



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



In the matter of:)	
)	
)	ISCR Case No. 20-01483
)	
Applicant for Security Clearance)	

Appearances

For Government: Brian Farrell, Esq., Department Counsel
For Applicant: *Pro se*

07/28/2021

Decision

LYNCH, Noreen A., Administrative Judge:

Applicant has not mitigated the security concerns under the financial considerations guideline. Eligibility for access to classified information is denied.

Statement of the Case

On September 16, 2020, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Adjudicative Guideline F (financial considerations). The action was taken under Executive Order (Exec. Or.) 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 DOD on June 8, 2017. Applicant responded to the SOR and elected to have her case decided on the written record in lieu of a hearing.

Department Counsel submitted the Government’s file of relevant material (FORM) on April 28, 2021. Applicant received the FORM on May 24, 2021. Applicant did not object to the Government’s evidence, and provided a response to the FORM. (Item A) The Government’s evidence, included in the FORM and identified as Items 1

through 8, is admitted without objection. The case was assigned to me on July 16, 2021. Based on my review of the documentary evidence, I find that Applicant has not mitigated financial considerations security concerns.

Findings of Fact

In response to the SOR, Applicant admitted SOR allegations 1.a through 1.i with explanations. She stated that the SOR accounts were settled in 2019 and 2020, as part of a debt relief program. (Item 2) She is 49-years-old, divorced with two adult children. She received her GED in 1994, and attended college classes in 2009-2010, and in 2018 until the present, but she did not obtain an undergraduate degree. She has no prior military experience. She has worked as a contractor for a defense company since 2008, and in April 2020, she received a promotion to her current position of Program Manager. (Item A) Applicant obtained a security clearance in 2007 for another agency, but was denied a DOD security clearance in 2016 based on financial issues. (Item 3) She claimed that she was granted a secret clearance on February 26, 2019, but provided no proof. (Item A) She completed her latest security clearance application on April 10, 2019. (Item 3)

Financial

The SOR alleged that Applicant has nine (9) delinquent debts totaling \$30,766. (Item 1) The largest delinquent account was a charged-off-account for a consolidation loan for SOR 1.a in the amount of \$9,538. (Item 1) The allegations are supported by her credit report and security clearance application. (Item 3, 6)

Applicant attributed her delinquent debts to a number of difficulties and problems beginning in 2008 and continuing through 2017. In July 2008, her spouse ended their relationship, and her income dropped from two incomes to one income. She was a single parent with two children, a mortgage, and two car payments. In 2008, she was residing in Texas, but was offered a promotion which required her to move from Texas to Virginia. (Item A) Applicant took out a loan to help with housing placement, and moving expenses from Texas to Virginia, and additional costs. (Item A, Response to FORM) In addition, in 2010, Applicant's former spouse was diagnosed with cancer and she provided some care for him. In remission, he decided to abandon Applicant in 2012, and provided no financial support to her. (Item A, Response to FORM)

Applicant enrolled in a debt relief program in October 2018, so that she could work toward eliminating debt and regain control of her finances. She has copies of the agreement letters for each account and charts and documents that provide settlement dates and completion amounts. She has consistently made payments to this debt consolidation program since April 2020. (Item 7) The supporting documentation shows these payments totaled about \$8,033 over the past year. (Item 7) In her response to FORM (Item A), Applicant claimed she has paid approximately \$16,000 toward her debt consolidation since October 2018. However, there is no specific documentation in the file to support this.

As to SOR 1.a, Applicant settled a “charged-off-account that was \$9,538 in the amount of \$8,290. She provided a completion of program.

As to SOR 1.b, a collection account in the amount of \$9,316, Applicant settled the account in 2019, for \$5,589, and provided general documentation.

As to SOR 1.c, a charged-off-account in the amount of \$3,120, Applicant settled the account in 2019, for \$1,561, and provided general documentation not connected to a specific creditor.

As to SOR 1.d, a charged-off account in the amount of \$2,863, Applicant settled the account in 2019, for \$1,517, and provided general documentation not connected to a specific creditor.

As to SOR 1.e, a past-due-account in the amount of \$27, with an approximate balance of \$1,356, Applicant stated the account is now current and the balance is \$895. She provided documentation. (Item 2)

As to SOR 1.f, a charged-off-account in 2020, in the amount of \$1,320, Applicant settled the account in the amount of \$536, and provided a letter from the company. (Attachment to answer to SOR)

As to SOR 1.g, a charged-off account in the amount of \$1,020, Applicant settled the account in 2020 for \$459.33, and provided general documentation not connected to a specific creditor.

As to SOR 1.h, a collection account in the amount of \$1,035, Applicant settled the account for \$517.59, and provided general documentation not connected to a specific creditor.

As to SOR 1.i, a charged-off account in 2019, in the amount of \$1,527, Applicant settled the account in the amount of \$687.29, and provided general documentation not connected to a specific creditor.

Counsel does not dispute that Applicant provided her payment history with the debt relief company showing that she consistently made payments to this debt consolidation program since 2020. (Item 7) Her supporting documentation shows that these payments totaled about \$8,033 over the past year. (Item 7) Applicant provided documents that showed she had resolved eleven (11) delinquent financial accounts through the debt relief program. Counsel does not dispute this statement. As shown above, each account was settled for less than the full amount owed in delinquency. (Item 8)

However, in her April 4, 2019 security clearance application, Applicant admitted that she had significant financial issues totaling over \$30,000. She had been denied a security clearance based on financial issues in 2016, but did not enroll in the debt

consolidation until 2018. She made a settlement agreement with each creditor and paid money to them each month. (Answer to Response to FORM)

Credit bureau report, dated April 20, 2021 (Item 4) shows “pays as agreed” or settled for less than original balance for each account, with zero balance due. She has no other delinquent accounts on that credit bureau reports. (Item 4 Credit bureau report, dated April 25, 2019, (Item 6) shows past-due-amounts for various SOR accounts and accounts that are “charged off”.

Payments in various amounts are listed to the debt consolidation company from November 2020 until March 2021. (Item 7) Again, in (Item 8) a chart lists the agreement amounts but does not show which creditor was paid. In her defense, Applicant did ask for such a document, but did not receive anything. (Item 8)

Applicant has been gainfully employed since 2008 and received various promotions. There is no information in the record concerning her salary, use of a financial counselor, budget or income.

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(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.”

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 Exec. Or. 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* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F (Financial Considerations)

The concern under this guideline 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. 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

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially debt burdened may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's admissions, corroborated by her earlier credit report, establish two disqualifying conditions under this guideline: AG ¶¶ 19(a) (“inability to satisfy debts”), 19(c) (“a history of not meeting financial obligations”)

The security concerns raised in the SOR may be mitigated by the following potentially applicable factors:

AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(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; and

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant admitted that she was responsible for the delinquent debts and blames the debts on various challenges. She has received no financial counseling. There is no information on her income, or how each debt originated, and whether she paid anything on the accounts before the consolidation. Applicant has a history of financial issues since 2008. She was denied a clearance in 2016 for financial issues. When she applied in 2019 for a security clearance she had about \$30,000 worth of debt.

Applicant did not provide a clear nexus between her divorce and her inability to make any payments on accounts. In 2020, she made arrangements with a debt consolidation firm and made consistent payments. However, she continues to mismanage her financial affairs. Her recent use of more debt – the consolidation loan to resolve her debts does not deserve full mitigation. This is based on the timing and her prior use of debt consolidation. She has not had financial counseling. It is difficult to say that she has resolved the underlying issues for her clearance denial in 2016. Without more information, I have doubts about her future ability to control her finances. Any doubts must be resolved in favor of the Government. Applicant receives partial credit under AG ¶ 20(d).

Based on the lack of evidence of specific debt resolution produced by Applicant, it is not a favorable conclusion of her making a sufficient good-faith effort to resolve her debts, or that her financial situation is under control. The Government has cause to question whether Applicant has her finances under control at this time due to lack of information. Despite gainful employment since 2008, there is no evidence that Applicant has met her evidentiary burden and none of the mitigating conditions fully apply. Any doubts must be resolved in favor of the Government.

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 with questions and doubts as to Applicant's eligibility for a security clearance. Because protection of the interests of national security is the principal focus of this adjudication, any remaining doubts must be resolved by denying Applicant eligibility for access to sensitive information.

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.i:	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's eligibility for a security clearance. Eligibility for access to classified information is denied.

Noreen A. Lynch
Administrative Judge