



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



In the matter of:

ISCRC Case No. 23-00589

Applicant for Security Clearance

Appearances

For Government: Jenny Bayer, Esq., Department Counsel
For Applicant: *Pro se*

04/01/2025

Decision

PRICE, Eric C., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Eligibility for access to classified information is granted.

Statement of the Case

On August 4, 2022, Applicant submitted a security clearance application (SCA). On April 19, 2023, the Department of Defense (DOD) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F. This action was taken under DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4 (SEAD 4), *National Security Adjudicative Guidelines* (December 10, 2016), for all adjudicative decisions on or after June 8, 2017.

Applicant responded to the SOR (Answer) on May 3, 2023, and requested a hearing before an administrative judge. The case was assigned to me on June 10, 2024. On August 9, 2024, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing via video teleconference on August 29, 2024. On August 15, 2024, Department Counsel amended the SOR. On August 26, 2024, Applicant's request to reschedule the hearing was granted. On October 3, 2024, DOHA issued a notice

rescheduling the hearing and I convened the hearing as rescheduled on October 24, 2024. Applicant responded to the SOR Amendments during the hearing. (SOR Amendment; Transcript (Tr.) 12-15)

Department Counsel offered Government Exhibits (GE) 1 through 5. Applicant testified and offered Applicant Exhibits (AE) A through F. The record was held open so Applicant could submit additional documentary evidence. She timely submitted AE G through R. GE 1 through 5 and AE A through R were admitted in evidence without objection. DOHA received the hearing transcript on November 1, 2024. The record originally closed on November 18, 2024. I reopened the record from February 27, 2025 to March 14, 2025 to provide Applicant an opportunity to provide additional documentary evidence; however, for reasons unclear from the record she did not respond to emails. (Hearing Exhibit (HE) IV)

Findings of Fact

The SOR, as amended, alleges 17 delinquent accounts totaling \$77,436, including \$52,581 in delinquent student loans and a foreclosure. (SOR ¶¶ 1.a through 1.q) In her response to the SOR and at hearing, Applicant admitted all allegations with explanation except SOR ¶ 1.I, which she denied. (Answer; Tr. 12-15) Her admissions are incorporated in my findings of fact.

Applicant is a 61-year-old logistics support specialist employed by a federal contractor since October 2006. She operated a small interior decorating business from 2016 to 2020 and hopes to restart the business in 2025. She honorably served on active duty in the Army from October 1981 to August 1992 and in the Army Reserve from August 1992 to August 1994. She is twice divorced (1991 and 2006) and has three adult children, ages 41, 33 and 31. She has earned numerous college credits but has not obtained a degree. She has held a security clearance since at least 1997. (GE 1; Tr. 19-23, 48-59, 148-151; AE H)

Applicant attributes her financial problems to underemployment, medical costs from contracting COVID-19 four times and other medical problems, monthly prescription costs of up to \$2,000, divorce, and costs associated with raising three children as a single parent, including signing for her youngest daughter's student loans. She was paid by her employer when she missed work because of illness, including COVID 19. (Tr. 159-162) She addressed smaller debts first because of her limited financial resources. Since receiving \$36,000 in retroactive disability benefits from the Department of Veterans Affairs (VA) in August 2024, she has paid some larger debts, and has paid or is resolving all debts alleged in the SOR except one. (Answer; Tr. 23, 30-35, 48-55, 68-71, 92-93, 142-143, 150-164, 181; AE D, AE I, AE L, AE N)

The evidence concerning the specific SOR allegations is summarized below.

SOR ¶¶ 1.a-1.c: student loans in collection for \$23,128, \$17,756, and \$11,697. Applicant admitted the allegations and reported all three accounts were in good standing. (Answer) From August 2014 to November 2016, she obtained three Parent Plus student loans to help pay for her daughter's education; loan payments were deferred until after

her daughter graduated in December 2018. (Tr. 167-168; GE 5 at 3; AE J at 5) She made payments from early 2019 to April 2020 and has not made a payment since because of financial inability, health concerns including contracting COVID-19 on three occasions, the COVID 19 pause on payments, and applications for student loan forgiveness. (Tr. 79-88, 111-113; GE 4 at 4) A September 2022 credit report shows the student loans were placed for collection in the amounts alleged in the SOR. (GE 3 at 2-3)

On August 19, 2024, Applicant applied for the “Fresh Start” program to get her student loans out of default. (AE A; Tr. 40-41, 81-82, 169-170) In October 2024, she received a payment schedule from the loan servicer showing a 120-month repayment plan with monthly payments totaling \$645, with the first payment due on November 14, 2024. (AE J) Applicant’s daughter is supposed to pay half of the monthly payments. (Tr. 172-173) As of October 2024, Applicant had paid about \$4,843 of interest on the student loans. (AE J at 5) An October 2024 credit report shows the accounts as current with balances of \$24,699, \$19,017, and \$12,439, respectively. (AE A, AE F at 59-61; Tr. 40-41, 69-88, 111-113, 145-146, 166-173)

SOR ¶ 1.d: credit account in collection for \$11,349. Applicant admitted the allegation. (Answer) Credit reports from September 2022 and August 2024 show this loan account was placed for collection of \$11,349 and past due for \$6,689 with a balance of \$15,716, respectively. Applicant used the loan to pay her mortgage. The creditor filed a civil suit in December 2018 and obtained a judgement against Applicant in April 2019. She said she was unaware of the lawsuit until she went to settle the debt in August 2024. She did not make payments on the debt or communicate with the creditor from 2018 until August 2024 because she could not afford to pay it. She “fully satisfied” the judgement in August 2024 using funds she received from the VA. (GE 3 at 4, GE 4 at 2; AE C, AE M; Tr. 42-43, 82-88, 173-176) This debt is resolved.

SOR ¶ 1.e: loan charged off for \$4,536. Applicant admitted the allegation noting she had not resolved this debt but unsuccessfully tried to negotiate a payment plan with the creditor on multiple occasions. (Answer; Tr. 23-24) Credit reports from September 2022 and August 2024 show this secured loan account was charged off for \$3,809, and past due for \$4,536 and \$5,106, respectively. An October 2024 credit report shows the last payment was in April 2021, that the account was charged off and had a current balance of \$5,154. The credit report noted that adverse information typically remains on a credit report for seven years from the date of delinquency, and that the debt would be removed from her credit report in about May 2025. Applicant testified she made payments until April 2021 but could not afford to continue making payments because of medical expenses. She contacted the creditor in 2023 and August 2024 and offered to turn over a 2004 vehicle which secured the loan but was told the account had been charged off. She offered to pay the debt, but a creditor representative told her it would not make a difference because it had been charged off. She has not received an IRS form 1099-C but submitted a copy of the vehicle title used to secure the loan that the creditor mailed to her. (GE 3 at 4, GE 4 at 2; AE D, AE F at 7, 39-40; Tr. 23-24, 43, 88- 176-181)

SOR ¶ 1.f: telecommunications account placed for collection of \$2,582. Applicant admitted the allegation, said she established a payment plan in April 2023 and

had made required \$50 monthly payments since then. She submitted evidence of a \$50 payment in October 2024 that reduced the balance to \$1,950. A September 2022 credit report shows this account was assigned in December 2021 and later placed for collection of \$2,582. (Answer; AE K; Tr. 93-96, 181-182; GE 3 at 4) This debt is being resolved.

SOR ¶ 1.g: insurance account placed for collection of \$319. Applicant admitted the allegation, said she paid the debt in February 2023, and a credit report shows it was paid in February 2023. (Answer; Tr. 96-99; GE 4 at 2; AE L) This debt is resolved.

SOR ¶¶ 1.h-1.k: medical accounts placed for collection of \$109, \$61, \$50, and \$26, respectively. Applicant admitted the allegations and reported she had paid each debt. (Answer) She testified she first learned the debts were overdue during a November 2022 background interview and paid all four debts in December 2022. A September 2022 credit report shows these debts in collection for the amounts alleged. The first three accounts were opened or assigned from February 2020 to January 2022, and the fourth account was opened or assigned in November 2018. (GE 3 at 5-6) The debts do not appear on the August or October 2024 credit reports. (GE 4-5; Tr. 99-101; AE D, AE F) These allegations are resolved for Applicant.

SOR ¶¶ 1.l and 1.o: property foreclosure in about 2019 and \$1,099 past due on mortgage account in August 2024. Applicant denied her property had been foreclosed upon in 2019, admitted she had been past due on a mortgage when renters failed to pay their rent, and said her home mortgage was current. (Answer) Credit reports from April 2017 to October 2024 show a mortgage account was opened in March 2006, delinquent 120 days or more in early 2019, that foreclosure proceedings were started, and that the mortgage was sold to another mortgagee in about April 2019. Applicant has been past due on payments for her current mortgage several times since 2019 but at the time of the hearing the account was current. (GE 1 at 37, GE 2 at 4, GE 3 at 7, GE 4 at 1; AE F at 23-31; Tr. 14, 101-103, 117-119, 128-129) Applicant rebutted SOR ¶ 1.l that her property was foreclosed upon in 2019 and resolved the August 2024 past-due balance on her mortgage, SOR ¶ 1.o, in part with funds received from the VA.

SOR ¶ 1.m: auto loan account past due \$1,879, with a total balance of \$2,624. Applicant admitted the allegation, stated she paid the debt, and submitted documentary evidence it was settled in full on or before February 23, 2023. (Answer; GE 4 at 2; AE B, AE F at 31-32; Tr. 103-107) This debt is resolved.

SOR ¶ 1.n: wages garnished in about 2019 for \$2,500. Applicant reported a garnishment for \$2,500 in 2019 in her August 2022 SCA and admitted the allegation. She reported her wages were garnished for several months by the federal government until a debt was paid. It is unclear from the record if the garnishment was related to a student loan or tax debt because there is no documentary evidence of a garnishment, an underlying debt, or resolution thereof. Applicant testified the underlying issue was whether her daughter qualified as a full-time student when she did not attend college for about three months because of a medical issue. She said the IRS concluded her daughter did not qualify as a dependent during that timeframe, recalculated her TY 2016 taxes and determined she owed \$2,500. She said she later demonstrated her daughter was a full-

time student but her request for reimbursement was denied in 2021 because it was beyond the statute of limitations for refunds. (Answer; GE 1 at 36-37, GE 5 at 3; Tr. 79-82, 107-117, 143-147, 183) This debt is resolved.

SOR ¶¶ 1.p-1.q: electric account charged off for \$69 and water account past due for about \$276. Applicant admitted the allegations, reported she paid both debts, and submitted evidence they were paid in full in August 2024. Credit reports from August and October 2024 reflect the electric account was charged off for \$69 and that the water account was placed for collection of \$276 in mid-2023. Applicant said she initially did not pay the bills because she had not resided at the property when the bills were incurred. She was unable to persuade the property owner to pay the bills, so she paid them to get them removed from her credit report with funds she received from the VA. (GE 4 at 5; AE F at 31-32; Tr. 14, 103-107, 119-123) These debts are resolved.

Applicant's VA disability claim was initially denied in 2014, and she filed supplemental claims and appeals. In decisions from May to July 2024, the VA granted disability claims retroactive to March 2013. (AE I) In August 2024, she received \$36,000 in retroactive disability benefits from the VA. She testified her final disability rating was 40%, and that she would receive about \$753 monthly starting in July 2026, after offsets for compensation she received for early release from active duty in 1992. She received financial counseling while in the Army and has been taking financial planning and business courses since December 2023. (AE D, AE I, AE N, AE Q-R; Tr. 53-55, 66-67, 92-93, 142-143, 150-151, 181)

An August 2024 credit report shows Applicant incurred three delinquent debts after receiving the SOR including two utility bills totaling \$345 (SOR ¶¶ 1.p-1.q) and was one month late on her mortgage for \$1,099 (SOR ¶ 1.o). Her financial circumstances have significantly improved since she received retroactive VA disability benefits in August 2024 and used the funds to pay some debts alleged in the SOR and one debt not alleged in the SOR, delinquent state business taxes for TY 2020 totaling \$7,499. (Tr. 146-148) She testified she had \$5,043 of the VA funds remaining at the hearing. Her October 2024 credit report shows only one delinquent debt (SOR ¶ 1.e - \$5,054) and notes it should be removed from her report in May 2025. (AE F at 39-40) She earns about \$70,000 a year in gross income and receives about \$1,000 per month from her daughters. Prior to August 2024, she had about \$200 a month after expenses to apply towards her debts and she has had about \$500 a month since. She has about \$7,500 in the bank, about \$9,000 in a retirement account, and a pension that will pay about \$293 per month after she turns 65. She has spent about \$6,000 on antique furniture since 2016 and estimated its value at about \$350,000 but has been unable to sell any of it. She hopes to purchase a building for her interior decorating business and furniture if her applications for various grants are approved. (GE 4 at 1,5, GE 5 at 2; Tr. 52-71, 146-148, 156-157; AE F)

Applicant submitted character letters that comment favorably on her work ethic, leadership, integrity, reliability, trustworthiness, and performance of fiduciary duties. (AE O) During the hearing Applicant was informed of the importance of providing documentary evidence of debt payments, contact with creditors, efforts to address or resolve her

delinquent debts, and her current financial circumstances. (Tr. 15-16, 30-34, 151-157, 171-173, 183-190)

Policies

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.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines (AG). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

"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." Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988); see AG ¶ 2(b).

The protection of the national security is the paramount consideration. Under AG ¶ 2(b), any doubt "will be resolved in favor of the national security." 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 under this guideline 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 a person might knowingly compromise classified or sensitive information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified or sensitive information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified or sensitive information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The record evidence, including credit reports and Applicant's admissions establish two disqualifying conditions under this guideline: AG ¶ 19(a) ("inability to satisfy debts") and AG ¶ 19(c) ("a history of not meeting financial obligations"). Applicant refuted the allegation that her home had been foreclosed upon in 2019 (SOR ¶ 1.I).

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; and

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

AG ¶¶ 20(a), 20(b), 20(c), and 20(d) apply. Applicant's underemployment, medical problems including contracting COVID-19 at least three times, prescription costs, divorce, and costs associated with raising three children as a single parent were conditions largely

beyond her control. However, obtaining parent plus student loans to help pay for her daughter's education was not. Her decisions to address smaller debts first because of her limited financial resources, to not make student loan payments while repayments were paused due to COVID 19, to apply for student loan forgiveness, and, in August 2024, to apply for the "Fresh Start" program to get her student loans out of default were reasonable under the circumstances. See ISCR Case No. 20-02787 at 3 n.1 (App. Bd. Mar. 2022) ("Under the CARES Act of March 2020, Federal student loans were placed in forbearance and collection on defaulted student loans was paused.")

Applicant resolved two delinquent debts totaling more than \$2,319 on or before February 2023, (SOR ¶¶ 1.g and 1.m), entered an agreement to resolve a \$2,582 debt in April 2023 and reduced that debt to \$1,950 by October 2024 through payments (SOR ¶ 1.f), and resolved delinquent medical debts totaling \$246 sometime before August 2024 (SOR ¶¶ 1.h through 1.k). She used VA disability benefits received in August 2024 to resolve an \$11,349 judgment (SOR ¶ 1.d), a mortgage past-due for \$1,099 (SOR ¶ 1.o), and two utility accounts past due for \$345 (SOR ¶¶ 1.p-1.q).

Applicant's financial circumstances have significantly improved since receiving retroactive VA benefits in August 2024. She has resolved or is resolving her delinquent debts except for the student loan debt and the debt alleged in SOR 1(e). Although the lack of evidence regarding settlement negotiations and payments on the debt alleged in SOR ¶ 1(e) raise some question as to whether she acted in good faith with respect to that debt, she credibly explained her unsuccessful efforts to establish a payment plan, submitted evidence the creditor returned the title of a vehicle securing that loan, and there is no requirement that an applicant make payments on all delinquent debts simultaneously. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). She has been approved for the Fresh Start program and plans to repay student loans she obtained to fund her daughter's education with assistance from her daughters. I find she has made a good-faith effort to repay overdue creditors and to resolve her financial issues. She received financial counseling and has been taking financial planning courses. I find that her finances do not cast doubt on her current reliability, trustworthiness, and good judgment.

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.

I have incorporated my comments under Guideline F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). I considered the entire record, including Applicant's work history, lengthy security clearance history, and that her financial problems were caused, in part, by circumstances beyond her control. I also considered her limited resources, her efforts to resolve her debts both before and after she received retroactive benefits from the VA in August 2024, and her eligibility for future VA benefits.

Applicant does not have a stellar financial record, but she has made an earnest effort to resolve her delinquent debts and to not accrue additional debt. She understands that she needs to pay her debts including student loans to retain a security clearance and I believe she is committed to doing so. She was sincere and credible at the hearing. The record evidence establishes a "meaningful track record" of debt re-payment and does not leave me with questions or doubts as to her eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated 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: FOR APPLICANT

Subparagraphs 1.a-1.q: For Applicant

Conclusion

I conclude that it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is granted.

Eric C. Price
Administrative Judge