



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



In the matter of: )  
)  
) ISCR Case No. 22-00880  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Erin Thompson, Esq., Department Counsel  
For Applicant: *Pro se*

10/29/2024

---

**Decision**

---

LOUGHRAN, Edward W., Administrative Judge:

Applicant did not mitigate the security concerns under Guideline F (financial considerations). Eligibility for access to classified information is denied.

**Statement of the Case**

On July 5, 2022, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F. Applicant responded to the SOR on August 1, 2022, and requested a hearing before an administrative judge. The case was assigned to another administrative judge on November 1, 2022. The hearing convened as scheduled on December 5, 2022.

**Evidentiary and Procedural Rulings**

**Evidence**

Government Exhibits (GE) 1 through 4 were admitted in evidence without objection. Applicant testified, but she did not submit any documentary evidence. The record was held open for Applicant to submit documentary evidence. She submitted a

memorandum and five additional documents that are marked Applicant Exhibits (AE) A through F and admitted in evidence without objection.

The previous administrative judge was unable to complete the decision, and the case was reassigned to me on October 16, 2024. I informed Applicant that I had the current record, which consists of the pleadings (SOR and response), transcript, and exhibits, including her exhibits submitted post-hearing. I offered her three choices on how to proceed: 1) I would issue the decision based on the current record; 2) I would give her reasonable time to supplement the record with additional documentary evidence; 3) we would go back on the record, and she could present additional evidence, by way of testimony, witnesses, and documents, and I would allow opening statement and closing argument. On October 17, 2024, she chose not to submit anything additional, and agreed that I would issue the decision based on the current record. Email traffic is marked Hearing Exhibit (HE) V.

### **Findings of Fact**

Applicant is 31 years old. As of the date of the hearing, she was an employee of a defense contractor, where she had worked for about two years. She served on active duty in the U.S. military from 2012 until she was honorably discharged in 2016. She served in the National Guard from 2016 until she was honorably discharged in 2021. She seeks to retain a security clearance, which she has held since her initial service in the military. She is a high school graduate. She married in 2013, separated in about 2017, and divorced in August 2022. She has two children from the marriage and a child with her current partner. (Tr. at 10-11, 17-27; GE 1, 4; AE E, F)

The SOR alleges six delinquent debts totaling about \$40,395. Applicant admitted owing all the debts, except she attributed the debts to the conduct of her abusive and controlling ex-husband. The debts are all listed as individual accounts on a credit report obtained in March 2022. (Applicant's response to SOR; GE 2, 3; AE A)

SOR ¶ 1.a alleges a charged-off debt of \$16,960 owed on the deficiency balance of an auto loan after the vehicle was repossessed. Applicant bought this vehicle for her ex-husband and financed it in her name only because he had bad credit. She stated that she bought the vehicle in about 2018 during a period during which she hoped they would reconcile, but they did not. She bought the vehicle in the state where she was living with the children during a period when he was visiting the children for about four or five days. He then drove the vehicle back to a different state where he was living. He was supposed to maintain the payments, but he did not. The vehicle was repossessed without her knowledge. (Tr. at 28-35, 41-45; Applicant's response to SOR; GE 2; AE A)

SOR ¶¶ 1.b through 1.f allege delinquent debts totaling about \$23,435. The debts are loans or credit card accounts and are all in Applicant's name only. She stated that her ex-husband handled the family's finances and either opened the accounts in her name without her knowledge or ran the balances up without her knowledge. She asked her cousin who is a police officer if anything could be done, but he stated that since there was no proof, nothing could be done. Her ex-husband had an attorney for the

divorce, but she did not. There is no evidence that the divorce decree directed him to pay any of the SOR debts. (Tr. at 31-38, 45-56, 69-72; Applicant's response to SOR; GE 2)

In December 2021, the DoD requested information from Applicant about her finances. She provided an undated response and stated:

The debt outlined in the letter is debt that my husband accrued in my name while we have been separated these last five years. This debt has not been appointed by the court for him to pay yet, due to the fact that our divorce has not been finalized. Currently, I have no intention on paying back this debt. If the court does not transfer this debt out of my name and it then makes me responsible for the debt I will then have to figure something out to pay it back. (GE 3)

Applicant provided similar information in her August 2022 response to the SOR in which she wrote:

All the debt above was accrued without my knowledge. We are still currently going through a 5-year divorce. I have not made a payment or a repayment arrangement because I am fighting to have my ex take on the debt above. I am financially stable, and I do not live outside my means. If I am unable to prove he caused this debt, and it is now my obligation to repay I will start to pay off all the above debt. It is not my intention to never repay. I would just like the opportunity to have him take on the debt.

Applicant's ex-husband did not pay child support while they were separated. Their divorce decree directed him to pay \$375 a month, plus a small amount in arrearages. As of the hearing, he made one \$375 payment. His wages were not being garnished as of the date of the hearing. (Tr. at 25-26, 36-41, 68-69)

Applicant testified that she decided to pay or settle the SOR debts. Her finances were stable. Her salary was about \$67,000 a year, and she received about \$1,800 a month in disability payments from the Department of Veterans Affairs (VA). She shared living expenses with her partner. She received financial counseling. (Tr. at 32, 43-52, 59-62, 65; AE A)

Applicant wrote in her post-hearing memorandum that once she received her income tax refund, she intended to "reach out to all the companies and creat[e] a payment arrangement." Since she chose not to supplement the record, there is no evidence that she made any arrangements with her creditors. (AE A)

Applicant submitted documents and letters attesting to her excellent performance of duties in the military and her strong moral character. The authors praised her dependability, proficiency, initiative, efficiency, work ethic, professionalism, leadership, dedication, and trustworthiness. She is described as "a role model of impeccable character." (AE B-F)

## 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 a history of financial problems, including delinquent debts. AG ¶¶ 19(a) and 19(c) are applicable.

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.

Applicant attributed her delinquent debts to the conduct of her abusive and controlling ex-husband. He handled the family's finances, and without her knowledge, he opened accounts in her name and ran the balances up on accounts. He convinced her while they were separated to buy a car for him in her name because he had bad credit. They were separated, living in different states, and he had bad credit, which should have put her on notice that it was a bad idea. He had a lawyer for their divorce; she did not; and the debts were apparently not attributed to him. He did not pay any child support before the divorce and had only made one \$375 payment as of the date of the hearing. Her ex-husband's actions regarding the loans and credit cards were beyond her control; the deficiency balance on the repossessed vehicle was within her control, as she should never have purchased the vehicle in the first place.

This is a unique case because Applicant did not have a track record of debt repayment when the record closed in February 2023. She testified that she planned to pay or settle the debts, and she apparently had the financial means to start doing so. Her salary was about \$67,000 a year; she received about \$1,800 a month in VA disability payments; she shared living expenses with her partner; and child support was ordered by the court. Since she chose not to supplement the record, there is no evidence that she made any arrangements with her creditors.

I accept Applicant's testimony that her ex-husband was the cause of most of her financial problems. However, she has been promising since at least 2022 that she will start resolving her debts, but there is no evidence that she has done anything about them. 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." I am obligated to follow that directive.

There is insufficient evidence for a determination that Applicant's financial problems will be resolved within a reasonable period. I am unable to find that she acted responsibly under the circumstances or that she made a good-faith effort to pay her debts. Her financial issues are recent and ongoing. They continue to cast doubt on her current reliability, trustworthiness, and good judgment. The above mitigating conditions, individually or collectively, are insufficient to overcome financial considerations security concerns.

## **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 also considered Applicant's honorable military service and favorable character evidence.

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.f:	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.

---

Edward W. Loughran  
Administrative Judge