these debts and is trying to get them removed from her credit report. These debts are unresolved. (TR. 28-56; AE C, D; GE 4, 6)

SOR ¶ 1.h is a second mortgage account for a property that was foreclosed on in 2012, with a balance owed of \$125,054. Applicant denied this allegation and claimed in her answer that it should have been removed from her credit report in November 2021. She and her husband owned a second home which they rented. They were trying to refinance the mortgage but ended up losing the home. She claimed the company they worked with stole the house from them but did not provide documentation. She denied having a second mortgage on this home. She reported disputing the debt but did not provide any documentation regarding this account. This debt is unresolved. (Tr. 28-56; GE 2, 6)

SOR ¶ 1.j is an account charged off for \$640. Applicant denied this allegation and claimed in her answer this debt should have been removed from her credit report in November 2021. She was unsure of the origin of this debt, but it may be for a phone she got for her son. This debt is unresolved. (Tr. 28-56; AE C, D; GE 6)

SOR ¶ 1.k alleges that in July 2018 Applicant was terminated from her employment for submitting a fraudulent expense report. Applicant denied this allegation and stated that she was fired unjustly. She worked for this company for about two years as a traveling administrator and went to nine different facilities in her state. When she got a new boss, she was told to work from a fixed location. She had previously been reimbursed for travel expenses. Her new boss denied the expenses she claimed just prior to starting her new role and fired her for filing a fraudulent expense report. She claimed that these expenses were permissible in her former role with that employer. (Tr. 18-56; GE 2, 6)

Applicant's 2023 credit report shows three new delinquent debts, which were unalleged, including a \$319 debt to the Department of Treasury. She stated that she would like to get a second job so that she can make debt payments. She reported that her husband handles their taxes, and they owe the IRS for back taxes for 2010. In her

post hearing submission, she stated that they owe the IRS back taxes for 2014-2017 and they are going to work with a tax assistance company to consolidate the debt. She did not provide the amount owed or any documentation specific to her tax situation. (Tr. 28-65; AE A, C; GE 7)

## **Policies**

This case is adjudicated under Executive Order (EO) 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), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. 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 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."

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 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of 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.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual’s self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The guideline notes conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

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

The financial considerations security concerns are established by the credit reports and Applicant’s admissions in her testimony. AG ¶¶ 19(a) and 19(c) apply.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following 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.

AG ¶ 20(a) applies only to SOR ¶ 1.k, but not to any of the debts alleged. Applicant did not provide sufficient evidence showing that any of the alleged debts are being paid, are resolved, or became delinquent under such circumstances that are unlikely to recur. Her failure to pay these debts is both long-term and recent, as well as ongoing and unresolved. This continues to cast doubt on her current reliability, trustworthiness, and judgment.

AG ¶ 20(b) does not apply. Applicant did not provide sufficient evidence showing that these debts resulted from conditions beyond her control or that she acted responsibly under the circumstances.

AG ¶ 20(c) does not apply. Applicant did not provide sufficient evidence showing that there are clear indications that the problem is being resolved or is under control.

AG ¶ 20(d) does not apply. Applicant did not provide sufficient evidence showing a good faith effort to repay creditors or resolve debts, and she has not established any meaningful track record of debt payments.

AG ¶ 20(e) does not apply. Applicant did not provide sufficient documentation to establish a reasonable basis to dispute the legitimacy of past-due debt or evidence of actions to resolve the issue.

At the hearing, Applicant disclosed a tax issue from 2010, and post hearing stated the issue was from 2014-2017. The amount owed is unknown. She did not provide documentation of a payment plan or resolution with the IRS. Although the tax issue was not alleged in the SOR, it is relevant in considering the potential applicability of the financial consideration mitigating conditions.

## **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 the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility for a security clearance. She did not provide sufficient evidence to mitigate the security concerns under Guideline F arising out of her delinquent debts.

## **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-1.j:	Against Applicant
Subparagraph 1.k:	For Applicant

## **Conclusion**

It is not clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

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Ross D. Hyams  
Administrative Judge