



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



In the matter of:)
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Applicant for Security Clearance)

ISCR Case No. 22-00081

Appearances

For Government: Andre M. Gregorian, Esq., Department Counsel
For Applicant: *Pro se*

11/01/2022

Decision

LYNCH, Noreen A., Administrative Judge:

This case alleges security concerns raised under Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on February 16, 2021. (Item 3) On February 25, 2022, the Department of Defense Consolidated Adjudications Facility (DOD CAF) sent her a Statement of Reasons (SOR) alleging security concerns under Guideline F. (Item 1) The DOD CAF 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) implemented by the DOD on June 8, 2017.

Applicant answered the SOR on March 10, 2022 (Item 2), and requested a hearing before an administrative judge but in April 2022, she changed her mind and requested a decision on the record without a hearing. (Item 2) Department Counsel submitted the Government’s written case on May 17, 2022. A complete copy of the file of relevant material (FORM) was sent to Applicant, including documents identified as Items 1 through 7. She was given an opportunity to file objections and submit material to refute, extenuate,

or mitigate the Government's evidence. She received the FORM on May 25, 2022, and submitted additional information in a timely manner, admitted without objection. (Response to FORM) The case was assigned to me on September 6, 2022.

Findings of Fact

Applicant, age 29, is not married and has no children. She graduated from high school in June 2010. Applicant attended a technical school in May 2011, and she received a diploma with a concentration in Pharmacy Technician. She has worked for her current employer as an IT specialist since February 2021. (Item 7) She served in the active duty military U.S. Navy from October 2013 to December 2013. She received an honorable discharge. (medical separation) Applicant reported some unemployment in 2013, and July 2010 to April 2011. (Item 3) Applicant obtained a security clearance in 2013.

The Statement of Reasons (SOR) sets forth security concerns under Guideline F. The SOR ¶¶1.a through 1.h under Guideline F (Financial Considerations) lists eight delinquent debts totaling approximately \$25,780. (Items 4, 5, 6) The delinquent debts include consumer accounts, medical accounts, and an automobile that is a charged-off-account. In her Answer to the SOR, Applicant denied all but three accounts totaling \$21,746.00. The five remaining delinquent accounts total \$4,034. (Item 2) She provided no explanations at that time.

In her 2021 subject interview, Applicant responded to questioning concerning Applicant's financial delinquencies on her credit reports. Applicant stated that some accounts were disputed, and others were paid or settled, or in a payment arrangement. (Item 7) She also discussed other delinquent accounts that she did not recall. Applicant explained that for the remaining consumer and medical accounts listed on the SOR, she had no knowledge of them. (Item 7) In essence, she provided no explanation for her indebtedness. She stated that she would look into all the accounts

There is no information in the record concerning Applicant's annual income or budget. It does not appear that she has sought financial counseling. She did not report any circumstances beyond her control. She told the investigator that "she does not live beyond her means, does not spend frivolously, and has good pay." (Item 7) She listed three trips abroad for tourism on her SCA. The trips occurred in 2017, 2018, and 2019. (Item 3)

As to SOR 1.a, a medical account for collection in the amount of \$152, and a medical account in SOR 1.b, for \$130, Applicant claimed that they were both paid. She provided documentation regarding both accounts showing she paid the amounts due on June 6, 2022 with a credit card. (Response to FORM)

As to SOR 1.c, a collection account in the amount of \$401, Applicant disputed this account and provided documentation that the account was researched and deleted from Applicant's credit report.

As to SOR 1.d, a past-due account in the amount of \$2,729, with a total balance of \$29,349, Applicant stated that the account was removed from her credit report due to a reporting error.

As to SOR 1.e, Applicant admitted that this charged-off account for a vehicle in the amount of \$20,830, is not resolved. Applicant claimed that she is saving and working with a credit specialist to reach a settlement agreement. (Response to FORM) She did not provide documentation.

As to SOR 1.f, a collection account for a cell phone in the amount of \$622, Applicant stated that it was settled for \$249. She at first disputed the account. Applicant provided an agreement but it does not show that any amounts were paid. (Response to FORM)

As to SOR 1.g, a medical account in the amount of \$521, Applicant admitted the debt in her answer but in her investigative interview, she stated that she had no idea what it was and then in her FORM response she stated that it had been removed from her credit report. She did not provide any receipt for payment.

As to SOR 1.h, a medical account in the amount of \$395, she admitted the delinquent account and in her Response to FORM that it had been removed from her credit report.

Applicant acknowledged her delinquent debts and takes responsibility and wants to resolve them to the best of her ability. She loves the last eight years that she has worked at DOD. She states that she pays her taxes, has no criminal history and fulfills her contractual duties at work.

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 (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context 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, "Any 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. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of EO 10865, “Any determination under this order adverse to an applicant shall be a determination 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)

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 irresponsible 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 credit reports, establish two disqualifying conditions under this guideline: AG ¶ 19(a) ("inability to satisfy debts") and, AG ¶ 19(c) ("a history of not meeting financial obligations") .

The security concerns raised in the SOR may be mitigated by any of 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.

AG ¶ 20(a) is not established. Applicant has unresolved delinquent debts that are not paid. The debts are recent.

AG ¶ 20(b) is not established. Applicant reported no circumstances beyond her control.

AG ¶ 20(c) and 20(d) are not established. Applicant did not provide any documentation of obtaining financial counseling or evidence of any good-faith efforts to show what she has done to address the debts. She disputed one debt and that was removed from her credit report. That is not sufficient mitigation in this case.

Applicant failed to meet her burden to mitigate the financial concerns set out in the SOR due to insufficient evidence and documentation. For these reasons, I find she has not mitigated the security concerns under the financial considerations guideline.

After considering the mitigating conditions outlined above, none of them apply in this case.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall commonsense judgment based upon careful consideration of the applicable guidelines, each of which is to be evaluated in the context of the whole person. An 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.

I have incorporated my comments under Guideline F and in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under Guideline F, and evaluating all the evidence in the context of the whole person, including Applicant's military service, I conclude that Applicant has not presented evidence of mitigation under the financial considerations guideline. Clearance is denied.

Formal Findings

I make the following formal findings on the allegations in the SOR:

¶ 1, Guideline F Financial Considerations):	AGAINST APPLICANT
Subparagraphs 1:a-1.h:	Against Applicant

Conclusion

I conclude that it is not clearly consistent with the national interest to grant Applicant's eligibility for access to classified information under the financial consideration guideline. Clearance is denied.

Noreen A. Lynch
Administrative Judge