



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



In the matter of:	)	
	)	
	)	ISCR Case No. 23-02446
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Andrew Henderson, Esq., Department Counsel  
For Applicant: *Pro se*

07/16/2024

\_\_\_\_\_

**Decision**

\_\_\_\_\_

LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of Case**

On December 3, 2022, Applicant submitted a security clearance application (e-QIP). On December 19, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order 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 *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective within the DoD after June 8, 2017.

Applicant answered the SOR on January 2, 2024, and requested a hearing before an administrative judge. The case was assigned to me on February 29, 2024. The Defense Office of Hearings and Appeals issued a notice of hearing on March 7, 2024, and the hearing was convened as scheduled on April 11, 2024. The Government

offered six exhibits, referred to as Government Exhibits 1 through 6, which were admitted without objection. The Applicant offered three exhibits, referred to as Applicant's Exhibits A through C, which was admitted without objection. Applicant testified on her own behalf. DOHA received the transcript of the hearing (Tr.) on April 23, 2024.

### **Findings of Fact**

Applicant is 48 years old. She is divorced and has two children, the oldest is 23, the youngest is 14. She has an Associate degree. She holds the position of Control Center Operator for a defense contractor. She 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.

The SOR identified ten delinquent debts in allegations totaling in excess of \$61,000, which includes collections, charge-offs and a repossession. In her answer to the SOR, Applicant admits each of the allegations. Credit reports of the Applicant dated December 21, 2022; September 25, 2023; and February 21, 2024, confirms the delinquent indebtedness set forth in the SOR. (Government Exhibits 3, 4, and 5.)

Applicant started working for her current employer in April 2022. She testified that she is doing well at work and has no bad write-ups. (Tr. p. 54.) Since October 2012, she has worked off and on and not consistent, and only on a part-time basis in home-supportive services, as a home-care provider. She currently has one client. (Tr. p. 28.) Over the years, she has incurred delinquent debt that she has not been able to afford to pay. She was married from 1996 to 2000, but she did not discuss the expenses she may have incurred associated with the divorce. In addition, she did not indicate whether her children's father is or has ever provided her with any financial support. It is clear that when Applicant was out of work, through no fault of her own, she had to use her credit cards or obtain small personal loans to pay her rent, utilities, and to feed her children. Also, Applicant's wages are currently being garnished to satisfy a judgment entered against her in 2010 for monies owed for the cost of a vehicle. (Tr. p. 30-39.) Applicant attributes her financial problems to having limited financial knowledge. Periods of financial hardship have caused her to fall behind on her financial obligations. As a result, she incurred a number of delinquent debts that remain owing.

The following delinquent debts are of security concern:

1.a. Applicant is indebted to a creditor in the amount of \$28,410 for an account that was charged off. This is a title loan that Applicant obtained in 2016. She explained that she borrowed \$2,300 and used her vehicle that had been paid off in full as collateral. The lender puts a lien on the property (vehicle) until the loan is paid in full. Applicant fell behind on the loan about \$500. The lender repossessed the vehicle. When she attempted to pay delinquency, the interest had tripled, and she could not afford to make the payment. She contacted the Better Business Bureau but there was no resolution. With interest and penalties, the debt was increased more than \$20,000. The debt remains owing. (Tr. p. 39-43, and Government Exhibits 3, 4, and 5.)

1.b. Applicant is indebted to a creditor in the amount of \$1,067 for an account that was charged off. This is a credit card Applicant used to purchase food when she was laid off from work. The debt remains owing. (Tr. p. 43, and Government Exhibits 3, 4 and 5.)

1.c. Applicant is indebted to a creditor in the amount of \$1,033 for an account that was placed for collection. This is a credit card Applicant used for food and household necessities and to pay other credit cards in order to keep them in rotation for use. The debt remains owing. (Tr. p. 43-44, and Government Exhibits 3, 4, and 5.)

1.d. Applicant is indebted to a creditor in the amount of \$632 for an account that was placed for collection. This was for cable TV services. Applicant no longer wanted the service and returned the equipment. The creditor stated that they never received the equipment. They want reimbursement for the remote, the box, and the satellite dish. Applicant stated that she is disputing the debt. (Tr. p. 44-45, and Government Exhibits 3, 4, and 5.)

1.e. Applicant is indebted to a creditor in the amount of \$554 for an account that was charged off. This is a credit card Applicant used for living expenses and to service other credit cards. The debt remains owing. (Tr. p. 45, and Government Exhibits 3, 4, and 5.)

1.f. Applicant is indebted to a creditor in the amount of \$457 for an account that was placed for collection. This is a credit card Applicant used for living expenses and to service other credit cards. The debt remains owing. (Tr. p. 45-46, and Government Exhibits 3, 4, and 5.)

1.g. Applicant is indebted to a creditor in the amount of \$3,047 for an account that was placed for collection. Applicant stated that she disputed the debt, because it was discharged by the original creditor, and removed from her credit report. (Tr. pp. 46-47, and Government Exhibits 3, 4 and 5.)

1.h. Applicant is indebted to a creditor in the amount of \$748 for an account that was charged off. This is a credit card Applicant used for living expenses and to service

other credit cards. The debt remains owing. (Tr. p. 49, and Government Exhibits 3, 4, and 5.)

1.i. Applicant is indebted to a creditor in the amount of \$684 for an account that was placed for collection. This is a credit card Applicant used for living expenses and to service other credit cards. The debt remains owing. (Tr. p. 49-50, and Government Exhibits 3, 4 and 5.)

1.j. Applicant is indebted to a creditor for a judgment entered against her in 2010 in the approximate amount of \$24,905.16. Applicant explained that she financed this car in about 2008. In 2010, she and her children were trapped on the road in the car during a flood. The car was electric, sat low, and the water prevented Applicant from opening the door or windows and they were trapped and could not get out. They were rescued by the Fire Department and Applicant never saw the car again. The car was a total loss because it was flooded, submerged in muck, full of water and mud. At the time, Applicant had GAP insurance. She contacted the creditor about the incident. She understands that the creditor was compensated for the car. Later in 2010, Applicant was served with a summons to go to court. She told the court the same thing. She stated that she was no longer the owner of the vehicle as of February 2010. She stated that the DMV indicated that there were several owners of the vehicle since she owned it. The court found against the Applicant. (Government Exhibit 6.) Applicant's wages are currently being garnished on a weekly basis in the amount of \$337. (Tr. p. 39.) Applicant believes that she has already made about \$18,000 in garnishment payments. She stated that she is not sure how much she owes or how longer the payments will be garnished.

Applicant stated that in 2021, for about three months, she spent \$150 to hire a financial counselor to assist her in resolving her delinquent debts. She was initially paying them a minimal balance to dispute things and get them off of her credit reports. She then realized that she could do what they were supposed to be doing. She also realized that they were just collecting the minimum payment and were not helping her. (Tr. pp. 51-52, Government Exhibits 3, 4 and 5.)

Applicant currently earns about \$60,000 annually. She lives paycheck to paycheck. She has no savings account and no 401k. (Tr. pp. 53-54.)

## **Policies**

When evaluating an applicant's suitability for a security clearance, 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. Two are potentially applicable in this case:

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

Applicant has a history of financial hardship. Her actions or inactions both demonstrated a history of not addressing her debts and an inability to do so. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under the Financial Considerations guideline 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, or a death, divorce, or separation), 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.

Applicant has incurred delinquent debt that she could not afford to pay because she has either been unemployed, underemployed, or spending more than she afford. She has recently directed her focus at resolving her delinquent debts. Applicant's wages are currently being garnished to satisfy a judgment entered against her. She has no available money to pay any other debts. Applicant's history of financial hardship, combined with periods of irresponsibility and inaction for so long casts doubt on her

current reliability, trustworthiness, or good judgment. Applicant needs more time to show the Government that she can and will continue to properly resolve her financial delinquencies with regular systematic payments and consistency. None of the mitigating conditions are applicable.

There is insufficient evidence in the record to show that Applicant's delinquent debts have been resolved. Overall, Applicant shows little progress towards resolving her debts. She still owes a significant amount of money to her creditors that she obviously cannot afford to pay or has simply ignored. There is insufficient evidence in the record to show that the Applicant has carried her burden of proof to establish mitigation of the government security concerns under Guideline F.

### **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. In the event that Applicant follows through with her commitment to show financial responsibility, sometime in the future she may be found to be sufficiently reliable to properly protect and access classified information.

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 concern.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a. through 1.i.	Against Applicant
Subparagraph 1.j.	For 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 eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson  
Administrative Judge