



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



In the matter of: )  
)  
) ISCR Case No. 23-02164  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Nicole Smith, Esq., Department Counsel  
For Applicant: *Pro Se*

07/11/2024

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**Decision**

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RICCIARDELLO, Carol G., Administrative Judge

Applicant failed to mitigate the security concerns under Guideline F, financial considerations. Eligibility for access to classified information is denied.

**Statement of the Case**

On October 31, 2023, the Department of Defense (DOD) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The action was taken 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) effective within the DOD on June 8, 2017.

Applicant answered the SOR on November 3, 2023. She elected to have her case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's file of relevant material (FORM), and Applicant received it on February 22, 2024. She was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. The Government's evidence is identified as Items 2 through 6 (Item 1 is the SOR). Applicant did not submit a response to the FORM or object to the Government's evidence. Items 2-6 are admitted into evidence. The case was assigned to me on June 12, 2024.

## **Findings of Fact**

Applicant admitted all the SOR allegations. Her admissions are incorporated into the findings of fact. After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact.

Applicant is 31 years old. She has attended college from May 2022 to the present. She has not earned a degree. She married in 2015 and divorced in October 2018. She remarried in June 2020 and separated from her spouse in September 2021. She has been in a cohabitated relationship since October 2022. Applicant has two children ages 12 and 8 years old. She served in the Navy Reserve from October 2013 to July 2017. She received a General Discharge under Honorable Conditions. She has been employed by her current employer, a federal contractor since September 2022. (Item 3)

Applicant completed a security clearance application (SCA) in March 2023. In it, she disclosed periods of unemployment from May 2021 to July 2021, December 2021 to March 2022, and July 2022 to September 2022. In response to questions about her finances, she disclosed she had a vehicle repossessed for failure to pay a loan she cosigned for her ex-boyfriend. (Item 3)

Applicant was interviewed by a government investigator in May 2023. She was confronted with the debt in SOR ¶ 1.g (\$24,531) for the repossessed vehicle. She told the investigator that she cosigned the loan for her boyfriend, and he stopped paying the loan when they broke up. She could not afford to make her car payment and this loan. She intended to set up a payment plan in the next couple of months once her cohabitant begins a new job. She did not provide evidence that the debt is being resolved. (Item 4)

Applicant admitted the debts in SOR ¶¶ 1.a (\$498), 1.b (\$731), 1.c (\$2,278), 1.d (\$1,185), 1.e (\$2,160), 1.f (\$796), and 1.h (\$2,771). These are consumer debts, a cellular service debt, credit cards, and medical debts. When interviewed by the government investigator she said she was unaware of some of the debts because she had moved a lot and the bills were likely not forwarded to her. She told the investigator that she would contact the creditors to address the debts, set up payment plans, or dispute the debts. She said she would research each individual account to make sure it belonged to her, and she would begin checking her credit report. (Items 2, 3, 4)

Applicant attributed her financial problems to her past relationships, moving around and the bills getting lost, and unemployment. She told the government investigator in March 2023 that she is now employed with a good company, which will help her finances. In addition, her cohabitant was to start a new job with the same employer and that would dramatically help her finances because he could contribute more to the monthly expenses. (Item 4)

Applicant's admissions in the SOR, SCA, and statements to the government investigator, along with credit reports from March 2023 and October 2023 substantiate the debts alleged in the SOR. (Items 2, 3, 4, 5, 6)

## **Policies**

When evaluating an applicant's suitability for 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 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(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." 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. Directive ¶ E3.1.15 states 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 as to obtaining 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 EO 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* 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.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

AG ¶ 19 provides conditions that could raise security concerns. The following are potentially applicable:

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

Applicant has delinquent debts totaling approximately \$34,950 that she has been unable to pay. The above disqualifying conditions apply.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. The following mitigating conditions under AG ¶ 20 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 acknowledged she owed the debts. She attributed her failure to pay her debts to her past relationships, moving, and periods of unemployment. Her unemployment was a condition beyond her control. For the full application of AG ¶ 20(b), she must have acted responsibly under the circumstances. She has not provided evidence that she has contacted any of the creditors, made payment arrangements, participated in financial counseling, disputed the debts, or made any good-faith effort to repay the creditors. Her delinquent debts remain current and unresolved. None of the above mitigating conditions 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 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 considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Applicant has not met her burden of persuasion. 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 security concerns arising under Guideline F, financial considerations.

### **Formal Findings**

