



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



In the matter of:)
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Applicant for Security Clearance)
_____)

ISCR Case No. 24-00224

Appearances

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

03/18/2025

Decision

MURPHY, Braden M., Administrative Judge:

Applicant has incurred numerous delinquent debts, including debts to private creditors as well as past-due federal income taxes. She indicated that she has set up payment plans to address her debts but did not provide sufficient documentary proof of her good-faith efforts to mitigate resulting financial considerations security concerns. Applicant’s eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on November 20, 2022. On April 4, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DSCA CAS) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. (Item 1) The CAS issued the SOR under Executive Order 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 Security Executive Agent Directive (SEAD) 4, *National Security Adjudicative Guidelines* (AG) effective within the DOD on June 8, 2017.

Applicant answered the SOR on May 11, 2024, and elected to have her case decided by an administrative judge of the Defense Office of Hearings and Appeals (DOHA) on the administrative (written) record, instead of a hearing. With her SOR response, she also provided three documents reflecting efforts to address some of her debts. I have marked these documents as Applicant Exhibits (AE) A, B, and C. (Item 2)

On July 10, 2024, DOHA Department Counsel submitted the Government's file of relevant material (FORM), including documents identified as Items 1 through 8. DOHA mailed the FORM to Applicant on July 19, 2024, and she received it on July 24, 2024. She was given 30 days from receipt of the FORM to submit materials in response, and to object to the Government's evidence.

On or about September 11, 2024, having received no response from Applicant, the case was forwarded to the DOHA hearing office. The case was assigned to me on or about November 11, 2024. The SOR and the Answer (Items 1 and 2) are the pleadings in the case. Government Items 3 through 8 and AE A through C are admitted without objection.

Findings of Fact

In Applicant's answer to the SOR, she admitted the debts at SOR ¶¶ 1.a through 1.e, 1.g, 1.i through 1.q, 1.s, and 1.t. For most of these debts, she asserted that she was setting up a payment plan to resolve them. She denied the debts at SOR ¶¶ 1.f and 1.h, saying she had no knowledge of those accounts. She denied the debt at SOR ¶ 1.r, asserting it had been paid. She provided documents relating to some of the debts. (Item 2; AE A, B, C) Her admissions are included in the findings of fact. Additional findings follow.

Notwithstanding Applicant's admission to SOR ¶ 1.i, Department Counsel moved to withdraw that allegation. (FORM at 1) SOR ¶ 1.i is therefore withdrawn.

Applicant is 56 years old. She attended high school in the 1980s but did not earn a diploma. She has been married to her second husband since the mid-1990s. She has two sons from her first marriage and a son and a daughter from her second marriage, all adults. Applicant's job history includes several years of sporadic employment. She was unemployed between 2013 and 2018. She spent about 18 months in auto sales (March 2018 to August 2019), was then unemployed for the next two years, until August 2021. Since then, she has been a truck driver, first for one employer (August 2021 to November 2022) and, since then for her current employer and clearance sponsor. (Item 3)

In answering questions on her SCA about her financial record, Applicant did not disclose that she had any specific delinquent debts; however, she referenced "Federal Tax Debt" in the comment section. (Item 3 at 33) In her subsequent background interview in January 2023, she explained that she had about \$30,000 in past-due federal tax debt from about tax years 2008 or 2009 and had been on a payment plan until she became unemployed in 2019. (Item 4 at 3) She also discussed numerous other delinquent consumer debts in her interview. (Item 4 at 3-6) In July 2023, Applicant submitted documents and information about her taxes, debts, and finances in response to an interrogatory from DOD. (Item 5)

Most of the SOR debts are detailed in credit reports from December 2022, November 2023, and July 2024. (Items 6, 7, 8, in reverse order) As alleged, the 20 SOR debts total approximately \$38,000 in consumer credit debts (SOR ¶¶ 1.a through 1.s) and \$30,000 in past-due federal income taxes (SOR ¶ 1.t), for a total of about \$68,000. (Item 1)

For almost all of the SOR debts, Applicant stated in her SOR response that she was setting up payment plans to address them, but she provided no supporting documentation unless cited below. She said, "I plan on taking care of all of my debt and paying it off." (Item 2)

SOR ¶ 1.a (\$5,961) is a credit-card account that has been charged off. (Item 6 at 4; Item 7 at 2; Item 8 at 3)

SOR ¶ 1.b (\$4,100) is an account that has been charged off by credit union E. (Item 7 at 2; Item 8 at 4)

SOR ¶ 1.c (\$4,038) is an account that has been charged off, also by credit union E. (Item 7 at 2)

SOR ¶ 1.d (\$3,505) is a department store credit-card account that has been placed for collection. Applicant admitted this debt but provided no further details. (Item 6 at 5; Item 7 at 2; Item 8 at 4)

SOR ¶ 1.e (\$2,623) is a credit-card account that has been charged off. (Item 7 at 3) As of July 2024, this balance was down to \$1,211. (Item 6 at 4) This debt is being paid.

SOR ¶ 1.f (\$2,272) is an account that has been charged off by a financial company. Applicant denied this debt, saying that she has no knowledge of it. It is listed on her credit reports. (Item 6 at 3; Item 7 at 3; Item 8 at 5)

SOR ¶ 1.g (\$1,628) is an account placed for collection by a lending company. (Item 7 at 3; Item 8 at 5) Applicant says she is on a payment plan for this debt, and she attached documentation of one payment, for \$110, in March 2024. (AE A)

SOR ¶ 1.h (\$797) is a credit account placed for collection. Applicant denied this debt, saying that she has no knowledge of it. It is listed on her credit reports. (Item 7 at 3; Item 8 at 6)

SOR ¶ 1.i (\$612) is a credit account that has been charged off by a large retail store. (Item 6 at 4-5; Item 7 at 3; Item 8 at 6)

SOR ¶ 1.j (\$509) is an account placed for collection. (Item 6 at 2; Item 7 at 4) This account has the same amount owed (\$509) as the debt at SOR ¶ 1.l, which was withdrawn.

SOR ¶ 1.k (\$385) is an account placed for collection by a lending company. (Item 7 at 4)

SOR ¶ 1.m (\$6,290) is a credit account that has been charged off by a bank. (Item 6 at 3; Item 8 at 3)

SOR ¶ 1.n (\$2,080) is a credit account that has been charged off by a bank. (Item 6 at 3)

SOR ¶ 1.o (\$1,725) is a credit account that has been placed for collection by a bank. (Item 8 at 6 -- \$1,725; Item 6 at 3 -- \$1,042) She attached documentation that as of late March 2024, she had made a \$136 payment and had \$956 left to pay on the debt. (AE C)

SOR ¶ 1.p (\$963) is a credit account with a large on-line retailer. (Item 8 at 6) This account is listed as having a \$0 balance on a July 2024 credit report. (Item 7 at 4) It is resolved.

SOR ¶ 1.q (\$231) is an account for a cable service that has been placed for collection. (Item 8 at 7)

SOR ¶ 1.r (\$131) is an account for a cable service that has been placed for collection. (Item 8 at 7) Applicant denies the debt and says it has been paid. She documented an \$85 payment to the creditor, paid by credit card in April 2024. (AE B)

SOR ¶ 1.s (\$58) is an account for a cable service that has been placed for collection. (Item 8 at 7) Applicant admits the debt but says it has been paid.

SOR ¶ 1.t (\$30,000) is Applicant's past-due federal income tax debt. The total alleged, which Applicant admits, is taken from the summary of her background interview, in which she explained that she had about \$30,000 in past-due federal tax debt from about tax years 2008 or 2009. She also said she had been on a payment plan until she

became unemployed in 2019. (Item 4 at 3) She was requested to provide state and federal tax transcripts for tax years 2008 and 2010. She requested them but submitted nothing further. (Item 5) None of the credit reports in the record show evidence of any state or federal tax liens.

Applicant was asked to detail information about the status of her various debts in an Interrogatory response she submitted in July 2023. She said she had made payment arrangements on some of the debts, starting with paying off debts of \$500 or less. She said her taxes became delinquent many years ago due to a business failure and poor accounting. She also said that her debts became past due “with COVID/being out of work, etc.” (I interpret this to mean that her ability to pay her debts was affected by the COVID-19 pandemic and related (or other) employment instability). She had submitted a proposed payment plan to the IRS and was awaiting a response. She gave no indication that any debt had been paid. (Item 5 at 3-10, 27)

Applicant did not respond to the FORM, so she provided no more recent information about the status of her debts or overall financial situation than what she provided in her SOR response or earlier.

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.” *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

The adjudicative 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(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. 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. 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 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.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline for financial considerations is set out, in relevant part, 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. . . .

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. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

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;
- (c) a history of not meeting financial obligations; and
- (f) . . . failure to pay annual Federal, state, or local income tax as required.

Applicant has numerous unpaid delinquent debts, as established by her admissions and credit reports. AG ¶¶ 19(a) and 19(c) apply.

Applicant disclosed that she had federal tax debt on her SCA, and she provided some details in her background interview. She estimated that she had about \$30,000 in federal tax debt as of about 2019, when she fell behind on her payment plan after becoming unemployed. None of the credit reports in the record show evidence of any state or federal tax liens, so the \$30,000 in federal tax debt alleged (SOR ¶ 1.t) is based not on IRS documents but rather on her own statements and admission to the allegation. Nonetheless, this is sufficient for AG ¶ 19(f) to apply to SOR ¶ 1.t.

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, or a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

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

(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; 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.

AG ¶ 20(a) does not apply. Applicant incurred her debts several years ago, but the debts remain unresolved. They continue to cast doubt on her current judgment, reliability, and trustworthiness.

Applicant experienced financial problems and fell behind on her debts during the COVID-19 pandemic and related unemployment. But her tax debts have been unresolved for years before then. Even if her debts are largely attributable to circumstances beyond her control, she still must show reasonable effort to address her debts under the circumstances. AG ¶ 20(b) therefore does not fully apply.

Some of Applicant's debts have been, or are being, paid. This includes SOR ¶¶ 1.e, 1.o, 1.p, 1.r, and 1.s. AG ¶ 20(d) applies to them. The remaining debts remain

unresolved, and Applicant set forth no documents or explanation as to how she intends to address them. With limited exception, she has not set forth a sufficient, documented, track record of payments regarding her SOR debts to establish good-faith effort towards paying or resolving them. AG ¶ 20(d) does not otherwise apply.

Applicant denies several debts, but, for most of those, they remain listed on her credit reports. She has not provided documentation sufficient to establish that her denials of responsibility are substantiated. AG ¶ 20(e) does not apply.

With respect to Applicant's tax debt, she has not made arrangements with the IRS to pay whatever taxes are owed, nor has she shown compliance with any such arrangements. AG ¶ 20(g) does not 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(a), 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 under all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Applicant did not provide sufficient evidence to mitigate the security concern raised by her delinquent debts. This does not mean that she cannot show such evidence in the future. But she needs to establish a documented track record of payments towards her debts, including her taxes. Overall, the record evidence leaves me with questions and doubts as to her eligibility for a security clearance.

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.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Subparagraphs 1.f-1.k:	Against Applicant
Subparagraph 1.l:	Withdrawn
Subparagraphs 1.m-1.n:	Against Applicant
Subparagraphs 1.o-1.p:	For Applicant
Subparagraph 1.q:	Against Applicant
Subparagraphs 1.r-1.s:	For Applicant
Subparagraph 1.t:	Against Applicant

Conclusion

Considering all of the circumstances presented, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Braden M. Murphy
Administrative Judge