



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



In the matter of: )  
 )  
----- ) ISCR Case No. 09-01418  
SSN: ----- )  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: D. Michael Lyles, Esquire, Department Counsel  
For Applicant: *Pro se*

January 20, 2010

**Decision**

CURRY, Marc E., Administrative Judge:

Applicant mitigated the government’s Guideline F, Financial Considerations security concern. Clearance is granted.

On July 22, 2009, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing a security concern under Guideline F stemming from one unpaid debt. The action was taken 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 revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

On August 14, 2009, Applicant answered the SOR, admitting the SOR allegation, and requesting an administrative determination. On September 10, 2009, Department Counsel prepared a File of Relevant Materials (FORM), and DOHA mailed it to Applicant. She received it on September 11, 2009, along with instructions to file any

objections or supplementary information within 30 days. She responded on October 19, 2009, and the case was assigned to me on November 3, 2009.

### **Findings of Fact**

Applicant is a 37-year-old woman with one child, age 16. She has been separated from her husband for the past eight years (Item 1 at 29). Applicant served in the United States Army from 1992 through 2000. Her discharge was honorable (Item 1 at 32).

In 2003, Applicant enrolled in college. She earned a degree in 2007 (Item 1 at 13). The nature of the degree is unknown from the record. Since graduating from college, Applicant has worked for a defense contractor as an engineer (*Id.*). Currently, she is a lead engineer (*Id.*).

In 2003, Applicant opened a department store credit card, and allowed her mother to use it (Item 5 at 26). Between 2003 and 2005, her mother charged thousands of dollars to the credit card and made no payments (Item 5 at 4). By 2008, the delinquent account balance had accrued to approximately \$14,000 (Item 5 at 26).

In April 2009, the creditor wrote Applicant with a settlement proposal under which it would close the account provided Applicant paid \$2,910 (Item 5 at 11). Applicant provided a copy of the creditor's letter to the government in response to interrogatories propounded in May 2009 (Item 5). Approximately three months elapsed and Applicant still had not responded to the settlement offer, prompting the government to issue the SOR. Approximately six weeks later, Applicant paid the creditor \$3500 (Response to FORM at 4). On October 16, 2009, the creditor wrote Applicant confirming that she had settled the account (Response to FORM at 4).

Applicant maintains a budget (Item 5 at 10). She has \$589 of monthly, after-expense income (*Id.*).

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). 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 together with the factors listed in the adjudicative process. The entire process is a conscientious scrutiny of a number of variables known as the "whole person concept" (AG ¶ 2(c)). In making a decision, the administrative judge must consider all available, reliable information about the person.

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.”

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 as to obtaining a favorable security decision.

## **Analysis**

### **Guideline F, Financial Considerations**

Under this guideline, “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” (Adjudicative Guideline ¶ 18).

As of the date of the SOR, Applicant had a credit card account for approximately \$14,000 that had been delinquent since 2006. AG ¶¶ 19(a), “inability or unwillingness to satisfy debts,” and 19(c), “a history of not meeting financial obligations,” apply.

Applicant’s mother accrued the credit card charges. In September 2009, Applicant settled the account, and one month later, the creditor confirmed the account settlement. Applicant maintains a budget and has ample discretionary income to manage her finances. The following mitigating guidelines apply:

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; and,

AG ¶ 20(d) - the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

### **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(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.

Regardless of whether Applicant accrued the delinquency, she had a responsibility to make efforts to resolve it. Instead she waited nearly six months to follow through on the creditor's settlement offer. Nevertheless, Applicant satisfied the account and has ample discretionary income to manage her finances. Also, there is no record evidence indicating any other financial problems. Upon evaluating this case in the context of the whole person concept, I conclude Applicant has mitigated the Financial Considerations security concern.

### **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
Subparagraph 1.a:	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.

MARC E. CURRY  
Administrative Judge