



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



In the matter of:)	
)	
)	ISCR Case No. 22-01603
)	
Applicant for Security Clearance)	

Appearances

For Government: Mark D. Lawton, Esq., Department Counsel
For Applicant: *Pro se*

02/28/2023

Decision

GARCIA, Candace Le'i, Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On September 6, 2022, the Department of Defense (DOD) issued a Statement of Reasons (SOR) 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 responded to the SOR on September 16, 2022 (Answer). She elected to have her case decided on the written record in lieu of a hearing. The Government's written case was submitted on October 4, 2022. A complete copy of the file of relevant material (FORM) was provided to Applicant on October 5, 2022, and she was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on November 14, 2022. She submitted a response on November 18, 2022 (FORM Response). The case was assigned to me

on January 18, 2023. The Government's documents, identified as Items 1 through 5 in its FORM, and Applicant's FORM response, are admitted in evidence without objection.

Findings of Fact

In her Answer, Applicant admitted SOR ¶¶ 1.c through 1.d, 1.f through 1.l, and 1.n through 1.t, and she denied SOR ¶¶ 1.a through 1.b, 1.e, 1.m. She is 50 years old and unmarried. She has two adult children. She was unemployed from June 2011 to October 2012, April 2017 to February 2018, and January 2021 to July 2021. She graduated from high school in 2005. She attended college in 2014 and 2021 without earning a degree. She was certified as a nurse aide and a home health aide in March 2024. She has worked as a manufacturing operational technician for her current employer since July 2021. She has never held a security clearance. (Items 1-2; FORM Response)

The SOR alleges that Applicant had 7 delinquent consumer debts totaling \$14,450 (SOR ¶¶ 1.a-1.b, 1.e, 1.i-1.j, 1.m-1.n), and 13 delinquent medical debts totaling \$7,260 (SOR ¶¶ 1.c-1.d, 1.f-1.h, 1.k-1.l, 1.o-1.t). In addition to her admissions in her Answer, Applicant discussed her delinquent debts in her August 2021 security clearance application (SCA). Her delinquent debts are also reported on three credit bureau reports from September 2021, July 2022, and October 2022. (Items 1-5)

Applicant attributes her delinquent debts to her periods of unemployment. She stated that a credit repair company assisted her with resolving some of her medical debts. In her Answer, she stated that she worked with a consumer advocacy law firm in the past to pay and remove inaccurate debts from her credit bureau report, but that several of those debts have reappeared. She stated that she was resolving her debts as she could, while providing for a child in college, helping her eldest child with her grandchildren, and maintaining her daily living expenses. She intends to purchase a home. (Items 1-2)

SOR ¶ 1.a is a \$9,358 charged-off debt. Applicant stated in her Answer that this account was paid and closed after her car was sold. This debt was not reported on the July and October 2022 credit bureau reports. (Items 1, 3)

SOR ¶ 1.b is a \$2,602 collection account involving an eviction action filed by Applicant's former landlord in September 2015. Applicant stated in her Answer that she did not owe this debt. She provided documentation reflecting that the eviction action was dismissed in October 2015. Her October 2022 credit bureau report reflects that she is disputing any debt associated with the collection agency in SOR ¶ 1.b. (Items 1, 3-5)

SOR ¶ 1.e is a \$1,010 collection account. Applicant stated in her Answer that this account was deleted from her credit bureau report because the creditor reported erroneous information. A June 2018 credit bureau record reflects that she successfully disputed a debt with the same creditor as SOR ¶ 1.e but with a different account

number, and that debt was consequently deleted from her credit report. Only SOR ¶ 1.e is reported on the 2022 credit bureau reports. (Items 1, 3-5)

SOR ¶ 1.i is a \$517 charged-off debt. Applicant stated in her Answer that the creditor reported an incorrect amount on her credit bureau report. She also stated that she lacked the income to pay this debt due to her periods of unemployment. (Items 1, 3-5)

SOR ¶¶ 1.j and 1.n are two charged-off debts with the same creditor, for \$498 and \$224, respectively. Applicant stated in her Answer that these accounts were deleted from her credit bureau report because the creditor reported erroneous information. They are not reported on her most recent credit bureau report from October 2022. (Items 1, 3-4)

SOR ¶ 1.m is a \$241 collection account. Applicant stated in her Answer that she never received any services from this creditor. It is not reported on her most recent credit bureau report from October 2022. (Items 1, 4)

SOR ¶¶ 1.c through 1.d, 1.f through 1.h, 1.k through 1.l, and 1.o through 1.t are Applicant's delinquent medical debts. She stated in her Answer that some of these medical debts were paid by either her primary or secondary health insurance, and others were deleted from her credit bureau report. A June 2018 credit bureau report reflects that she successfully disputed various medical debts, and they were consequently deleted from her credit bureau report. She also provided health insurance documentation reflecting claims processed between 2018 and 2022, in which her member responsibility was \$0. She maintains that these claims are the same medical debts as those alleged in the SOR. Her most recent credit bureau report does not list any delinquent medical debts. (Items 1-4)

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. I considered as relevant ¶ 19(a), an “inability to satisfy debts,” and ¶ 19(c), “a history of not meeting financial obligations.” Applicant has a history of not paying her debts. AG ¶¶ 19(a) and 19(c) are established.

Of the mitigating conditions under AG ¶ 20, I have determined the following to be 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;

(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.

Conditions beyond Applicant’s control contributed to her delinquent debts. For the full application of AG ¶ 20(b), she must provide evidence that she acted responsibly under the circumstances. Her documentation and the credit reports corroborate her stated efforts to dispute or otherwise resolve her delinquent debts. She acknowledged that her period of unemployment affected her ability to pay SOR ¶ 1.i. SOR ¶¶ 1.a, 1.j, 1.m, 1.n, and no medical debts are reported on her most recent credit bureau report from October 2022. That credit report reflects that she is disputing SOR ¶ 1.b, as the collection agency for that debt was associated with an eviction proceeding against her that was dismissed in 2015. She believed she successfully disputed SOR ¶ 1.e in 2018. I find that Applicant’s financial difficulties do not cast doubt on her current reliability, trustworthiness, and judgment. AG ¶¶ 20(a), 20(b), 20(d), and 20(e) 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 have incorporated my comments under Guideline F in my whole-person analysis. Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. I conclude that Applicant mitigated the financial considerations security concerns arising from her delinquent debts.

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.t:	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 eligibility for a security clearance. Eligibility for access to classified information is granted.

Candace Le'i Garcia
Administrative Judge