



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



In the matter of:

ISCR Case No. 18-00354

Applicant for Security Clearance

**Appearances**

For Government: Jeff A. Nagel, Department Counsel

For Applicant: *Pro se*

September 6, 2018

**Decision**

LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of the Case**

On February 15, 2018, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order (EO) 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 for cases after June 8, 2017.

Applicant answered the SOR on March 10, 2018, and requested a hearing before an administrative judge. The case was assigned to me on May 2, 2018. The Defense Office of Hearings and Appeals issued a notice of hearing on June 21, 2018, and the hearing was convened as scheduled on August 8, 2018. The Government offered six exhibits, referred to as Government Exhibits 1 through 6, which were admitted without objection. The Applicant offered thirteen exhibits, referred to as Applicant's Exhibits A through M, which were admitted without objection. Applicant testified on her own

behalf. The record remained open until close of business on August 22, 2018, to allow the Applicant the opportunity to submit additional supporting documentation. Applicant submitted one Post-Hearing Exhibit, referred to as Applicant's Post-Hearing Exhibit A, which was admitted without objection. DOHA received the transcript of the hearing (Tr.) on August 17, 2018.

### **Findings of Fact**

Applicant is 53 years old. She is divorced with four children. She has a high school diploma and some college. She holds the position of Financial Analyst with a defense contractor. She seeks to obtain a security clearance in connection with her employment in the defense industry.

Paragraph 1 Guideline F – Financial Considerations The Government alleges that the Applicant is ineligible for clearance because she is financially overextended and at risk of having to engage in illegal acts to generate funds.

The SOR alleges that Applicant is indebted to nine separate creditors totaling approximately \$30,000 that include charge-offs, collection accounts, and a repossession. In her Answer, Applicant admits each of the allegations. Credit reports of the Applicant dated September 7, 2016; and March 16, 2016, reflect that each of these debts were owing at one point. (Government Exhibits 4 and 6.) Applicant has been working for her current employer since November 2014.

Prior to 2014, Applicant had no financial problems. She paid \$1,400 in monthly rent, and it was current along with her other bills. In 2015, Applicant paid to move to a larger rental property with the understanding that her youngest daughter, who was 21 years old and pregnant at the time, and her boyfriend, would move in with her, and they would all share the rent. Although they moved in with the Applicant, they never paid rent. Applicant ended up supporting the household, including the moving expenses, the monthly rent, which was about \$2,300 monthly, and all of the utility bills. Applicant's daughter's boyfriend ended up not having a job or money, and so he had nothing for the baby that was born in 2015. He is now in prison for 15 years and Applicant's daughter has a restraining order against him. Applicant used her credit cards to buy the things the baby needed. (Tr. p. 44.) Applicant also used credit cards to maintain the house, buy food, as well as diapers and formula.

To reduce her expenses, Applicant moved out of the house, and is now renting a room for \$850 monthly that she lives in. She now has more money to live on and pay her bills. As she resolves her bills, she moves on to another one that she has not addressed. She plans to resolve all of her debt. Applicant's daughter is now working at a grocery store in the meat department, making about \$12.00 hourly and paying her bills. Applicant still helps out financially with the baby's necessities, such as clothing and supplies. Applicant drives an economic car with car payments of \$289 monthly.

The following delinquent debts were listed in the SOR became owing:

1.a. Applicant was indebted to a creditor for an account that was charged off in the approximate amount of \$22,271. This was a car repossession. Applicant purchased the car in May 2014 and made the payments until she could no longer do so. She plans to pay this debt after paying off her debt to the IRS. (Applicant's Response to SOR.)

1.b. Applicant was indebted to a creditor for an account that was charged off in the approximate amount of \$2,712. The debt has increased to \$3,166.14. Applicant set up a payment plan to start May 2018 in the amount of \$25 monthly to be paid until the debt is resolved. (Applicant's Exhibit C.)

1.c. Applicant was indebted to a creditor for an account that was placed for collection in the approximate amount of \$959. Applicant set up a payment plan to start May 2018 in the amount of \$39.50 monthly to be paid until the debt is resolved. (Applicant's Exhibit D.)

1.d. Applicant was indebted to a creditor for an account that was placed for collection in the approximate amount of \$931. Applicant set up a payment plan to pay \$50 monthly on the 14<sup>th</sup> of every month to start on May 14, 2018, to be paid until the debt is resolved. (Applicant's Exhibit A.)

1.e. Applicant was indebted to a creditor for an account that was placed for collection in the approximate amount of \$891. Applicant set up an electronic debit agreement to start March 2018 in the amount of \$113.28 monthly to be paid until the debt is resolved. (Applicant's Exhibit F.)

1.f. Applicant was indebted to a creditor for an account that was placed for collection in the approximate amount of \$776. Applicant set up a payment plan to start March 2018 in the amount of \$97.02 monthly to be paid until the debt is resolved. (Applicant's Exhibit E.)

1.g. Applicant was indebted to a creditor for an account that was charged off in the approximate amount of \$530. This was a credit card that Applicant used to buy basic necessities for the newborn baby, and to maintain the household expenses. She plans to contact the creditor to set up a payment plan soon. (Applicant's Response to SOR.)

1.h. Applicant was indebted to a creditor for an account that was charged off in the approximate amount of \$1,643. This was a credit card that Applicant used to buy basic necessities for the newborn baby, and to maintain the household expenses. Applicant has paid off the debt in full. (Applicant's Post-Hearing Exhibit A.)

1.i. Applicant was indebted to a creditor for an account that was placed for collection in the approximate amount of \$98. Applicant paid the debt in full. (Applicant's Exhibit B.)

Applicant also volunteered that she owes Federal back taxes for tax years 2015, 2015, and 2016 in the amount of \$4,541.54. Since March 2018, she has been making

regular monthly payments of \$150 monthly to resolve the debt, which will continue until the debt is paid in full. (Tr. p. 29 and Applicant's Exhibit G.)

Applicant further volunteered that she owes state back taxes for tax years 2015 in the amount of \$3,464. She has a credit of \$3,200, and so now owes approximately \$759.99 to the state. (Tr. p. 31.) She has set up a payment plan that started in June 2018 in the amount of \$103 monthly to be paid until the debt is resolved. (Applicant's Exhibit H.)

Applicant provided a copy of her earnings statement and a monthly financial report. (Applicant's Exhibit K and Applicant's Post-Hearing Exhibit A.) The monthly financial report indicates that after Applicant pays all of her monthly expenses and past bills she has about \$596 left in discretionary funds that she plans to use for other bills. (Applicant's Post-Hearing Exhibit A.) Applicant also provided a letter from her human resources manager indicating that she currently earns \$98,646 annually. (Applicant's Post-Hearing Exhibit A.)

Letters of recommendation from a number of coworkers and friends attest to Applicant's honesty, hardworking nature and responsible character. She is known to be thoughtful, reliable and supportive, and is considered to be a valuable employee. She is highly recommended for a security clearance. (Applicant's Exhibit L.)

Applicant has received a ten percent raise for her hard work and dedication on the job. (Applicant's Exhibit M/)

## **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 and mitigating conditions, 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, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(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 national security eligibility 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 the 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 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.

Section 7 of EO 10865 provides that adverse 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 for Financial Considerations is set out in AG ¶ 18, as follows:

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.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Three are potentially applicable in this case:

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

Applicant has always been the main financial provider of her family household, providing support for four children on her own. She admits that she made some bad decisions by moving her pregnant daughter and her boyfriend in with her when they did not have employment. She also spent money on the baby that she could not afford. Since 2015, she has been working diligently to resolve her delinquent debt. The evidence is sufficient to raise the above disqualifying conditions.

Four Financial Considerations Mitigating Conditions under AG ¶ 20 are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (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;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

Since 2015, Applicant has been working diligently to resolve her delinquent debt. She has significantly reduced her monthly expenses, and is careful about how she spends money. She has paid off and resolved some of her delinquent debt and is making regular monthly payments to pay others. She is also paying off delinquent back taxes that were not alleged in the SOR. She understands the importance of living within her means and paying her bills on time. She also understands the responsibilities that come along with possessing a security clearance. She is now on the correct path and has demonstrated financial responsibility. She has acted reasonably and responsibly under the circumstances, and has demonstrated good judgment, reliability, and trustworthiness. The Financial Considerations concern has been mitigated.

## 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(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(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 the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the Financial Considerations security concerns.

## 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
Subparagraph 1.b.:	For Applicant
Subparagraph 1.c.:	For Applicant
Subparagraph 1.d.:	For Applicant
Subparagraph 1.e.:	For Applicant
Subparagraph 1.f.:	For Applicant
Subparagraph 1.g.:	For Applicant
Subparagraph 1.h.:	For Applicant
Subparagraph 1.i.:	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 national security eligibility for a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson  
Administrative Judge