



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



In the matter of: )  
)  
) ISCR Case No. 14-02764  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Ray T. Blank, Esq., Department Counsel  
For Applicant: *Pro se*

December 18, 2015

**Decision**

GOLDSTEIN, Jennifer I., Administrative Judge:

Applicant has resolved five debts totaling \$3,978. She is making payments on eight other delinquent accounts. Applicant's financial difficulties were a result of conditions beyond her control and she is acting responsibly with respect to her delinquencies. Security concerns were mitigated. Based on a review of the pleadings and exhibits, eligibility for access to classified information is granted.

**Statement of the Case**

Applicant submitted a security clearance application on February 28, 2013.<sup>1</sup> On September 17, 2014, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline F (Financial Considerations).<sup>2</sup> The action was taken under

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<sup>1</sup>Item 3.

<sup>2</sup>Item 1.

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 that came into effect in the Department of Defense on September 1, 2006.

Applicant submitted a written response to the SOR, dated November 3, 2014, and requested that her case be decided by an administrative judge on the written record without a hearing.<sup>3</sup> Department Counsel submitted the Government's written case on August 21, 2015, containing seven Items. A complete copy of the File of Relevant Material (FORM) was provided to Applicant, and she was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of her receipt of the FORM.

Applicant signed the document acknowledging receipt of her copy of the FORM on September 3, 2015. She submitted additional material in response to the FORM on September 30, 2015 (Response). Department Counsel had no objections to the material submitted by the Applicant, and it was included in the file. I received the case assignment on October 13, 2015.

### **Findings of Fact**

Applicant is 66 years old, and has worked for a defense contractor since 2002. She is a widow and has seven adult children. She provides for her disabled adult son. (Response; Item 4.)

The Government alleged that Applicant is ineligible for a clearance because she made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about her reliability, trustworthiness and ability to protect classified information. The SOR alleged that Applicant is delinquent on 14 debts in the total amount of \$15,766. In Item 2, Applicant admitted the delinquent debts as set forth in SOR ¶¶ 1.a through 1.g, 1.k through 1.n. She denied the delinquent debts as set forth in SOR ¶¶ 1.h, 1.i, and 1.j. Applicant's delinquent accounts appeared on her credit reports dated February 21, 2013; and March 5, 2014.<sup>4</sup>

Applicant admitted she is indebted on a medical collection account in the approximate amount of \$154, as alleged in SOR ¶ 1.a. In Applicant's Response, she claimed that she is "paying" this debt. However, the account number identified in the credit report dated March 5, 2014, does not appear to match with any of the documentation provided in her Response. (Response.)

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<sup>3</sup>Item 2.

<sup>4</sup>Items 5 and 6.

Applicant admitted she is indebted on a medical collection account in the approximate amount of \$52, as alleged in SOR ¶ 1.b. In Applicant's Response, she claimed that she is "paying" this debt. However, the account number identified in the credit report dated March 5, 2014, does not appear to match with any of the documentation provided in her Response. (Response.)

Applicant admitted she is indebted on a collection account in the approximate amount of \$175, as alleged in SOR ¶ 1.c. Applicant's bank statement reflects she made a \$50 payment to this creditor on September 11, 2015. This debt is being resolved. (Response.)

Applicant admitted she is indebted on a medical collection account in the approximate amount of \$43, as alleged in SOR ¶ 1.d. In Applicant's Response, she claimed that she is "paying" this debt. However, the account number identified in the credit report dated March 5, 2014, does not appear to match with any of the documentation provided in her Response. (Response.)

Applicant admitted she is indebted on a collection account in the approximate amount of \$1,356, as alleged in SOR ¶ 1.e. Applicant provided documentation from this creditor requesting a minimum monthly payment of \$50 on this debt. Applicant provided a copy of her bank statement as proof she remitted this payment. This debt is being resolved. (Response.)

Applicant admitted she is indebted on a collection account in the approximate amount of \$4,134, as alleged in SOR ¶ 1.f. In her response, Applicant provided a letter from this creditor documenting a payment plan. Applicant agreed to remit \$50 per month until this debt is resolved. Applicant is resolving this debt. (Response.)

Applicant admitted she is indebted on a collection account in the approximate amount of \$4,876, as alleged in SOR ¶ 1.g. In her Response, Applicant indicated she is "in negotiation" with this creditor. (Response.)

Applicant denied she was indebted on a collection account in the approximate amount of \$2,196, as alleged in SOR ¶ 1.h. She claimed that this debt was paid in full. In her Response, she provided a letter from this creditor that stated, "the account is paid." This debt is resolved. (Response.)

Applicant denied she was indebted on a collection account in the approximate amount of \$183, as alleged in SOR ¶ 1.i. Applicant presented a copy of her bank statement that shows this debt was paid in full on September 10, 2015. It is resolved. (Response.)

Applicant denied she was indebted on a collection account in the approximate amount of \$1,998, as alleged in SOR ¶ 1.j. She claimed in her Answer that this debt was paid in full. In her Response, she provided an offer from a collection agent representing this creditor to settle this debt for \$1,347. She also provided a letter

showing she submitted a check in that amount to the collection agent, and a copy of the cancelled check. This debt is resolved. (Answer; Response.)

Applicant admitted she is indebted on a collection account in the approximate amount of \$296, as alleged in SOR ¶ 1.k. In Applicant's Response, she claimed that she is "paying" this debt. However, the account number identified in the credit report dated February 21, 2013, does not appear to match with any of the documentation provided in her Response. (Response.)

Applicant admitted she is indebted on a collection account in the approximate amount of \$214, as alleged in SOR ¶ 1.l. In her Response, Applicant provided documentation that she has resolved this debt with the original creditor. This debt is resolved. (Response.)

Applicant admitted she is indebted on a collection account in the approximate amount of \$52, as alleged in SOR ¶ 1.m. In Applicant's Response, she claimed that she is "paying" this debt. However, the account number identified in the credit report dated February 21, 2013, does not appear to match with any of the documentation provided in her Response. (Response.)

Applicant admitted she was indebted on a collection account in the approximate amount of \$38, as alleged in SOR ¶ 1.n, but claimed that she paid this debt. In her Response, she provided a copy of a receipt that shows she paid this debt in full. It is resolved. (Response.)

Applicant's response failed to document specifically that she is making payments on the medical accounts identified in SOR ¶¶ 1.a, 1.b, 1.d, 1.k, and 1.m. They are held by an unidentified creditor or creditors. However, she did provide documentation relating to a group of medical debts, which were not itemized, that total \$1,955. She documented that she has a payment plan to resolve these debts through \$50 monthly payments. She made a payment under this plan on September 10, 2015. She credibly averred that she is resolving SOR ¶¶ 1.a, 1.b, 1.d, 1.k, and 1.m. through payments to this single creditor. (Response.)

Applicant provided her budget, which shows she has sufficient funds to fulfill her current financial obligations, including her payments on her delinquent debts. She attributed her delinquent debts to an unexpected illness in 2009, costly home repairs, and car repairs. (Item 4; Response.) She is committed to satisfying all of her financial obligations. She is current on her income tax filings. She does not gamble, use alcohol, or drugs. (Response.)

## Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions (DCs) and mitigating conditions (MCs), which are to be used 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶¶ 2(a) and 2(c), the entire process is a conscientious scrutiny of applicable guidelines in the context 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, "[t]he 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." Section 7 of Executive Order 10865 provides: "[a]ny determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned."

A person applying for access to classified information seeks to enter 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 the applicant may deliberately or inadvertently fail to protect or 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 concerns under the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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.

Department Counsel asserted, and the record evidence established, security concerns under two Guideline F DCs, as set forth in AG ¶ 19:

- (a) inability or unwillingness to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant has a history of delinquent debt. From 2009 to present, she accumulated 14 debts in the total amount of \$15,766. Her ongoing pattern of delinquent debt, and history of inability or unwillingness to pay her lawful debts, raises security concerns under DCs 19(a) and (c), and shifts the burden to Applicant to rebut, extenuate, or mitigate those concerns.

The guideline includes conditions in AG ¶ 20 that could mitigate security concerns arising from Applicant's financial difficulties. Three are fully applicable:

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

Applicant's financial problems resulted from an unexpected illness in 2009, costly home repairs, and car repairs. These were conditions beyond her control. However, she is acting responsibly and in good faith with respect to her debts. She has been in contact with all of her creditors. She documented that she has resolved five debts

totaling \$3,978. She is making payments on at least three other delinquent accounts, totaling \$5,665. While she failed to document payments to her medical creditors in SOR ¶¶ 1.a, 1.b, 1.d, 1.k, and 1.m, she credibly averred that she is making payments on those accounts and provided documentation relating to medical debts held by a single creditor, which were not itemized, that total \$1,955. She is in negotiations with her remaining creditor to establish a payment plan, so that she can resolve SOR ¶ 1.g as well. Applicant presented sufficient documentation to show her financial difficulties are under control. She has promised to continue making payments on her debts until they are all resolved. She has the funds to continue to fulfill her financial obligations. AG ¶¶ 20 (b), 20 (c), and 20 (d) are established.

### **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 relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (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(c), 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 light of all pertinent facts and circumstances surrounding this case. Applicant incurred substantial debt as a result of an illness, and costly home and vehicle repairs. Applicant acted responsibly by addressing her debts, as her funds would allow. While she has not fully resolved them all, she has established a recent track record of responsible actions. Overall, the record evidence leaves me without doubt as to Applicant's present eligibility and suitability for a security clearance. She met her burden to mitigate the security concerns arising under the guideline for financial considerations.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a through 1.n	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Jennifer I. Goldstein  
Administrative Judge