



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



In the matter of:)
)
) ISCR Case No. 12-05081
)
Applicant for Security Clearance)

Appearances

For Government: Eric Borgstrom, Esq., Department Counsel
For Applicant: *Pro se*

05/14/2014

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

A single mother with two daughters, Applicant defaulted on about \$61,570 in consumer credit card debt incurred for living expenses and medical payments. Medical debt exceeding \$50,000 has largely been paid, in part through \$40,000 in loans from her 401(k). Applicant satisfied or settled several of the defaulted accounts, and she has paid \$3,475 toward a \$5,721 judgment balance. A credit card lender cancelled \$11,872.34 of her debt. Yet no payments have been made on three collection balances totaling \$30,106. She intends to pay those debts at some future date, when she can afford to do so. It is too soon to conclude that her financial problems are safely in the past. Clearance denied.

Statement of the Case

On January 3, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F (Financial Considerations), and explaining why it was unable to find that it is clearly consistent with the national interest to grant or continue her security clearance. The DOD CAF took action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review*

Program (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense on September 1, 2006.

Applicant submitted an undated Answer to the SOR allegations.¹ She indicated that she was fine with a decision without a hearing, although she would not object if the administrative judge found a hearing necessary. On March 14, 2014, the Government submitted a File of Relevant Material (FORM) consisting of ten exhibits (Items 1-10). The Defense Office of Hearings and Appeals (DOHA) forwarded a copy of the FORM to Applicant and instructed her to respond within 30 days of receipt. Applicant received the FORM on March 31, 2014. She filed in response a letter dated April 8, 2014, with several attachments. On April 22, 2014, the Government indicated it did not object to its admission into the record.

On April 24, 2014, the case was assigned to me to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On review of the file, I accepted Applicant's detailed rebuttal to the FORM into the record as Applicant exhibit (AE) A.

Findings of Fact

The SOR alleges under Guideline F that as of January 3, 2014, Applicant owed judgment debt totaling \$13,600 (SOR 1.a, 1.b); \$35,836 in charged-off consumer credit debt (SOR 1.c-1.e, 1.j-1.l) and \$37,986 in collection balances (SOR 1.f-1.i, 1.m). When Applicant answered the SOR, Applicant admitted the debts in SOR 1.c, 1.d, and 1.k. She indicated that the debts in SOR 1.g and 1.h were duplicate listings of the debts in SOR 1.l and 1.k. SOR 1.k was still unpaid, but she had paid \$3,345 to satisfy the debt in SOR 1.l. Applicant denied SOR 1.a, 1.e, and 1.i in that they had also been settled. Applicant disputed the balances in SOR 1.b, 1.j, and 1.m. She denied any knowledge of the collection debt in SOR 1.f. After considering the Government's FORM, including Applicant's Answer (Item 3), and Applicant's rebuttal (AE A) to the FORM, I make the following findings of fact.

Applicant is a 55-year-old senior engineering technician, who has worked for her employer, a defense contracting firm, since October 1984. She has been in her current department since 2009. Applicant applied for her first DOD security clearance in October 1999. She disclosed no issues of potential security concern on her security clearance application. (Item 6.) Around May 2002, Applicant was granted a DOD Top Secret clearance. (Item 5; AE A.) Applicant has no record of any security violations. (AE A.)

Applicant has never married. She has two daughters, who are now 19 and 26 years old, for whom she has never received any child support. She lived with the girls' father for about ten years, until March 1994. The older daughter has three children of her own.

¹ Applicant's Answer was reviewed in light of the fact that she was provided an outdated version of the Adjudicative Guidelines with the SOR. By letter dated March 13, 2014 (Item 1), Department Counsel provided her with the current Directive, so she had an opportunity to review the correct Adjudicative Guidelines before she responded to the FORM in April 2014.

Applicant has provided financially for her daughters and grandchildren with little help. (Items 4-6; AE A.)

After Applicant earned her bachelor's degree in fine arts in 1981, she began working as a design drafter. In October 1984, she started her present employment, initially as a technical drafter. From 1987 to 1990, Applicant also worked as a part-time free-lance artist for her mother, who had a debilitating illness. Her mother provided nameplates for the employees of a telecommunications company, and she needed Applicant's help. Due to an increase in the volume of this business, Applicant became a sole proprietor in July 1990. Over the next 12 years, she supplemented her full-time income with the defense contractor by taking on signage work as a vendor. Available records show part-time business income of \$2,400 in 1991, \$3,201.99 in 1994, \$1,487.06 in 1995, and \$2,838.50 in 2002. (Item 7.)

In June 1991, Applicant bought her present home, although she did not move in until August 1991. (Item 7.) As Applicant refinanced her mortgage over the years, she took on more debt, which she paid according to terms. Her present mortgage loan was taken out in September 2009 in the amount of \$122,000, a \$30,000 increase over her previous mortgage from December 2006. As of November 2011, she was current in her payments on a mortgage balance of \$118,358. (Item 10.)

Around the time that Applicant applied to renew her security clearance eligibility in January 2007 (Item 5), medical expenses began to strain her finances. In September 2006, Applicant's older daughter had her first child. (Items 5, 7; AE A.) She had no medical insurance and incurred about \$33,019 in costs for the birth and newborn care. Applicant and her daughters incurred another \$9,731 in medical/dental/vision expenses in 2006. Between April 2007 and July 2007, when she had Lasik surgery, Applicant incurred \$4,795 in vision costs. She underwent Lasik surgery to improve her eyesight for her work because she could not see well in her left eye. (Item 7; AE A.) In 2007, Applicant's younger daughter had orthodontic treatment costing \$1,032. Applicant estimated that medical/dental/vision expenses for herself, her two daughters, and her first grandchild totaled \$18,170 in 2007, \$11,709 in 2008, \$8,339 in 2009, and \$9,050 in 2010.² Applicant took out loans of \$20,000 in 2008 and \$20,000 in 2010 from her 401(k) retirement fund to cover medical costs.³ (Item 7; AE A.)

Applicant's older daughter obtained medical insurance coverage effective February 2007. Between September 2007 and September 2008, Applicant charged \$2,246.95 of her daughter's and first grandchild's medical insurance premiums on her own credit card. Her

² Applicant presented billing records for only some of the medical costs, and some of the medical costs have been covered by insurance. Available documentation establishes her repayment liability for at least \$20,000 in medical debt, which does not include the costs of her first grandchild's birth and newborn care. Applicant indicated that the medical bill was for \$33,019. She provided no corroborating documentation, although I have no reason to disbelieve the claimed expense or that she took out a \$20,000 loan to cover the cost. Applicant paid for some of her family's medical expenses by credit card. In rebuttal to the FORM, she provided a list of check payments (AE A) to several medical/dental/vision providers. Assuming that the checks were processed and cleared her account, she paid more than \$13,020 in out-of-pocket medical costs. She paid another \$405.57 in medical debt between January 26, 2014 and February 21, 2014. (AE A.)

³ The repayment term for both loans was five years. Applicant was scheduled to pay off the 2008 loan in November 2013. (Item 7.)

daughter worked for an accounting firm at \$11 an hour, but daycare took most of her income. (AE A.) Applicant also paid \$550 in apartment rent and \$100.48 for gas utility service for her daughter. To avoid cancellation of her daughter and granddaughter's medical insurance coverage, Applicant paid another \$163.39 in May 2009 and \$163.39 in July 2009. In March 2010, Applicant's daughter had another child. She incurred \$12,215.18 in hospital charges, of which \$10,016.58 was covered by insurance. As of late June 2010, the debt balance was \$2,198.60. Applicant's daughter was also liable for \$431.38 of the \$3,072 in obstetric charges. She paid \$115 and Applicant paid \$125 of the bill. Applicant's daughter continued to struggle financially, so Applicant paid some of her daughter's bills in 2010, including some of her daughter's credit card debts. In August 2011, Applicant paid about \$269.98 in medical prescription costs for her second grandchild. In December 2011, Applicant's daughter again needed medical care at a cost to Applicant of \$220. In the last few years, Applicant has also covered at least \$260 of her oldest grandchild's school costs, including lunches. (Item 7.)

Applicant paid at least \$1,879 in costs for therapeutic riding for her younger daughter,⁴ who has had medical issues since she was a toddler. In December 2009, her daughter was hospitalized overnight. The hospital filed medical claims for her care of \$8,626.52 and \$2,108.99. With discounts and coinsurance, Applicant's responsibility totaled \$769.72. Applicant paid the debt through the hospital's financial discount program, which allowed for installment payments. In April 2010, Applicant's daughter had an outpatient surgery visit. As of July 9, 2010, Applicant owed \$52.89 of \$2,520.30 in billed charges to another medical center for medically necessary injections for her daughter. From mid-September 2010 to January 2011, her daughter received homebound instruction while she was medically excused from school due to illness. After she returned to school in January 2011, she missed several days due to illness and some mental health issues related to bullying. She eventually stopped attending school and enrolled in online classes. In June 2012, she passed the state's General Educational Development Test (GED). (Item 7.) In July 2012, her daughter had surgery, which was billed at \$12,510. Applicant was responsible for \$342.75 of the cost.⁵ (AE A.)

Applicant also had some home improvement and vehicle costs that further strained her finances. In September 2008, she incurred \$450 in plumbing costs. In August 2009, she had to replace her garage door at a cost of \$1,055. On February 25, 2013, she paid \$254 for a new motor for her garage door opener. On March 1, 2012, she bought a new clothes washer when her washer (purchased from the lender in SOR 1.a) needed new tubs as well as new bearings. With delivery, set up, fees, taxes, and \$179.99 for a three-year warranty, the total cost was almost \$1,075. (AE A.) After she was rear-ended in a car accident, she purchased in July 2006 a 2005 model-year vehicle through a \$12,767 automobile loan, which she paid off in October 2012. (Items 7-9.) Around July 2010, her

⁴ In response to Interrogatories from the DOD CAF, Applicant presented photos of her daughter's equestrian activities and explained that it benefitted her daughter's mental health. In rebuttal to the FORM, Applicant submitted a listing of expenses by check number but no dates. Several checks totaling \$1,879 were issued to a ranch. (AE A.)

⁵ Applicant did not provide corroborating evidence for all of the family's medical debt. Available medical charges and payment record confirm that the family incurred more than \$20,000 in medical repayment liability, which does not include the charges for the birth of Applicant's first grandchild in 2006.

parents gave her younger daughter a car. They made the payments on the car loan of \$16,109, which was in Applicant's name. (Items 7, 10.) Starting October 2012, Applicant took over the \$270.27 monthly loan payments from her parents, who could no longer afford the payments. The car is scheduled to be paid off in June 2016. Applicant has both daughters on her car insurance policy. (Item 7.)

Applicant has purchased some clothing for her father since 2009. Her father had in-home health care from December 2, 2012 to June 19, 2013, when he had to be hospitalized. Since July 2013, he has been in a skilled nursing facility. (Item 7.)

On her gross pay, which was \$5,491.75 monthly as of March 2010 (Item 7), Applicant could not meet all her expenses. Several accounts became delinquent, as shown in the following table.

Debt in SOR	Delinquency history	Payment status
1.a. \$1,562 judgment awarded furniture retailer	Revolving charge account opened Dec. 2006 for washer and dryer; \$2,928 high credit; 60 days late on \$1,929 balance as of Dec. 2011 (Item 7; AE A); \$1,562 judgment Aug. 2012. (Items 8-10.)	Collection notice issued Jul. 2012 for \$1,796.38 balance; paid after collection as of Mar. 2013. (Items 3, 8; AE A.)
1.b. \$5,238 judgment awarded credit union	Credit card account opened Aug. 2006; \$6,206 high credit; 30 days late on \$5,564 balance as of Nov. 2011; \$5,207 judgment Oct. 2012. (Items 8-10.)	\$5,721.89 overdue notice Oct. 2011; demand for \$5,214.04 payment Aug. 2012; Oct. 23, 2012 notice to stay execution of judgment if she made \$200 payments; paid \$3,475 Oct. 12-Mar. 2014. (Item 3; AE A.)
1.c. \$11,591 charged-off debt	Credit card account opened Feb. 1999; 180 days past due as of Jul. 2010; \$1,912 past due on \$11,877.13 balance as of Feb. 2011; \$11,591 balance as of Nov. 2011 charged off as of Sep. 2013. (Items 7, 9, 10.)	Collection notice issued Apr. 2011 for \$11,877.13 (Item 7); no payments (Item 3); Dec. 20, 2013, creditor issued 1099-C canceling \$10,403.73 unpaid principal balance. ⁶ (AE A.)
1.d. \$1,878 charged-off debt	Gasoline credit card account opened Jan. 1982; \$167 past due on \$1,878.92 balance as of Apr. 2011;	Collection notices issued Mar. 2011 for \$1,832.29 and Apr. 2011 for \$1,878.92; no payments (Items 3, 7); Aug.

⁶ In rebuttal to the FORM, Applicant speculated that the assignee in SOR 1.f was collecting the debt in SOR 1.c, which has been cancelled. (AE A.) Based on the account numbers, it appears that the debt in SOR 1.f is instead an updated balance of the debt in SOR 1.m, which has not been paid.

	charged off as of Sep. 2013. (Items 7, 9, 10.)	5, 2013 creditor issued 1099-C canceling \$1,468.61 unpaid principal balance. (Item 3; AE A.)
1.e. \$3,691 charged-off retail credit account debt	Retail credit card account opened Feb. 1984; paid \$50 Dec. 2010; \$968 minimum payment due Apr. 2011; \$3,691 balance in collection as of Apr. 2011. (Items 3, 7-10.)	Paid \$1,661.13 to settle \$3,691.13 balance Dec. 20, 2013. (Items 3, 8.)
1.f. \$15,610 collection debt	Credit card debt of \$10,000 for collection; last activity Aug. 2010; \$12,106.93 balance as of Apr. 2011; placed with creditor in SOR 1.f in Mar. 2012; \$15,610 balance as of Sep. 2013. (Items 7, 9, 10.)	Disputes finance charges; no payments as of Apr. 2014. (AE A.)
1.g. \$4,982 collection debt	Retail charge account opened with lender in SOR 1.l in Aug. 2003; paid \$50 Dec. 2010; \$84 past due on \$3,641.85 balance as of Mar. 2011; \$4,180 for collection Dec. 2011; \$4,180.70 with assignee Apr. 2013. (Items 3, 7-10.)	Paid \$3,345 to settle in full Dec. 27, 2013. (Items 3, 8.)
1.h. \$4,917 collection debt	Retail charge account opened with lender in SOR 1.k Dec. 1998; \$4,360 credit limit; paid \$100 Dec. 2010; \$4,917 charged off or sold May 2011; \$4,917 collection balance with assignee Sep. 2012. (Items 8-10.)	No payments as of Apr. 2014.)
1.i. \$371 collection debt	Retail charge account opened May 1986; last activity Jun. 2011; \$317 past due on \$1,582 balance as of Nov. 2011; sold to assignee Feb. 2012. (Items 3, 8-10.)	Paid \$1,417.20 to settle debt Mar. 13, 2013. (Item 7.)
1.j. \$9,579 charged-off debt	Credit card account opened Oct. 2005; last activity Sep. 2010; \$1,479 past due on \$9,579 balance Feb. 2011; charged off. (Items 7-10.)	Disputes finance charges; no payments as of Apr. 2014. (AE A.)

1.k. \$4,917 charged-off retail credit card debt	Same debt as SOR 1.h	See SOR 1.h.
1.l. \$4,180 charged-off retail credit card debt	Same debt as SOR 1.g	See SOR 1.g.
1.m. \$12,106 collection debt	Same debt as SOR 1.f ⁷	See SOR 1.f.
\$876 past-due over 120 days (not in SOR) ⁸	Retail charge account opened Aug. 2009; \$740 credit limit; \$187 past due over 120 days on \$976 balance Dec. 2011; \$671.04 charged off as bad debt Feb. 5, 2012. (Items 7, 10.)	Feb. 17, 2011 notice of \$693.88 default balance and demand for \$321; \$335.52 balance as of Oct. 2012, paid \$335.52 Oct. 25, 2012. (Items 3, 7; AE A.)
\$293.85 collection debt (not in SOR)	Retail charge account opened Nov. 2009; \$100 credit limit; \$664 high credit; \$220 balance current as of Nov. 2011; last activity Apr. 2012; \$293.85 collection balance. (Items 7, 8, 10.)	Paid \$293.85 in March 2013 to satisfy in full. (Items 3, 7.)
\$3,900 for collection (third delinquent account with bank)	Credit card account ending in 0658 \$3,900 for collection Mar. 2011; \$4,312.12 balance Nov. 2013. (Items 3, 10.)	Nov. 2013 creditor offered to settle for \$1,379.88 lump sum paid on or before Nov. 22, 2013; paid \$1,379.88 Dec. 20, 2013 (Item 3); creditor cancelled \$2,932.24 Dec. 18, 2013. (AE A.)

In August 2010, Applicant opened an account with a debt servicer to help her address her delinquencies. She arranged to settle \$28,633 of debt (SOR 1.c, 1.d, 1.f, 1.j, and the \$3,900 collection debt) for \$5,726.60. Six payments of \$377.09 each were automatically deducted from her bank account between September 2010 and April 2011. The April 2011 withdrawal caused overdrafts in her account, and \$464.59 in insufficient funds checks were returned by mid-May 2011. (Item 7; AE A.) Applicant paid \$50 to an attorney around May 2011 toward a possible bankruptcy filing, but she did not pursue it after apparently learning that the attorney was working with the debt servicing company. Frustrated because no funds had been disbursed to creditors, she stopped the May 2011

⁷ Applicant presented evidence of several credit card accounts with the bank. On three of the accounts, Applicant could no longer afford the monthly minimum payments. As of January 2011, the minimum payment due on the account in SOR 1.j was \$1,712. (Item 7.)

⁸ The DOHA Appeal Board has long held that the administrative judge may consider non-alleged conduct to assess an applicant's credibility; to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; to consider whether an applicant has demonstrated successful rehabilitation; to decide whether a particular provision of the Adjudicative Guidelines is applicable; or to provide evidence for a whole person analysis under Section 6.3 of the Directive. See, e.g., ISCR Case No. 03-20327 (App. Bd. Oct. 26, 2006); ISCR Case No. 09-07219 (App. Bd. Sep. 27, 2012). Applicant fell behind on some accounts not alleged in the SOR, which she then paid. They are relevant in assessing the extent of her reform.

payment and closed the debt servicing account. In late August 2011, she received a refund of \$266.72.⁹ (Items 3, 7; AE A.)

On December 21, 2011, Applicant's credit record was checked to renew her security clearance eligibility. The accounts in the SOR were shown as delinquent. (Item 10.) On March 30, 2012, Applicant was interviewed about these past-due debts by an authorized investigator for the Office of Personnel Management (OPM). Applicant cited family medical issues for the reason that she fell behind in paying her debts. She relied on consumer credit to pay for other expenses, such as gasoline, clothing, and groceries. She explained that she made payments for over a year to a debt servicing company before she cancelled her contract with them around September 2011. Applicant did not dispute that her account in SOR 1.j had been charged off in the amount of \$9,579, which she believed may have accrued to \$12,106.¹⁰ Applicant indicated that the account in SOR had been past due but it was now current. Applicant acknowledged the past-due debts in SOR 1.e, 1.k, 1.l, as well as a delinquent retail debt not alleged in the SOR. Concerning SOR 1.a, she had stopped paying on the debt for 60 days after the retailer refused to honor the warranty for the washing machine, but she claimed she had recently brought the debt current. She expressed her intent to continue making payments on that debt, and to pay her delinquent accounts sometime in the future. After paying her mortgage and other living expenses, she presently does not have the income to pay her past-due debts. While she tried to work with some of the credit card lenders, they demanded large sums, which she could not afford. Applicant denied that her financial issues could be a source of blackmail or coercion because her immediate family and co-workers know about her financial problems. (Item 7.)

On October 1, 2013, the DOD CAF asked Applicant about her efforts to resolve her delinquent credit issues. Applicant indicated that she had paid off the debts in SOR 1.a and 1.i, made payments to reduce SOR 1.b to \$2,739.04, and fully satisfied two retail debts (not alleged). Applicant admitted she was still in default on the debts in SOR 1.c, 1.d, 1.e, and on three accounts with a bank (including SOR 1.j and 1.m), although she disputed the balances claimed by the bank. She did not recognize the collection accounts on her credit record, although she surmised that the assignee in SOR 1.f may be collecting for the bank. Applicant indicated that she had paid off all the medical bills, but her daughter had given birth to her third child in July 2013, so she may owe debt associated with the birth. Applicant related she was in the process of determining whether she could afford the services of a lawyer to assist her in addressing her debts. Applicant completed a personal financial statement for the DOD CAF showing monthly take-home pay (after deductions, including \$340 and \$504 for the 401(k) loans) of \$2,662. Her estimated living expenses of \$2,300 covered \$885 for her mortgage, \$800 in utilities, \$270 for car insurance, \$250 for gasoline, and \$85 for cable. It did not include the cost of groceries or clothing, which varied. She claimed debt payments of \$200 toward the judgment in SOR 1.b, \$81 on a retail credit card account, \$283.78 (inclusive of late fees or \$270.27 if current) for her daughter's car, and \$130 bi-weekly on a home equity loan. Applicant added that she needed a new roof on her house at an estimated cost between \$5,000 and \$6,000, but

⁹ Applicant asserts that she "lost 1000's," although she provided no proof of the funds paid to the debt services account or of any payments on her behalf to substantiate her assertion.

¹⁰ Available account numbers do not substantiate that the debts in SOR 1.j and 1.m are the same debt.

some of the cost should be covered by her insurance. Applicant cited her almost 30 years of service without any security breaches as a circumstance for the DOD CAF to consider in determining whether it is clearly consistent with the national interest for her to maintain a position of trust. (Item 7.)

On January 20, 2014, Applicant paid for a new roof on her house by an \$11,053.13 cashier's check on the credit union at work. (Item 3; AE A.) It is unclear whether she had the funds available on deposit in an account or whether she borrowed the sum. As of February 2014, Applicant was current in her payments on her mortgage balance of \$114,000, on a home equity line of credit balance of \$19,735, and on the loan balance of \$7,491 for her younger daughter's car. Applicant had paid off her own vehicle. (Item 8.) Applicant's daughters are both working to help financially. Applicant indicated that she has been able to make some progress toward repaying her debt because of bonuses and raises in the last few years. (AE A.)

A good friend of Applicant's, who was a neighbor from 1991 to 2001, is aware that Applicant shouldered "a huge financial burden" caring for herself and her daughters as a single parent. She recommends Applicant without reservation for a position of responsibility. (AE A.)

Applicant has been an efficient, productive, and accurate worker for her employer. Available performance evaluations for 2010, 2011, and 2012 confirm that she either met or exceeded her employer's expectations. Applicant's knowledge and experience have made her invaluable to her co-workers, who can rely on her to complete assignments quickly and accurately with no instruction. She displays a "can-do" attitude and keeps confidential and proprietary information secure. (Item 7.) A co-worker of Applicant's for 25 years has no hesitation in recommending her. She has been reliable, trustworthy, and conscientious in carrying out her duties. (AE A.)

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(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 access to classified information will be resolved in favor of 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.

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 the 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 Executive Order 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 concerns about financial considerations are set out in AG ¶ 18:

Failure or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

Applicant began to struggle financially around 2007, after her then uninsured daughter incurred about \$33,019 in medical debt for the birth and care of her first child. Applicant estimated that medical/dental/vision care for herself, her daughters, and her grandchildren totaled about \$88,000 from 2006 through 2010. Available medical billing records and statements establish a portion, around \$20,000, of her family’s repayment liability. She paid at least \$13,020 by check or debit.¹¹ She used her own credit to pay \$2,246.95 of her older daughter and first grandchild’s medical insurance premiums, but she primarily relied on consumer credit for household expenses, such as groceries, clothing, and other needs. Applicant defaulted on about \$61,570 in consumer credit debt by 2012.

¹¹ Those checks listed in AE A, which were not readily identifiable as medical expenses, were not included in the calculation.

Disqualifying conditions AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and ¶ 19(c), “a history of not meeting financial obligations,” apply.

Applicant’s financial problems are too recurrent and recent to apply mitigating condition AG ¶ 20(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.” Applicant incurred the consumer credit delinquencies since 2009. Applicant’s obligation to pay the charged-off balances in SOR 1.c and 1.d were forgiven, but the debts in SOR 1.m and 1.h are still in collection. It is unclear whether collection will be pursued of the charged-off balance of SOR 1.j, on which Applicant owes \$9,579.

AG ¶ 20(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), and the individual acted responsibly under the circumstances,” applies. Applicant was legally liable to pay her children’s medical debts until they turned 18, and perhaps thereafter, if she signed as guarantor. When Applicant’s older daughter had her first child, she was only 18 and uninsured. Applicant’s decision to pay for the birth and care of her newborn grandchild is understandable under the circumstances. Applicant and her younger daughter (who turned 18 in January 2013) were insured, but Applicant incurred co-pay and deductible obligations for their treatment.

In response to DOD CAF interrogatories, Applicant reported medical expenses totaling approximately \$88,000 from 2006 through 2010. In rebuttal to the FORM, she listed check or debit payments to medical providers totaling about \$13,020. Available billing and treatment records confirm repayment liability for more than \$20,000 in medical obligations (not including the \$33,019 for her grandchild’s birth), even with insurance covering a substantial portion of the medical claim in several instances. For example, Applicant’s share of the \$1,170 cost of magnetic resonance imaging charges in August 2006 was \$280.80. Applicant had to borrow from her 401(k) to cover the approximate \$33,019 cost for the birth and care of her first grandchild, but insurance covered \$10,016.58 of the \$12,215.18 in hospital charges for the birth of her second grandchild in 2010. In April 2008, her younger daughter incurred \$825 in outpatient surgery costs, \$191.98 of which was Applicant’s responsibility. Applicant was liable for \$1,630.11 on \$28,068.33 in medical claims filed in 2008. Of \$8,626.52 and \$2,108.99 in billed charges for her daughter’s hospitalization in December 2009, Applicant had to pay \$769.72. For her daughter’s treatment and aftercare in January 2010, Applicant guaranteed payment of another \$859.66 balance. Applicant had to pay \$71.33 in laboratory costs for her daughter in early 2012. A surgery center billed \$12,510 in charges for care provided her daughter in July 2012. Applicant’s liability was \$342.75. In January 2012, Applicant had treatment for which \$3,702 in insurance claims were filed. After credits and adjustments, she owed \$364.24. She paid \$100 of the debt by April 2012 and the balance was 60 days past due. In August 2012, Applicant incurred a \$72.20 dental debt after insurance covered \$88.80 of \$250 in submitted charges. Between January 26, 2014, and February 21, 2014, Applicant paid \$405.57 in medical expenses by check.

Applicant also had unforeseen expenses for a car in 2006 after she was rear-ended in an accident, of \$450 in plumbing work in September 2008, and of \$1,055 for a garage

door in August 2009. These expenses added to the strain on her finances that already existed because of medical costs. AG ¶ 20(b) is applicable, but it does not fully mitigate the financial judgment concerns raised by some \$60,000 in defaulted consumer credit obligations or the financial burden of \$30,106 in unresolved delinquent debt.

AG ¶ 20(c), “the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control,” and AG ¶ 20(d), “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts,” are both partially established. Applicant is credited with arranging for debt consolidation of five seriously past-due accounts, including SOR 1.c, 1.d., 1.f, and 1.j in August 2010. She made six payments of \$377.09 into the plan, although after the April 2011 payment caused an overdraft on her account, she stopped the May 2011 payment and eventually closed the account with no creditors having been paid. Albeit largely in response to collection notices or judgment actions, in March 2013 Applicant made payments to satisfy or settle in full the debts in SOR 1.a, 1.i, and a retail debt not alleged in the SOR. Between October 2012 and March 2014, Applicant paid \$3,475 toward the judgment debt in SOR 1.b. Although she made only a partial payment of \$75 in July 2013, she resumed \$200 monthly payments to where she is likely to continue to make those payments. In December 2013, Applicant settled the debts in SOR 1.e, 1.g (same debt as 1.i). AG ¶¶ 20(c) and 20(d) apply to these debts as well, given the creditors agreed to accept less than full balances in settlement. Another creditor cancelled Applicant’s legal repayment liability for the debts in SOR 1.c and 1.d. While a 1099-C debt cancellation does not satisfy either AG ¶ 20(c) or AG ¶ 20(d), Applicant no longer has the burden of repaying \$11,872.34 in principal balances. In terms of reduction of her overall debt burden, her situation is improving.

Neither AG ¶ 20(c) nor AG ¶ 20(d) apply to the \$15,610 collection debt (SOR 1.f and 1.m, same debt), the \$4,917 collection debt (SOR 1.h and 1.k, same debt), or the \$9,579 charged-off debt (SOR 1.j). Applicant has no plan in place to address those debts, and the evidence does not show that she can afford to make payments on those debts in the near future. On base pay of \$6,881 monthly, Applicant took home \$2,662 after paying her two 401(k) loans as of October 2013. The 2008 loan was scheduled to be paid in full in November 2013, which would give her an extra \$340 per month. Her reported monthly living expenses of \$2,300 did not include her debt payments or any funds for groceries or miscellaneous expenses other than \$85 in cable costs. She is legally committed to repaying her daughter’s car loan at \$270.27 per month and her home equity loan at \$260 per month. Based on her estimated expenses, she does not have sufficient income to meet her current obligations without outside help. In January 2014, she spent \$11,053.13 for a new roof on her home, having made almost \$18,500 in payments on her debts over the previous nine months. If she had the funds available to pay for the roof outright, then I have to question why those funds were not used to pay off old debts. If she had to take out a loan from her 401(k) or the credit union, then she has an additional debt obligation that would make it more difficult to pay on the \$30,106 in defaulted debt yet to be resolved.

Whole-Person Concept

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(a).¹²

Applicant raised two daughters without any help since 1995. She has not explained why she did not pursue child support for her children, which could have alleviated her financial situation somewhat. Even so, she managed her finances responsibly before September 2006, when her older daughter, who was 18 and unmarried, began to have children of her own. Applicant assumed repayment responsibility for her daughter's medical debt of \$33,109, and she borrowed from her 401(k) to address the debt. As medical bills for her younger daughter primarily began to mount, Applicant defaulted on consumer credit debt used for clothing, groceries, gasoline, and other living expenses. Whether due to frustration initially over the failure of the debt consolidation company to apply her payments to her debts, or later over high finance rates assessed on unpaid credit card balances, Applicant stopped paying on the debts in the SOR in 2010 or 2011. Subsequent resolution of her debts, as detailed above, have been in response to court judgments or collection efforts. Applicant's payment, albeit in many cases, of less than full balances, is a positive development, although it is unclear how she afforded the almost \$18,500 in debt payments made between March 2013 and January 2014.

The DOHA Appeal Board addressed a key element in the whole-person analysis in financial cases stating:

In evaluating Guideline F cases, the Board has previously noted that the concept of "meaningful track record" necessarily includes evidence of actual debt reduction through payment of debts. However, an applicant is not required, as a matter of law, to establish that [she] has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrates that [she] has ' . . . established a plan to resolve [her] financial problems and taken significant actions to implement that plan.' The Judge can reasonably consider the entirety of an applicant's financial situation and [her] actions in evaluating the extent to which that applicant's plan for the reduction of [her] outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) ('Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.') There is no requirement that a plan provide for payments on

¹²The factors under AG ¶ 2(a) 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.

all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted). Applicant is not required to satisfy all of her delinquent debts before she can be granted security clearance eligibility. As of April 2014, Applicant was not in position to make payments toward about \$30,106 in defaulted balances, although she intends to make payments when funds become available. While Applicant now understands that the longer she waits to address a problem, the bigger it will become (AE A), it would be premature to conclude that her financial problems are safely behind her. It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). Her years of contributions to her employer weigh in her favor, and at some future date, she may be able to show that her financial situation has stabilized. However, based on the facts before me and the adjudicative guidelines that I am required to consider, I am unable to conclude that it is clearly consistent with the national interest to grant Applicant a security clearance at this time.

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:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	Against Applicant
Subparagraph 1.i:	For Applicant
Subparagraph 1.j:	Against Applicant
Subparagraph 1.k:	For Applicant ¹³
Subparagraph 1.l:	For Applicant
Subparagraph 1.m:	For Applicant

¹³ Favorable findings are returned as to SOR 1.k and SOR 1.m because they are otherwise alleged in SOR 1.h and 1.f, respectively, and do not represent additional delinquencies.

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge