



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



In the matter of:)
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Applicant for Security Clearance)
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ISCR Case No. 24-00490

Appearances

For Government: Tovah Minster, Esq., Department Counsel
For Applicant: *Pro se*

03/24/2025

Decision

MURPHY, Braden M., Administrative Judge:

The Government alleged security concerns under Guideline F (financial considerations) and Guideline E (personal conduct). Personal conduct security concerns are not established, but Applicant did not provide sufficient evidence to mitigate financial security concerns arising from her delinquent debts. Applicant's eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on September 26, 2023, in connection with an application for a job in the defense industry. On March 22, 2024, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F and Guideline E. The DOD took the action under Executive Order 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 National Security Adjudicative Guidelines (AG) effective within the DOD on June 8, 2017.

Applicant answered the SOR on or about April 17, 2024, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The case was assigned to me on December 10, 2024. On January 21, 2025, after contacting the parties, DOHA issued a notice scheduling the hearing for February 10, 2025. The hearing was to occur by video teleconference through an online platform.

The hearing convened as scheduled. Department Counsel submitted Government's Exhibits (GE) 1, 2, and 3. Applicant and her wife testified. Applicant did not provide any documents for submission as part of her case. The Government exhibits were admitted without objection. I initially left the record open until February 20, 2025, to allow Applicant the opportunity to submit additional exhibits. There was no response. On March 13, 2025, I emailed Applicant again and reopened the record until March 17, 2025, to provide her the chance to submit documents. There was no response, and the record closed on March 17, 2025. DOHA received the transcript (Tr.) on February 24, 2025.

Amendment to the Statement of Reasons

At the start of the hearing, Department Counsel moved to withdraw SOR ¶ 2.a under Guideline E, an allegation that Applicant denied in her SOR response, and an allegation for which the Government submitted no supporting evidence. The motion to withdraw SOR ¶ 2.a was granted without objection. The underlying circumstances of the allegation will not be discussed further. (Tr. 14-19)

Findings of Fact

Applicant admitted the delinquent debts alleged at SOR ¶¶ 1.a through 1.g with brief comments for each. She denied the allegations at SOR ¶¶ 2.a (now withdrawn) and 2.b, also with brief comments. Her admissions are incorporated into the findings of fact. Additional findings follow.

Applicant is 30 years old. She and her wife married in August 2022 but have been together since 2020. She lives with her two stepchildren, both teenagers. Applicant earned a high school diploma in 2013. She has worked as an armed security guard in various positions for the last 10 or 11 years. She currently works as a security guard in the gaming industry, in a job she began three weeks before the hearing. She earns \$18 an hour, for about 36 hours a week. (Tr. 11-12, 28-34, 77)

Before then, Applicant was most recently employed from January to September 2024 as a full-time security guard. She was terminated because her wife became

seriously ill, and Applicant had to take time away from work to care for her. Before then she worked in security and as a corrections officer. She has never worked in the defense industry before and has never held a clearance. She has applied for the clearance through a job application for a position as an armed security guard on a military base. She hopes to get the clearance so she can get the job and earn more money. (GE 1; Tr. 33-35, 42, 59)

The seven Guideline F allegations in the SOR (SOR ¶¶ 1.a – 1.g) are all delinquent debts that appear on Applicant's credit bureau report (CBR) dated September 30, 2023. (GE 3) As alleged, the debts total about \$16,700.

SOR ¶¶ 1.b, 1.c, 1.d (\$935 each) and SOR ¶ 1.f (\$645) are all past-due medical debts reported for collection to the same collection agency, for a combined total of \$3,450. (GE 3) They were all assigned in either March or April 2023 and reported for collection in September 2023. (GE 3) Applicant explained that she incurred medical debts due to trip(s) to the hospital for emergency treatment and surgery in 2020 due to a serious medical condition. This took some time as she needed a facility that would accept a charity case, since she had no medical insurance at the time. She thought the debts have been resolved. The debts alleged are likely minimum payments required by the patient, though this is not clear. Applicant is seeking to resolve the debts through charity care, though this is not yet established. She last researched her debts about six months ago. (SOR Response; Tr. 35-39, 71-72)

SOR ¶ 1.a (\$1,296) is a charged-off debt Applicant incurred for furniture items that she purchased for a family member, who Applicant thought had paid the bill. That was not the case, and the debt is listed on Applicant's CBR. (GE 3) Applicant had a falling out with the family member, an uncle, over this issue, and he declined to pay or to return the furniture. She provided no documentation to support her assertion that she was not responsible for the debt and provided no documentation of her efforts to otherwise pay or resolve it. (Tr. 52-53)

SOR ¶ 1.e (\$714) is a debt placed for collection by a cell phone company. (GE 3) Applicant purchased the phone from a large retail store for her mother and said she was told she had 30 days to return it at no cost. When she returned the phone near the end of the 30 days, she was told that she had only 15 days to return it and was now beyond that timeframe. She returned the phone but remains liable for the debt. She provided no documentation to support her assertion that she was not responsible for the debt and provided no documentation of her efforts to otherwise pay or resolve it. (SOR Response; GE 2, GE 3; Tr. 39-41, 81)

SOR ¶ 1.g (\$11,262) is the past-due balance owed after the resale of a repossessed vehicle. Applicant explained that she fell behind on payments for the vehicle after she lost her job, in 2019 or 2020. She had the vehicle repossessed voluntarily. She

said she is “pretty sure” she still owes on the debt. (SOR Response; GE 2, GE 3 Tr. 42-43, 53-54, 80)

Applicant said she first fell behind on her debts in 2019. She was unemployed for most of 2020. (GE 1; Tr. 54) She acknowledged that she has not made any payments on any of her SOR debts, despite being made aware of them at least during her interview. She has no other debts beyond what is alleged in the SOR. She is trying to keep up with her current bills. (Tr. 51-55)

Applicant’s wife, S, is employed full time. They rent their home and share household income and expenses. S keeps the household budget and pays the bills. Applicant is generally less involved. However, over the last few months, when S was very sick and unable to work, Applicant handled the finances and provided income for the household. They have limited savings, but S recently entered a 401(k)-pension plan. (Tr. 55-59, 63-70)

Applicant did not disclose any delinquent debts when she submitted her September 2023 SCA or report information about her financial record, even though a credit report from that month shows several past-due debts that she should have disclosed if she knew about them. (GE 1 at 31, GE 3)

Under Guideline E, Applicant denied SOR ¶ 2.b, which alleged that she deliberately failed to disclose any of her delinquent debts on her SCA. The fact that she denied the allegation puts the burden on the Government to prove it. Applicant said her wife helped her fill it out, which her wife confirmed. (Tr. 21, 67)

The summary of Applicant’s November 2023 background interview reflects that when she was asked about her financial history, she “freely disclosed that she had a vehicle involuntarily repossessed in 2019 or 2020,” and that she still owed more than \$10,000 on the loan. She discussed the circumstances of the vehicle purchase and said the vehicle was repossessed after she lost her job. She indicated that she had no plan to address the debt and did not intend to try to do so since she thought the resale should have taken care of any debt owed. She said she did not list the debt on her SCA because she forgot about it. (GE 2 at 3)

Applicant testified that she did not know about her debts when she filled out her SCA and was not trying to hide them from the Government. She has an “app” on her phone that she uses to check her credit and the SOR debts were not listed. She said that the interviewer sent her a copy of her credit report before her interview. (Tr. 45-50)

Applicant said that after her interview, she did not attempt to address her debts, though she stopped buying things on credit that she did not need. She asserted that she is not financially experienced. (Tr. 49-50) She said she is barely making ends meet at her

current hourly rate. It has been since 2017 that she had a job where she was able to pay her bills. (Tr. 42, 49-50, 59)

Applicant's wife S provided clarifying testimony about their finances and circumstances. She is a licensed practical nurse by training. They traveled from job to job during the COVID-19 pandemic but S now works from home handling medical records. She earns \$16 an hour. She is still recovering from her major surgery and is unable to drive. (Tr. 63-64, 69-70, 78,82)

S handles the finances in the home. She is aware of Applicant's debts. She said for SOR ¶ 1.a, Applicant's uncle was supposed to take up the payments for the furniture but never did. Applicant did not have insurance to cover her medical expenses. They now have insurance through S's job. (Tr. 75-77, 83-84)

S testified that Applicant "has lived and breathed security" for many years. Many security positions are "dead-end" jobs with little income and few benefits or job security. Applicant loves her work and is good at it. She gets along with others. (Tr. 68-69)

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 several 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; and
- (c) a history of not meeting financial obligations.

Applicant fell behind on several accounts during a period of unemployment and job instability several years ago. Her debts include an automobile repossession, some consumer debts, and debts for emergency medical care while she had no insurance. The

SOR debts are established by her admissions, statements, and by GE 2, the credit report in the record. AG ¶¶ 19(a) and 19(c) 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, 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; 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's ability to address her debts responsibly is impacted by her limited income. She also incurred debts for emergency medical services for a serious medical condition at a time when she had no insurance. These medical debts are not a security concern given their origin and their nature and are mitigated under AG ¶ 20(b) even though they remain outstanding. The remaining debts are also unresolved. Applicant has not addressed her other debts or attempted to pay or resolve them. She provided no documentation of any payments towards her debts, or efforts to dispute them. Applicant needs to establish a track record of financial stability and good-faith efforts towards resolving her debts before the resulting security concern can be considered mitigated. Other than as to the medical debts, no mitigating conditions fully apply.

Guideline E, Personal Conduct

AG ¶ 15 expresses the security concern for personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to

cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. . .

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations . . . determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

Under Guideline E, the SOR alleged that Applicant allegedly falsified her 2023 SCA by failing to disclose any of the SOR debts. She should have disclosed them, given the wording of the financial questions on the form. However, I also credit the fact that the interview summary reflects that she voluntarily disclosed her auto repossession, by far the largest debt alleged. Applicant credibly asserted that she did not deliberately fail to disclose her debts on her SCA. I find that AG ¶ 16(a) is not established and SOR ¶ 2.b is found for 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 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 in considering all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F and E in my whole-person analysis. I credit Applicant's dedication to her work in the security field, as she and her wife both testified to. However, this does not

outweigh the security concerns shown by her history of financial delinquencies. Her delinquent debts will remain a security concern until she shows a documented track record of good-faith efforts to resolve them and financial stability. 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 that while Guideline E personal conduct security concerns are not established, Applicant failed to mitigate the security concerns arising under Guideline F, financial considerations.

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
Subparagraph 1.a:	Against Applicant
Subparagraphs 1.b-1.d, 1.f:	For Applicant
Subparagraphs 1.e, 1.g:	Against Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	Withdrawn
Subparagraph 2.b:	For Applicant

Conclusion

Considering all 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