



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



In the matter of: )  
)  
) ISCR Case No. 23-02653  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Aubrey De Angelis, Esq., Department Counsel  
For Applicant: *Pro se*

01/31/2024

**Decision**

CEFOLA, Richard A., Administrative Judge:

**Statement of the Case**

On March 18, 2024, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guideline F (Financial Considerations). The SOR further informed Applicant that, based on information available to the government, DoD adjudicators could not make the preliminary affirmative finding it is clearly consistent with the national interest to grant or continue Applicant’s security clearance.

Applicant answered the SOR on May 8, 2024, and requested a hearing before an administrative judge. (Answer.) The case was assigned to me on August 20, 2024. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on August 26, 2024, scheduling the hearing for October 1, 2024. The hearing was convened as scheduled. The Government offered Exhibits (GXs) 1 through 6, which were admitted into evidence. Applicant testified on her own behalf and called one witness. Applicant offered a packet of documents, which I marked Applicant’s Exhibit (AppX) A, which was

admitted into evidence. The record was left open until November 1, 2024, for receipt of additional documentation. On October 29, 2024, Applicant offered a packet of documents, which I marked Applicant's Post-Hearing Exhibit (PHX) A, and admitted into evidence. DOHA received the transcript of the hearing (TR) soon after the hearing.

### **Findings of Fact**

Applicant admitted to all the allegations in the SOR, with explanations. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 62-year-old employee of a defense contractor. She has been employed with the defense contractor since March of 2023. She is divorced, and has four adult children, ages "42, 40, 35 and 27." Applicant blames much of her financial difficulties to quitting her job in May of 2022, due to "another employee that (*sic*) was toxic." (TR at page 13 line 16 to page 17 line 20, and GX 1 at pages 5, 10, 11, 17 and 19~21.) Applicant's supervisor testified favorably on her behalf. (TR at page 38 line 19 to page 41 line 24.)

### **Guideline F - Financial Considerations**

1.a. Applicant admits that she has a past-due debt to Creditor A in the amount of about \$6,934. A fiscal intermediary (FI) was addressing this debt on behalf of Applicant, but when she quit her job in 2022, she ceased making payments through her FI. (TR at page 25 line 18 to page 28 line 18.) This past-due debt remains outstanding.

1.b. Applicant admits that she had a past-due debt to Creditor B in the amount of about \$4,948. She is addressing this debt through monthly payments of \$315 to her FI. (TR at page 28 line 19 to page 98 line 3, AppX A at pages 5~7, and PHX A at pages 5~6.) This allegation is found for Applicant.

1.c. Applicant admits that she has a past-due debt to Creditor C in the amount of about \$2,550. An FI was addressing this debt on behalf of Applicant, but when she quit her job in 2022, she ceased making payments through her FI. (TR at page 29 line 24 to page 33 line 16.) This past-due debt remains outstanding.

1.d. Applicant admits that she had a past-due debt to Creditor D in the amount of about \$340. She has paid this debt, as evidenced by documentation from Creditor D. (TR at page 33 line 17 to page 34 line 3, and AppX A at page 1.) This allegation is found for Applicant.

1.e. Applicant admits that she had a past-due debt to Creditor E in the amount of about \$380. She has paid this debt, as evidenced by documentation from Creditor E's representative. (TR at page 34 lines 4~12, and AppX A at page 13.) This allegation is found for Applicant.

1.f. Applicant admits that she owed delinquent income taxes to the Internal Revenue Service (IRS) in the amount of about \$9,683, for tax years 2013, and 2015~2019. This tax debt is the result of Applicant claiming seven tax exemptions, when she in fact was entitled to claim at most three exemptions. (TR at page 17 line 21 to 25 line 1.) She is making monthly payments of \$300 towards this IRS tax debt; and as such, the total amount owed has been reduced to \$4,264. (AppX A at pages 9~12, and PHX A at pages 8~10.)

## **Policies**

When evaluating an applicant's national security eligibility, 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 national security eligibility.

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. 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 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.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

A person who applies for access to classified information seeks to enter 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 protect or 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 Executive Order (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 relating to the guideline 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. Four are potentially applicable in this case:

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations;
- (d) deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, expense account fraud, mortgage fraud, filing deceptive loan statements and other intentional financial breaches of trust; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

Applicant had significant past-due indebtedness, and fraudulent income tax filings. The evidence is sufficient to raise these disqualifying conditions.

AG ¶ 20 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 20 including:

(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

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Applicant's financial problems are ongoing. She still has about \$9,484 of outstanding debt, and \$4,264 of income tax delinquencies. I cannot ignore Applicant's fraudulent tax filings going back over ten years ago, covering a period of seven years; and as such, allegation 1.f is found against Applicant. She has not demonstrated that future financial problems are unlikely. Mitigation under AG ¶ 20 has not been established. Financial Considerations is found against Applicant.

### **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 facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Applicant is respected by in the workplace. (TR at page 38 line 19 to page 41 line 24, and PHX A at page 4.) She performs well at her job. However, overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to 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 ¶ E3.1.25 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	Against Applicant
Subparagraphs 1.d and 1.e.:	For Applicant
Subparagraph 1.f:	Against 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 Applicant national security eligibility for a security clearance. Eligibility for access to classified information is denied.

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Richard A. Cefola  
Administrative Judge