



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



In the matter of: )  
)  
) ISCR Case No. 14-06250  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Candace L. Garcia, Esq., Department Counsel  
For Applicant: *Pro se*

11/21/2015

**Decision**

LOUGHRAN, Edward W., Administrative Judge:

Applicant did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On March 14, 2015, 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; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006.

Applicant responded to the SOR on April 9, 2015, and elected to have the case decided on the written record in lieu of a hearing. The Government's written case was submitted on July 22, 2015. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the

FORM on August 20, 2015. She responded with documents that I have marked Applicant's Exhibits (AE) A through C. The case was assigned to me on October 13, 2015. The Government exhibits included in the FORM and AE A through C are admitted in evidence without objection.

### **Findings of Fact**

Applicant is a 58-year-old employee of a defense contractor. She has a bachelor's degree that was awarded in 1979. Her second marriage ended in divorce in 2000. She has a 27-year-old daughter.<sup>1</sup>

The SOR alleges seven delinquent debts totaling about \$81,000 and an unpaid \$5,984 judgment from 2011. SOR ¶ 1.c alleges the underlying debt of \$8,878 that resulted in the judgment, so the actual total amount owed is less than that alleged. The debts include a defaulted student loan and credit card accounts. Applicant admitted owing all the debts with the exception of the \$154 debt alleged in SOR ¶ 1.g, which she established was paid in March 2015. Credit reports from March 2013 and October 2014 also substantiate the debts.<sup>2</sup>

Applicant attributed her financial problems to being laid off from two jobs in 2012 and from an additional job in 2013. She also switched jobs twice in 2014 because of the "cost of travel to and from job site." However, she worked for the same company from 2001 through January 2012, and several of the debts became delinquent before 2012.<sup>3</sup>

SOR ¶ 1.a alleges a \$58,282 defaulted student loan. Applicant took out the loan for her daughter's college education. Credit reports indicate the loan was initiated in 2007, and the date of last action was 2010. Applicant should have started paying the loan in 2010, but she fell behind on other loans and credit cards, and she made no payments. She indicated in her September 2015 response to the FORM that she was on a payment plan for the loan. She did not submit any supporting documentation.<sup>4</sup>

Applicant submitted settlement agreements with the collection company handling the \$808 and \$599 debts alleged in SOR ¶¶ 1.e and 1.f. She stated that she paid the settlement amounts of \$606 and \$479 on September 16, 2015. I accept without corroborating documentation that the settlement payments were made.<sup>5</sup>

Applicant stated that now that she has stable employment again, she is doing much better at meeting her obligations, and she plans to pay her debts. She wrote in

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<sup>1</sup> Items 3, 4.

<sup>2</sup> Items 2, 3.

<sup>3</sup> Item 2; AE A.

<sup>4</sup> Items 2, 4, 6, 7.

<sup>5</sup> Items 2, 4, 6, 7; AE A-C.

response to the FORM that she had payment plans for the remaining delinquent debts. She did not submit any supporting documentation.<sup>6</sup>

## **Policies**

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 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 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 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 safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of 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).

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<sup>6</sup> Item 2; AE A.

## Analysis

### Guideline F, Financial Considerations

The security concern for financial considerations is 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.

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

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

Applicant had delinquent debts that she was unable or unwilling to pay. The evidence is sufficient to raise the above disqualifying conditions.

SOR ¶ 1.c alleges a \$8,878 debt that was the basis for the \$5,984 judgment alleged in SOR ¶ 1.j. When the same conduct is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant's favor. See ISCR Case No. 03-04704 (App. Bd. Sep. 21, 2005) at 3 (same debt alleged twice). SOR ¶ 1.c is concluded for Applicant.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following 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), 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 attributed her financial problems to being laid off from two jobs in 2012 and from an additional job in 2013. She also switched jobs twice in 2014 because of the “cost of travel to and from job site.” Those events were beyond her control. However, she worked for the same company from 2001 through January 2012, and she had significant financial problems before 2012, including a defaulted student loan and a 2011 judgment for an unpaid credit card.

Applicant paid the \$154 debt alleged in SOR ¶ 1.g in March 2015. She settled the \$808 and \$599 debts alleged in SOR ¶¶ 1.e and 1.f in September 2015. Those debts are mitigated. She stated that she made payment arrangements for the remaining debts, but she did not submit supporting documentation. Applicant resolved \$1,561 of her delinquent debts. She still owes more than \$76,000.

There is insufficient evidence for a determination that Applicant’s financial problems will be resolved within a reasonable period. I am unable to find that she acted responsibly under the circumstances or that she made a good-faith effort to pay her debts. Her financial issues are recent and ongoing. They continue to cast doubt on her current reliability, trustworthiness, and good judgment. AG ¶¶ 20(a), 20(c), and 20(d) are not applicable. AG ¶ 20(b) is partially applicable. I find that financial considerations concerns remain despite the presence of some mitigation.

### **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 the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in this whole-person analysis.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate 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:	Against Applicant
Subparagraphs 1.a-1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	Against Applicant
Subparagraphs 1.e-1.g:	For Applicant
Subparagraph 1.j: <sup>7</sup>	Against Applicant

### **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.

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Edward W. Loughran  
Administrative Judge

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<sup>7</sup> There are no Subparagraphs 1.h or 1.i.