



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



In the matter of: )  
)  
) ISCR Case No. 15-02239  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Gina L. Marine, Esq., Department Counsel  
For Applicant: *Pro se*

06/13/2016

**Decision**

COACHER, Robert E., Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

**Statement of the Case**

On September 19, 2015, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (financial considerations). DOD acted 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) effective within the DOD on September 1, 2006.

Applicant answered the SOR on October 23, 2015, and elected to have her case decided on the written record without a hearing. Department Counsel submitted the

Government's File of Relevant Material (FORM)<sup>1</sup> on December 23, 2015 (the Government evidence is referred to in the FORM as "Evidence", but in this decision the evidence will be referred to as Items). The FORM was mailed to Applicant who received it on January 7, 2016. Applicant was given an opportunity to file objections and submit material in refutation, extenuation, or mitigation. She submitted a response to the FORM containing Applicant's exhibits (AE) A-G, which were admitted into evidence without objection. The case was assigned to me on May 5, 2016.

### **Findings of Fact**

In Applicant's answer to the SOR she admitted ¶¶ 1.e, 1.f, 1.h, 1.j, and 1.k-1.o. She denied the remaining allegations. The admissions are adopted as findings of fact. After a thorough and careful review of the pleadings and evidence submitted, I make the following additional findings of fact.

Applicant is 55 years old. She is married and has three adult children. She has worked for her current employer, a federal contractor, since November 2008. She also worked for her current contractor from 1985 to 1992, but stopped to care for her children. She has a bachelor's degree. She did not serve in the military and has never held a security clearance.<sup>2</sup>

The amended SOR lists 15 delinquent debts in the total amount of approximately \$40,000. The debts are supported by credit report entries from August 2014, February 2015, and December 2015, and other evidence contained in the FORM.<sup>3</sup>

The status of Applicant's SOR debts is as follows:

#### **SOR ¶ 1.a:**

This is a collection account for a credit card debt in the amount of \$1,287. Applicant provided documentation showing she set up a payment plan to settle this account in October 2015. She has made eight continuous payments in accordance with the payment plan from October 2015 through January 2016. This debt is being resolved.<sup>4</sup>

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<sup>1</sup> In the FORM, the Government amended the SOR to modify ¶ 1.d by changing the charged-off amount to \$18,027; and to add five new allegations (¶¶ 1.k-1.o) with the following respective charged-off or delinquent amounts: \$2,756; \$1,500; \$3,667; \$389; and \$123. In her undated response to the FORM, received by DOHA on February 8, 2016, Applicant did not object to the amendment, nor did she ask for additional time to address the new allegations. She admitted all the amended allegations. See AE A.

<sup>2</sup> Item 3.

<sup>3</sup> Items 5-7.

<sup>4</sup> Item 2; AE A, C.

**SOR ¶ 1.b:**

This is a car loan debt in the amount of \$358. Applicant stated this debt was paid and that she possesses the title for this vehicle indicating there is no debt associated with it. She will contact the credit bureaus to straighten out this matter. This debt is being resolved.<sup>5</sup>

**SOR ¶ 1.c:**

This is a consumer debt in the amount of \$312. Applicant provided documentation showing she set up a payment plan and paid this debt in November 2015. This debt is resolved.<sup>6</sup>

**SOR ¶ 1.d:**

This is a credit card debt in the amount of \$18,027 (amended amount). Applicant indicated she would address this debt once the other debts were resolved.<sup>7</sup>

**SOR ¶ 1.e:**

This is a medical collection account in the amount of \$6,798. Applicant indicated she set up a payment plan to pay this account by initially paying \$100, followed by monthly payments of \$50 until the debt is paid. Although she did not provide documentation of these payments, the debt does not appear on the two most recent credit reports. This debt is being resolved.<sup>8</sup>

**SOR ¶¶ 1.f and 1.g (duplicate debt):**

This is a collection account for a credit card debt in the amount of \$1,785. Applicant provided documentation showing she set up a payment plan to settle this account in October 2015. She has made seven continuous payments in accordance with the payment plan from October 2015 through January 2016. This debt is being resolved.<sup>9</sup>

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<sup>5</sup> Item 2.

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

<sup>7</sup> Item 4; AE A.

<sup>8</sup> Items 2, 5, 7.

<sup>9</sup> Item 2; AE A, D.

**SOR ¶ 1.h:**

This is a consumer debt in the amount of \$671. Applicant provided documentation showing she set up a payment plan and settled this debt in December 2015. This debt is resolved.<sup>10</sup>

**SOR ¶¶ 1.i and 1.j (duplicate debt):**

This is a consumer debt in the amount of \$452. Applicant provided documentation showing she settled this debt in October 2015. This debt is resolved.<sup>11</sup>

**SOR ¶¶ 1.k-1.o:**

These are consumer and medical debts that were added to the SOR by Department Counsel's amendment in December 2015. Applicant indicated in her FORM response that she would begin addressing these accounts when she resolves the debts listed in the original SOR.<sup>12</sup>

**Non-SOR payments:**

Applicant is in good standing with her student loan account. Her total indebtedness is approximately \$43,268 and she has made consistent monthly payments of \$193 since November 2014.<sup>13</sup>

**Character Information:**

Applicant provided reference letters from a supervisor and a coworker who support her request for a security clearance. They described Applicant as dedicated, reliable, honest, and someone with great integrity.<sup>14</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 used in evaluating an applicant's eligibility for access to classified information.

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<sup>10</sup> Item 2; AE A, E.

<sup>11</sup> Item 2; AE A, G.

<sup>12</sup> Item 2; AE A.

<sup>13</sup> Item 7.

<sup>14</sup> AE B.

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 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." 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, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and 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 an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about 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**

AG ¶ 18 expresses the security concern for financial considerations:

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. I have considered all of them under AG ¶ 19 and the following potentially apply:

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

Applicant has delinquent debts that remain unpaid or unresolved. I find both disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

- (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 has resolved or is resolving ten of her debts and is current on her student loan debt. Several of the debts that remain unresolved are those added through the amendment to the SOR and she has not had an adequate opportunity to address them. However, she made good on her commitment to address her debts as she indicated when she answered the SOR. Therefore, she has established a track record of addressing her debts. There is sufficient evidence to indicate that Applicant's debts are being resolved and that she has made good-faith efforts to resolve those that remain. I find AG ¶¶ 20(c) and 20(d) apply.

### **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.

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 guideline 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 considered the recommendations from her supervisor and a coworker. Applicant has stabilized her finances and has shown significant progress towards getting her finances back on track.

Overall, the record evidence leaves me with no questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising under Guideline F.

### **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
Subparagraphs 1.a – 1.o:	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.

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Robert E. Coacher  
Administrative Judge