



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



In the matter of: )  
)  
) ISCR Case No. 14-03263  
)  
Applicant for Security Clearance )

**Appearances**

For Government: John Bayard Glendon, Esq., Department Counsel  
For Applicant: *Pro se*

09/28/2015

**Decision**

CURRY, Marc E., Administrative Judge:

Although circumstances beyond Applicant's control contributed to her financial problems, she failed to provide evidence of any steps taken to satisfy her delinquent debts and stabilize her financial situation. Under these circumstances, it is not clearly consistent with the national interest for Applicant to possess a security clearance. Clearance is denied.

**Statement of the Case**

On August 5, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. 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 adjudicative guidelines (AG) implemented by the DOD on September 1, 2006.

On August 26, 2014, Applicant answered the SOR, admitting subparagraphs 1.d, 1.e, and 1.l through 1.n. She denied the remainder, and requested a decision on the record rather than a hearing. On March 11, 2015, Department Counsel prepared a File of Relevant Material (FORM) consisting of documents supporting the Government's allegations. Applicant received the FORM on March 19, 2015, and was informed that she had 30 days, through April 18, 2015, to submit a response. Applicant did not submit one, whereupon the case was assigned to me on May 21, 2015.

### **Findings of Fact**

Applicant is a 32-year-old woman. She has been separated from her husband since approximately 2009. (Item 2 at 2; Item 3 at 22) She has two children, ages fourteen and six, from her husband, and one child, age three, from her live-in partner.

Applicant is a high school graduate who has taken some college courses. Since 2003, she has worked for a defense contractor as an application support analyst. (Item 3 at 13)

The SOR lists 14 debts totaling approximately \$58,000. Applicant denies subparagraph 1.a, totaling \$9,512, contending that her aunt stole her identity and opened this credit account in her name. (Item 2 at 1) The credit report that the Government submits in support of this allegation lists that it is in dispute. (Item 4 at 2) It is not included on a more recent credit report that Applicant submitted. (Item 2 at 3-30)

The debts alleged in subparagraphs 1.b, 1.c, 1.f, 1.i, and 1.j are listed as unidentified in the credit report that the Government submitted in support of these allegations. Applicant denies them.

Subparagraph 1.e, totaling \$50, stems from a medical procedure that Applicant received. (Item 2 at 1) She contends that she has contacted the creditor and will pay it once she pays some of her other debts.

There is no record evidence supporting the Government's allegations listed in subparagraphs 1.g, 1.h and 1.k. Applicant denies them.

The debt listed in subparagraph 1.l is the deficiency stemming from a loan on a repossessed vehicle. Applicant helped her brother purchase the car by cosigning the car loan. He relocated to another state and did not tell Applicant that he had defaulted on the note, leading to the car's repossession. (Item 2 at 2) Applicant contends that she is negotiating a settlement. She provided no documentary evidence.

Subparagraphs 1.m and 1.n are delinquent student loans totalling approximately \$8,000. Applicant attended college in 2008, but stopped after pregnancy-related medical problems incapacitated her. These problems also rendered her unable to work,

and subsequently led to the loss of her job, as she remained incapacitated longer than her employer was statutorily required to hold her position under the Family Medical Leave Act. (Item 2 at 2) Consequently, her student loans became delinquent. She contends that she has been making payments of \$111 per month since 2012. (Item 3 at 40) She provided no documentary evidence.

Applicant's husband left her while she was on bed rest in 2008. The combination of his desertion, her difficult pregnancy, and the loss of her job contributed to the accrual of her delinquent debts. Applicant was unemployed for three months after being laid off at or about the birth of her first child. (Item 3 at 17)

### **Policies**

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied together with the factors listed in the adjudicative process. 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 applicant or proven by department counsel. . . ." The applicant has the ultimate burden of persuasion for 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." (AG ¶ 18) Applicant's history of financial delinquencies triggers the application of AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations."

There is no record evidence establishing that Applicant owes the debts alleged in subparagraphs 1.a, 1.g, 1.h, and 1.k. In light of Applicant's denials, I resolve these subparagraphs in her favor.

Subparagraphs 1.b, 1.c, 1.f, 1.i, and 1.j do not identify specific creditors. Although SOR allegations do not need to be drafted with the specificity of a criminal pleadings, they must, at minimum, be specific enough for applicants to reasonably prepare a response. These allegations fail to meet this threshold, therefore, I resolve them in Applicant's favor.

As for the remaining SOR allegations, the following mitigating conditions are potentially applicable.

(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.

The evidence of circumstances beyond Applicant's control contributing to her financial problems is compelling. Nevertheless, she has a responsibility to produce evidence substantiating the efforts that she has taken to organize her finances and pay her delinquencies, and she failed to do so. Under these circumstances, none of the mitigating conditions apply.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). They are as follows:

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.

Circumstances beyond Applicant's control contributed to her financial problems. However, she did not provide any evidence documenting her contention that she is paying her debts. Under these circumstances, I conclude that she did not mitigate the 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:	AGAINST APPLICANT
Subparagraphs 1.a-1.c:	For Applicant
Subparagraphs 1.d-1.e:	Against Applicant
Subparagraphs 1.f-1.k:	For Applicant
Subparagraph 1.l-1.n:	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.

MARC E. CURRY  
Administrative Judge