



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



In the matter of: )  
)  
) ISCR Case No. 22-02483  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Andrea Corrales, Esq., Deputy Chief Department Counsel  
For Applicant: *Pro se*

06/28/2024

**Decision**

DORSEY, Benjamin R., Administrative Judge:

Applicant did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On January 18, 2023, the Department of Defense (DOD or Government) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. Applicant responded to the SOR on March 24, 2023 (Answer) and requested a hearing before an administrative judge. On April 14, 2023, the Government issued an SOR amendment that added two additional allegations under Guideline F. On June 20, 2023, Applicant responded to the SOR amendment (Amendment Answer). The case was assigned to me on March 5, 2024.

The hearing was convened as scheduled on June 6, 2024. At the hearing, I admitted Government Exhibits (GE) 1 through 3 without objection. Applicant testified but did not present any documentary evidence. I received a transcript (Tr.) of the hearing on June 13, 2024.

## Findings of Fact

Applicant is a 35-year-old employee of a government contractor for whom she has worked since November 2021. She was married from 2008 until a divorce in 2014. She remarried in 2016. She has four children, ages 15, 6, 4, and 2. She earned a nursing degree in 2014. (Tr. 13-14, 18, 20; GE 1)

In the SOR as amended, the Government alleged that Applicant has 13 delinquent debts totaling approximately \$44,000 (SOR ¶¶ 1.a through 1.m). These delinquencies consist of automobile loans (SOR ¶¶ 1.a, 1.c, 1.l, and 1.m), telecommunications debts (SOR ¶¶ 1.b, 1.d, 1.e, and 1.g) a loan to purchase furniture (SOR ¶ 1.f), a credit card (SOR ¶ 1.h), overdraft fees on a bank account (SOR ¶ 1.i), an insurance premium (SOR ¶ 1.j), and a medical debt (SOR ¶ 1.k). She admitted the SOR allegations except for the allegations in SOR ¶¶ 1.c and 1.i. Her admissions are adopted as findings of fact. She provided additional comments with respect to each allegation. The SOR allegations are established through her admissions and the Government's credit reports. (Tr. 40-50; SOR; Answer; GE 1-3)

Applicant has experienced significant hardships over the past several years that have contributed to her inability to pay her financial delinquencies. These hardships began in about 2017, when her husband was in jail, limiting his ability to contribute financially. She was involved in car accidents that were not her fault that totaled her vehicles in June 2019 and September 2019. In September 2022, Applicant was diagnosed with cancer. Not only does her cancer treatment limit her ability to work, but despite receiving some charitable assistance from the hospital, she pays a significant amount out of pocket for treatment and medication. Her husband changes jobs frequently and, despite their trying to stay within a written budget, he spends beyond their means, even when she tries to block his access to bank accounts. Her husband has also had periods of unemployment over the years of various durations. (Tr. 19, 24, 34-35, 37-40, 49)

Applicant plans to either hire a debt consolidation company to repay her debts or to file bankruptcy. She had a consultation with a bankruptcy attorney, but the credit report that the attorney acquired did not list sufficient delinquent debts for the attorney to recommend that she file bankruptcy. Other than this bankruptcy consultation, and the below-listed information regarding SOR ¶¶ 1.c and 1.i, she has been unable to make any other resolution efforts towards her SOR debts as she lacks the funds to do so. She denied owing the car loan in SOR ¶ 1.c, because she believes that her husband returned the vehicle within seven-days of purchasing it. However, she could not recall whether the loan documents permitted such a return and provided no documents to that effect. While she disputed the account with the credit reporting agencies, it remains on her credit report, and she cannot recall the result of the dispute. She believes that she paid the overdraft fees listed in SOR ¶ 1.i in the amount of \$428 but cannot recall when she paid it and has no documentation to corroborate payment. Despite the lack of corroborating evidence, I found her to be credible, so I find that she paid the debt in SOR ¶ 1.i. (Tr. 19, 35-36, 40-47; GE 2, 3)

Applicant is paid \$31 per hour and works 40 hours per week. She testified that she earns about \$4,400 per month after taxes. Her husband has been employed since about September 2023. Her husband's income varies and is dependent upon demand for his services. Applicant testified that her husband's services are not currently in demand, but when they are, he can earn upwards of \$3,000 per month. The last time he earned about that much was February 2024. Applicant estimated that he currently earns about \$2,000 to \$2,500 per month after taxes. She has two bank accounts with a combined negative balance. She also has a retirement account with about \$2,000 in it. She and her husband receive food stamps in the amount of about \$900 per month and government childcare assistance. She pays her ex-husband about \$200 per month for child support for her 15-year-old. (Tr. 21-31)

### **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.

The guideline notes several 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.

Applicant has 13 delinquent debts totaling about \$44,000. Many of these debts have been delinquent for several years. The above-referenced disqualifying conditions are established.

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;

(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.

As Applicant testified, she believes she paid the debt in SOR ¶ 1.i, I find for her with respect to that allegation. However, the remainder of her delinquent accounts are more problematic.

While acknowledging that Applicant's delinquencies arose almost entirely due to extremely difficult circumstances that were beyond her control, she has not sufficiently resolved the vast majority of her SOR debts, and she does not seem to have sufficient income to do so. Therefore, her financial issues are ongoing, and I do not find that they are unlikely to recur. Many of these debts have been delinquent for years, but she has only paid one of the smaller debts, had one bankruptcy consultation with an eye towards trying again, and an intent to possibly hire a debt consolidation company. These fairly insignificant attempts to resolve her debts do not constitute acting responsibly or making a good faith effort to resolve them. AG ¶ 20(a), AG ¶ 20(b), and AG ¶ 20(d) do not apply.

Applicant disputed that she owed the car loan in SOR ¶ 1.d because she returned the vehicle within seven days of purchasing it. Without corroborating evidence that the contract for the purchase of the vehicle permitted cancellation of the contract within seven days of its execution, this claim is not a reasonable basis to dispute the legitimacy of the debt. Her failure to provide a copy of the contract further diminishes her claim for mitigation. AG ¶ 20(e) does not 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 have incorporated my comments under Guideline F in my whole-person analysis. I am highly sympathetic to the extremely difficult events that have befallen Applicant over the last several years. However, I am required to follow the Directive to determine security clearance eligibility, and I must resolve any doubts in favor of national security.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate 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-1.h:	Against Applicant
Subparagraph 1.i:	For Applicant
Subparagraphs 1.j-1.m:	Against Applicant

### **Conclusion**

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

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Benjamin R. Dorsey  
Administrative Judge