



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



In the matter of:)
)
) ISCR Case No. 20-03191
)
Applicant for Security Clearance)

Appearances

For Government: Raashid S. Williams, Esq., Department Counsel
For Applicant: *Pro se*

07/25/2022

Decision

GARCIA, Candace Le'i, Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for a security clearance is granted.

Statement of the Case

On March 24, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR, Item 1) to Applicant detailing security concerns under 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 elected in her response to the SOR (Answer, Item 2) to have her case decided on the written record in lieu of a hearing. The Government submitted its written case on July 29, 2021. 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 September 14, 2021. She did not respond to the Government's FORM. The case was assigned to me on December 2, 2021. The Government's documents, identified as Items 1 through 5, are admitted in evidence without objection.

Findings of Fact

Applicant admitted all of the SOR allegations in her Answer. She is 50 years old. She is married and she has seven children--five adults and two minors--and six step-children--all adults. (Items 1, 2)

Applicant graduated from high school in 1990. She worked for ten years, from November 2008 to June 2018, as a cook and teacher's aide in state A. She then worked as a part-time auction driver from July to September 2018, in state B. She has worked as a maintenance person since October 2018 in state C, and she has worked in that capacity for her employer, a DOD contractor, since May 2020. She has never held a security clearance. (Item 3)

The SOR alleged that Applicant had 10 delinquent consumer debts totaling \$26,628 (SOR ¶¶ 1.a - 1.b, 1.d - 1.f, 1.h - 1.i) and two delinquent medical debts totaling \$2,387 (SOR ¶¶ 1.c, 1.g). In addition to her admissions in her Answer, Applicant disclosed her delinquent debts on her June 2020 security clearance application (SCA). She also discussed her delinquent debts during her July 2020 background interview. A July 2020 credit bureau report lists all of Applicant's delinquent debts. (Items 1-5)

Applicant attributes her delinquent debts to the high cost of living and minimal income she and her spouse earned in state A, where she was born and lived with her family until 2018. During that time, her spouse, at times, was an unreliable source of income because he was "in and out of [treatment] programs and facilities." She also indicated that she did not receive financial help from her older children's fathers. In 2018, Applicant and her spouse moved their family to state B for a better life, but Applicant was only able to find part-time employment, as discussed above. They then moved to state C, where she secured full-time employment and earned more than when she was employed in state A. She attempted to resolve her delinquent debts while maintaining steady employment in state C, but the credit union through which she applied for a debt consolidation loan denied her based on her negative credit history. (Items 2, 3, 4)

SOR ¶ 1.a is for a \$9,388 outstanding balance on an auto loan after Applicant's car was repossessed in approximately 2017 or 2018. Applicant provided documentation with her Answer reflecting that she was resolving this debt through the Freedom Debt Relief (FDR) program. (Items 1, 2, 3, 4, 5)

SOR ¶ 1.b is for a \$10,370 charged-off auto loan. Applicant purchased this car with her spouse in 2014. The car began having issues and was repossessed in 2015.

Applicant stated in her Answer that she planned on enrolling this debt with the FDR program, but she was still retrieving information necessary for her to do so. (Items 1, 2, 3, 4, 5)

SOR ¶¶ 1.c and 1.g are for two medical accounts placed for collection for \$1,455 and \$932, respectively. Applicant indicated during her background interview that she incurred SOR ¶ 1.c in 2019, when she received medical treatment after she took her niece to the hospital and passed out in the hospital lobby. Applicant provided documentation with her Answer reflecting that she was resolving SOR ¶ 1.c through the FDR program. She also stated in her Answer that she intended to enroll SOR ¶ 1.g in her FDR program, but she was still retrieving information necessary for her to do so. (Items 1, 2, 3, 4, 5)

SOR ¶ 1.d is for a \$1,374 charged-off credit card. Applicant provided documentation with her Answer reflecting that she was resolving this debt through the FDR program, who negotiated a settlement of \$619 on her behalf and through which payments had been made. (Items 1, 2, 3, 4, 5)

SOR ¶ 1.e is for a \$1,258 collection account. Applicant provided documentation with her Answer reflecting that she was resolving this debt through the FDR program. (Items 1, 2, 3, 4, 5)

SOR ¶ 1.f is for a \$965 collection account. Applicant provided documentation with her Answer reflecting that she was resolving this debt through the FDR program. (Items 1, 2, 3, 4, 5)

SOR ¶ 1.h is for a \$782 charged-off credit card. Applicant provided documentation with her Answer reflecting that she was resolving this debt through the FDR program, who negotiated a settlement of \$313 on her behalf and through which payments had been made. (Items 1, 2, 3, 4, 5)

SOR ¶ 1.i is for a \$717 charged-off credit card. Applicant provided documentation with her Answer reflecting that she was resolving this debt through the FDR program, who negotiated a settlement of \$287 on her behalf and through which payments had been made. (Items 1, 2, 3, 4, 5)

SOR ¶ 1.j is for a \$230 charged-off account that Applicant used for various catalog purchases. Applicant indicated during her background interview that she had been making monthly payments to resolve this debt. Applicant stated in her Answer that she planned on enrolling this debt with the FDR program, but she was still retrieving information necessary for her to do so. (Items 1, 2, 3, 4, 5)

SOR ¶ 1.k is for a \$931 charged-off account. Applicant indicated in her SCA and during her background interview that this was a credit account, and it was a duplicate of SOR ¶ 1.g. She did not provide corroborating documentation. Applicant stated in her

Answer that she planned on enrolling this debt with the FDR program, but she was still retrieving information necessary for her to do so. (Items 1, 2, 3, 5)

SOR ¶ 1.1 is for a \$613 charged-off retail credit account. Applicant used this account for catalog purchases. Applicant stated in her Answer that she planned on enrolling this debt with the FDR program, but she was still retrieving information necessary for her to do so. (Items 1, 2, 3, 4, 5)

Applicant provided documentation with her Answer reflecting that, as of April 2021, she had been enrolled in the FDR program since October 2020-- six months before the SOR. She was scheduled to make bi-weekly payments of approximately \$231 for 24 to 48 months; she has made payments into the program totaling \$2,797; and, she had 13 accounts in the FDR program, 7 of which had been settled. She acknowledged in her SCA that her credit was "very poor," but she felt that she and her spouse had "a fighting chance to actually change our financial [outlook] and clean up our debts so we can try to purchase a home." She indicated during her background interview that she intended to resolve all of her delinquent debts and become financially responsible. She stated in her Answer that moving to state C has given her the potential to make a better life for herself and her family. Applicant's manager described her as a valuable asset to the company. The director of operations described her as a dedicated and trusted member of the team. (Items 2, 3, 4)

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.

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 access to classified information 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.

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 as to potential, rather than actual, risk of compromise of classified information. Section 7 of Exec. Or. 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* Exec. Or. 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 pertaining to financial considerations:

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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

AG ¶ 19 describes conditions that could raise a security concern and may be disqualifying. AG ¶ 19(a), an “inability to satisfy debts” and AG ¶ 19(c), “a history of not meeting financial obligations” apply. Applicant was unable to pay her debts accumulated over several years.

I have considered all of the mitigating conditions under AG ¶ 20 and find the following relevant:

(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; and,

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

Conditions beyond Applicant's control, as previously discussed, contributed to her financial problems. For the full application of AG ¶ 20(b), Applicant must have acted responsibly under her circumstances. As previously discussed, Applicant provided documentation of her efforts to resolve her delinquent debts through the FDR program, which she enrolled in before the SOR. A security clearance adjudication is an evaluation of an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). The adjudicative guidelines do not require that an individual make payments on all delinquent debts simultaneously, pay the debts alleged in the SOR first, or establish resolution of every debt alleged in the SOR. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). I find that AG ¶¶ 20(a) 20(b), and 20(d) are established.

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(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. Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude that Applicant has mitigated 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:	FOR APPLICANT
Subparagraphs 1.a - 1.l:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

Candace Le'i Garcia
Administrative Judge