



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



In the matter of:

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ISCR Case No. 23-02855

Applicant for Security Clearance

Appearances

For Government: Cynthia Ruckno, Esq., Department Counsel

For Applicant: *Pro se*

02/20/2025

Decision

Curry, Marc E., Administrative Judge:

Applicant presented insufficient evidence of what progress, if any, that she has made to resolve her delinquent debt. Under these circumstances, she failed to mitigate the financial considerations security concerns. Her application for a security clearance is denied.

Statement of the Case

On January 22, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations, explaining why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The DCSA CAS took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the National Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017. On February 13, 2024, Applicant answered the SOR, and she requested a decision based on the record evidence rather than a hearing. On April 2, 2024,

Department Counsel prepared a File of Relevant Material (FORM), setting forth the Government's arguments against Applicant's security clearance worthiness. The FORM contains seven attachments, identified as Item 1 through Item 7.

Applicant received a copy of the FORM on March 12, 2024. She was given 30 days to file a response. She did not file a response. The case was assigned to me on June 6, 2024. After I received the FORM, I admitted all the attachments.

Findings of Fact

Applicant is a 31-year-old married woman with one child, age 3. (Item 3 at 5) Since graduating from high school, she has earned an associate degree in 2014, and a bachelor's degree, together with a master's degree, in 2021. (Item 3 at 12) She works for a defense contractor as a human resources analyst. (Item 3 at 13)

Per the SOR, Applicant has incurred 11 delinquent debts, totaling \$24,575. (Item 1) She admits all of them except the debts set forth in subparagraphs 1.c and 1.j. (Item 1 at 3-4) These disputed debts total \$5,275. She did not explain the basis of her denial or provide any evidence that she paid or legitimately disputed these debts.

Applicant attributes her financial problems to an abusive relationship from 2009 to 2017. (Item 4 at 9) She contends that her finances began stabilizing after she ended the relationship and met someone else, whom she later married in 2020. By the fall of 2023, she had set up payment plans with the creditors alleged in subparagraphs 1.i and 1.k. She was scheduled to begin paying the debt alleged in subparagraph 1.i, totaling \$350, through monthly \$29 payments beginning November 17, 2023, and she was to begin paying the debt alleged in subparagraph 1.i, totaling \$3,593, through \$50 monthly payments, beginning in November 2023. (Item 4 at 12-17) Despite having through April 2, 2024, to respond to the FORM, she never provided any evidence supporting whether she had been complying with these repayment arrangements. These are the only SOR debts Applicant claimed that she had been satisfying.

In response to interrogatories completed on October 23, 2023, Applicant provided a copy of her monthly budget. According to the budget, she has \$2,681 of monthly discretionary income after paying her monthly expenses and creditors. (Item 4 at 18) In February 2020, Applicant vacationed on a luxury cruise. (Item 3 at 32)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be

considered 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 overall 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 ¶ 1(d) 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. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

Analysis

Guideline F: Financial Considerations

The security concern under this Guideline states, "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." (AG ¶ 18)

Applicant's history of financial problems triggers the application of AG ¶ 19(a), "inability to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations."

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 debt; 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 actions to resolve the issue.

Applicant's contention that her finances were strained by an abusive relationship constitutes a circumstance beyond her control, as set forth in 20(b). However, for this mitigating condition to apply in its entirety, she must demonstrate that she acted responsibly, either through satisfying debts, verifying disputed debts with creditors, complying with payment plans, or seeking help from financial counselors. Applicant's submission of draft payment plans for two of the SOR debts (subparagraphs 1.i and 1.k), without providing supporting documentation of her compliance and history of payments to these creditors is insufficient to meet her burden of mitigation. Under this setting, AG ¶ 20(b) only applies insofar as the debts were caused by circumstances beyond her control, but Applicant failed to satisfy the second prong that she acted responsibly to resolve her debts under the circumstances. AG ¶ 20(c) nor AG ¶ 20(d) apply.

Applicant did not explain the basis of her denial or provide any evidence that she paid or legitimately disputed these debts, as alleged in subparagraphs 1.c and 1.j. Therefore, AG ¶ 20(e) does not apply. Her finances are neither current nor under control, which casts doubt on her reliability, trustworthiness, and good judgment. AG ¶ 20(a) does not apply.

In sum, I conclude that Applicant has failed to mitigate the financial considerations security concerns.

Whole-Person Concept

I considered the whole-person concept factors in my analysis of the disqualifying and mitigating conditions, discussed above, and they do not warrant a favorable conclusion.

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.k:	Against 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 or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Marc E. Curry
Administrative Judge