



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



Appearances

For Government: Rhett Petcher, Esq., Department Counsel
For Applicant: *Pro se*

03/04/2025

Decision

GOLDSTEIN, Jennifer I., Administrative Judge:

Applicant has many years of unresolved delinquent debts. She did not provide sufficient information, documented or otherwise, to mitigate resulting financial considerations security concerns. Applicant's eligibility for access to classified information is denied.

Statement of the Case

In connection with her employment with a defense contractor, Applicant submitted a security clearance application (SCA) on July 12, 2023. On January 9, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. The CAS issued the SOR under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2,

1992), as amended (Directive); and Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (AG), effective June 8, 2017.

Applicant answered the SOR on January 15, 2024, and requested a hearing before an administrative judge. (Answer) The case was assigned to me on December 11, 2024. The Defense Office of Hearings and Appeals (DOHA) issued a notice on January 23, 2025, scheduling the hearing for February 13, 2025. The hearing was convened as scheduled. The Government offered Exhibits (GE) 1 through 3, which were admitted without objections. Applicant testified on her own behalf. She did not submit any documents. DOHA received the transcript of the hearing on February 28, 2025 (Tr.).

Findings of Fact

In her SOR response, Applicant admitted allegations SOR ¶¶ 1.a through 1.g. She denied SOR ¶¶ 1.h through 1.l. She provided explanations as to each alleged debt. Her admissions are incorporated into the findings of fact. Additional findings follow.

Applicant is 44 years old. She is a single mother. She applied for a security clearance in connection with potential employment with a government contractor. She is currently unhoused. (GE 1; Tr. 17.)

Applicant has experienced multiple periods of unemployment or underemployment. In 2018, she left her job as a correctional officer in her home state (state 1), which paid \$28 per hour. She moved to another state (state 2) and lived with her aunt. She was unemployed from December 2018 to April 2019. She was employed at two different jobs from April to June 2019. Living with her aunt did not work out, and she had to return to state 1 in June 2019 to help her dad when his twin brother died unexpectedly. From June 2019 to August 2019, she was unemployed. She moved back to state 2 in summer 2021 and worked as a self-employed contractor for state 2 and as a "gig" worker. However, she has been back and forth between states 1 and 2 since September 2024. She is currently employed in state 1 as a substitute teacher making \$23 per hour. She also works one day per week at a discount retail store. (GE 1; Tr. 13-20, 24-28)

In SOR ¶ 1.a, the Government alleges that Applicant is indebted on a charged off credit card in the amount of \$6,952. Applicant explained that this card originally had a \$600 limit, but the limit was extended to \$3,000. She used the card to take her son on a "Florida dream vacation" in 2017. She testified that she has contacted the creditor, but they are unwilling to make a settlement agreement. This debt is unresolved. (Tr. 28-30)

In SOR ¶ 1.b, the Government alleges that Applicant is indebted on a charged off account in the amount of \$2,102. This debt was assigned for collections in October 2018. This debt is unresolved. (GE 2; GE 3

In SOR ¶ 1.c, the Government alleges that Applicant is indebted on a charged off account in the amount of \$1,558. The balance due on this debt was originally \$1,100. It has been delinquent since at least February 2019. This debt is unresolved. (GE 2; GE 3)

In SOR ¶ 1.d, the Government alleges that Applicant is indebted on a collection account in the amount of \$789. The balance due on this debt was originally \$725. It was assigned for collection in October 2020. This debt is unresolved. (GE 2; GE 3)

In SOR ¶ 1.e, the Government alleges that Applicant is indebted on a collection account in the amount of \$784. This debt was for a retail credit card. It was assigned for collection in June 2020. This debt is unresolved. (GE 2; GE 3)

In SOR ¶ 1.f, the Government alleges that Applicant is indebted on a collection account in the amount of \$677. She believes there was a garnishment for this debt at one point. She contacted the bank to get information in 2024 and was given a phone number to a law office collecting the debt. She called them in February 2024, but did not hear back from the collection agent. This debt is unresolved. (Answer; GE 3)

In SOR ¶ 1.g, the Government alleges that Applicant is indebted on a collection account in the amount of \$540. She indicated this was for a cable bill. She claims to have paid it off in 2022. It was assigned for collection in January 2023. This debt is unresolved. (GE 2; GE 3)

In SOR ¶ 1.h, the Government alleges that Applicant is indebted on a collection account in the amount of \$177. This debt was owed to a car-insurance company. Applicant was owed a refund from the company (likely due to COVID), but because her account was closed, the company could not issue her the refund. The company opened an account in her name to issue the refund. It was supposed to close the account after the refund was issued. However, they did not close it and she was billed \$177. She contests this debt. It is unresolved. (Answer; GE 3; Tr. 31-32)

In SOR ¶ 1.i, the Government alleges that Applicant is indebted on a mortgage account that was foreclosed upon in 2022. This debt was for a timeshare she bought with her ex-boyfriend. After they split up and she was physically attacked by his new partner, she decided that she could no longer pay this debt. It is resolved through foreclosure. (Answer; GE 3; Tr. 34-25)

In SOR ¶ 1.j, the Government alleges that Applicant was indebted on a delinquent property loan in 2022. She testified that this was for a credit builder account that she paid off early. The credit report reflects that this debt was “paid from collateral.” It is resolved through foreclosure. (Answer; GE 3; Tr. 35-36)

In SOR ¶ 1.k, the Government alleges that Applicant was indebted on a judgment filed against her in the amount of \$789. She testified that the judgment was for a delinquent credit card. She claimed to have never received documents from the court about the judgment. This debt is unresolved. (Answer; GE 3; Tr. 37)

In SOR ¶ 1.l, the Government alleges that Applicant is indebted on a collection account in the amount of \$13,328. This debt had to do with Applicant moving out of a leased apartment two or three months early. She did not understand why the fees were so high. This debt is unresolved. (Answer; GE 3; Tr. 37-39)

In addition to the alleged debts, Applicant owes a credit union for a vehicle loan, and owes a mechanic for repairs to that vehicle. The mechanic has been storing the vehicle for over a year and will continue to do so until she can pay for the repairs. As a result, she does not currently have a car. Applicant did not provide any evidence of credit counseling. (Tr. 39-44)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an applicant's eligibility 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.

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(a), 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 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 not drawn 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, 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 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.

Analysis

Guideline F, Financial Considerations

The security concern for financial considerations is set out in AG ¶ 18:

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. . . . An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

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

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

Over the past eight years, Applicant has not satisfied her financial obligations in a timely manner. She has experienced periods of unemployment, and has not had the ability to make payments on her delinquent accounts. She prioritized caring for her son as a single mother. Her debt alleged on the SOR totals \$27,686. Additionally, she has

had two debts satisfied through foreclosure. The debts are established by her Answer, the credit report in evidence, and her admissions. All the above disqualifying conditions apply.

Conditions that could mitigate 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, 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
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant's debts are recent because they are ongoing. Although her two foreclosures are technically resolved, she failed to meaningfully address the remaining debts. She has not established payment agreements with any of her creditors or demonstrated a track record of paying debts in a timely manner. Additionally, she has new delinquent debts related to her car that show additional delinquent financial obligations. AG ¶ 20(a) is not applicable.

Applicant presented evidence that the debts were affected by circumstances beyond her control, namely, her unemployment and unstable housing. However, she has not act responsibly concerning any of her debts. She failed to produce any documented efforts of her efforts to resolve her delinquencies. AG ¶ 20(b) has some application but does not fully apply.

Applicant presented no evidence of financial counseling. Her track record to date does not support a good financial picture. Based upon her history, there is no reason to believe that her financial situation will improve. While foreclosure resolved two of her debts, these actions do not demonstrate a good-faith effort to resolve her debt. Applicant's financial problems are not under control. Applicant did not meet her burden to show that AG ¶¶ 20(c) and 20(d) apply.

Applicant contests the \$177 debt in SOR ¶ 1.h because it was not for an account that she initiated. It was opened solely to enable her to receive a refund. However, she did not produce evidence to substantiate this claim beyond her bare averment. Applicant did not meet her burden to show that AG ¶ 20(e) applies.

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

Applicant needs to establish a documented track record of payments towards her consumer debts to fully mitigate financial considerations security concerns, but she has not done so. This is not to say that Applicant cannot be a suitable candidate for classified access in the future. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility for access to classified information. Applicant did not mitigate financial 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.l: **Against Applicant**

Conclusion

Considering all the circumstances presented by the record, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Jennifer I. Goldstein
Administrative Judge