



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



In the matter of:	)	
	)	
	)	ISCR Case No. 23-01699
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Adrienne Driskill, Esq., Department Counsel  
For Applicant: *Pro se*

11/06/2024

**Decision**

GARCIA, Candace Le'i, Administrative Judge:

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

**Statement of the Case**

On August 10, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). The action was taken under Executive Order (Exec. Or.) 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) implemented by DOD on June 8, 2017.

Applicant submitted a response to the SOR (Answer) on November 14, 2023, and elected to have her case decided on the written record in lieu of a hearing. The Government's written case was submitted on March 22, 2024. A complete copy of the file of relevant material (FORM) was provided to Applicant and she was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on May 15, 2024. Her response was due on June 14, 2024. Applicant did not provide a response to the FORM. The case

was assigned to me on September 4, 2024. The Government's documents, identified as Items 1 through 7 in its FORM, are admitted in evidence without objection.

### **Findings of Fact**

Applicant admitted SOR ¶¶ 1.a-1.b and 1.d-1.g, with explanation. She wrote in her Answer, "I admit/deny" in response to SOR ¶ 1.c, so I am construing her response as a denial of that allegation. (Item 2)

Applicant is 43 years old. She married in 2011 and divorced in 2022. She has an 11-year-old child. She lives with her boyfriend. She graduated from high school in 2000. She has worked as a security officer for her employer, a DOD contractor, since July 2019. She has never held a security clearance. (Items 3-4)

The SOR alleges that Applicant had seven delinquent consumer debts, totaling \$16,676. The allegations are established by Applicant's admissions in her Answer, her November 2022 security clearance application (SCA), her background interviews with an authorized DOD investigator in December 2022 and February 2023, and credit bureau reports (CBRs) from December 2022, June 2023, and March 2024. (Items 2-7)

During her background interviews, Applicant attributed her delinquent debt to the COVID-19 pandemic, her health issues, her significant other's fatal neurological disease, both of their unemployment, and lending money to her family. She incurred debt when she utilized credit cards to pay for daily living expenses and pay her student loans. She indicated she sent letters to each of her creditors requesting debt settlement and payment plans to resolve her debt. She further indicated her financial situation was improving as she was properly budgeting, managing her debt, and saving. She was prioritizing her debts and planned to be debt free by December 2024. There is no evidence in the record that she has received financial counseling. (Item 4)

SOR ¶ 1.a is for a credit card in collection for \$1,587. Applicant stated in her Answer that she incurred this debt for a rental car charge. She stated she made a few payments in accordance with a payment arrangement but stopped because she did not think it was fair that the credit card company permitted a charge that was over her available credit limit. (Items 2, 5-7)

SOR ¶ 1.b is for a \$1,002 charged-off credit card. Applicant stated in her Answer, "[n]eglected due to illness of my significant other/job loss because of Covid." (Items 2, 5-7)

SOR ¶ 1.c is for an insurance account in collection for \$836. Applicant stated in her Answer, "[b]alance is from an accident my brother had while being on my insurance policy." This debt is not reported on the most recent CBR from March 2024. (Items 2, 6-7)

SOR ¶ 1.d is for an account in collection for \$675. Applicant stated in her Answer, “[n]eglected due to illness of my significant other/job loss because of Covid.” (Items 2, 5-7)

SOR ¶ 1.e is for a \$503 charged-off account. Applicant stated in her Answer, “[n]eglected due to illness of my significant other/job loss because of Covid.” (Items 2, 5-7)

SOR ¶ 1.f is for an account in collection for \$449. Applicant stated in her Answer, “[n]eglected due to illness of my significant other/job loss because of Covid.” This debt is not reported on the most recent CBR from March 2024. (Items 2, 6-7)

SOR ¶ 1.g is for a \$11,624 charged-off auto loan. Applicant obtained the loan as a favor for a family member. The car was repossessed when this individual fell behind on payments without notifying Applicant. The most recent CBR from March 2024 reflects this account was “paid for less than full balance” and has a zero balance. This debt is resolved, but she did not provide information about what steps she took to resolve it. (Items 2-3, 5-7)

Applicant’s most recent CBR from March 2024 reflects an additional delinquent debt that was not alleged in the SOR. It is for an auto account that is past due in the amount of \$544, with a total loan balance of \$17,499. This new debt may not be an independent basis for revoking Applicant’s clearance, but I will consider it in evaluating her evidence of extenuation, mitigation, or changed circumstances, and in my whole-person analysis. I have considered this unalleged debt for these limited purposes. (Item 5)

## **Policies**

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 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, these guidelines are applied 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(a), 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 access to

classified information 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. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and 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 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.

Section 7 of Exec. Or. 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* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F: Financial Considerations**

AG ¶ 18 expresses the security concern pertaining to financial considerations:

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.

AG ¶ 19 describes conditions that could raise a security concern and may be disqualifying. I considered as relevant AG ¶ 19(a), an “inability to satisfy debts,” and AG

¶ 19(c), “a history of not meeting financial obligations.” Applicant has a history of not paying her debts. AG ¶¶ 19(a) and 19(c) apply.

Of the mitigating conditions under AG ¶ 20, I have determined the following to be relevant:

(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; and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Circumstances beyond Applicant’s control contributed to her delinquent debts. While the most recent CBR from March 2024 reflects that she resolved the largest of her delinquent debt in SOR ¶ 1.g, she has not provided documentation to corroborate her statements that she is resolving her remaining delinquent debts. Moreover, the most recent CBR from March 2024 reflects that she has incurred an additional delinquent debt. Despite her explanation for the reason her debt became delinquent, she did not provide sufficient evidence that she acted responsibly under her circumstances. She did not provide evidence that she initiated or is adhering to a good-faith effort to repay overdue creditors. There are not clear indications that her financial problems are being resolved or are under control. I find that her remaining financial problems continue to cast doubt on her current reliability, trustworthiness, and judgment. AG ¶¶ 20(a), 20(b), and 20(d) are not established.

### **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.

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. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. I conclude that 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
Subparagraph 1.g:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Candace Le'i Garcia  
Administrative Judge