



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



In the matter of:)	
)	
)	ISCR Case No. 22-02251
)	
)	
Applicant for Security Clearance)	

Appearances

For Government:
Jeff Nagel, Esquire, Department Counsel

For Applicant:
Pro se

April 26, 2023

Decision

GLENDON, John Bayard, Administrative Judge:

Statement of the Case

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) on December 1, 2021. On November 18, 2022, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (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 (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines effective within the DoD after June 8, 2017.

Applicant answered the SOR in writing (Answer) on December 6, 2022, and requested her case be decided on the written record in lieu of a hearing. In her Answer Applicant admitted all 18 of the SOR allegations, and added a statement of her intentions to resolve the debts in the future. On January 19, 2023, Department Counsel submitted the Department's written case. A complete copy of the file of relevant material (FORM), including Items 1 through 5, was provided to Applicant, who received the file on February 2, 2023.

Applicant was given 30 days from receipt of the FORM to raise objections and submit material in refutation, extenuation, or mitigation. She did not reply to the FORM or submit any documentation. The case was assigned to me on March 29, 2023. Department Counsel's Items 1 through 5 are admitted into evidence. Based upon a review of the pleadings and the Government's evidence, national security eligibility for access to classified information is denied.

Findings of Fact

Applicant is 38 years old and has been employed by a DoD contractor since 2022. She has never married and has no children. Applicant earned a bachelor's degree in 2007 and a professional certification in 2009. She has owned her home since July 2017. Applicant was granted national security eligibility in about 2009. She seeks to reestablish her eligibility and be granted a security clearance in connection with her recently obtained employment. (Item 2 at 5, 7, 9-10, 18-19, 32-33.)

Guideline F, Financial Considerations

The Government alleged in this paragraph of the SOR that Applicant is ineligible for a clearance because she is financially overextended and therefore potentially unreliable, untrustworthy, or at risk of having to engage in illegal acts to generate funds. The SOR lists 18 debts that are charged-off or in collection. The total amount of the delinquent debts is approximately \$43,000. The existence and amount of these debts are supported by Applicant's admissions in her Answer to all of the SOR allegations and by credit reports in the record, dated January 18, 2023; July 28, 2022; and December 28, 2021. (Items 3, 4, and 5.)

Applicant disclosed in her e-QIP that her financial delinquencies were caused by difficult personal issues and other hardships over the past three years (2019-2021), which were exacerbated by the COVID-19 pandemic. She wrote that she hoped to begin repaying her debts once she was able to do so. According to her employment history in her e-QIP, she experienced five months of unemployment in 2021 and 13 months of unemployment in 2019-2020. The record is silent as to when she began working for the DoD contractor in 2022 and whether she had additional unemployment after she submitted her e-QIP in December 2021. (Answer at 1-3; Item 2 at 10, 13.)

The limited details in the record of the 18 SOR delinquent debts are as follows:

1.a. Credit-Card Debt - \$5,337. Applicant defaulted on this account in 2019. This debt is not resolved. (Item 2 at 41-42; Item 3 at 2; Item 4 at 2; Item 5 at 9.)

1.b. Credit-Card Debt - \$4,901. Applicant defaulted on this account in 2019. This debt is not resolved. (Item 2 at 42-43; Item 3 at 2; Item 4 at 2; Item 5 at 9.)

1.c. Student-Loan Debt \$4,839. Applicant defaulted on this account in 2019. This account is in forbearance under the Federal CARES Act. Applicant has submitted no plan to rehabilitate the loans so that they can be repaid in the normal course. This debt is not resolved. (Item 2 at 35-35; Item 3 at 3; Item 4 at 3; Item 5 at 6.)

1.d. Credit-Card Debt - \$2,643. Applicant defaulted on this account in 2019. This debt is not resolved. (Item 2 at 40; Item 3 at 3; Item 4 at 3.)

1.e. Collection Account - \$2,064. Applicant defaulted on this account in 2019. She has disputed this debt but did not provide a basis for her dispute. Moreover, she admitted the debt in her Answer. This debt is not resolved. (Item 2 at 43-44; Item 3 at 3; Item 4 at 3; Item 5 at 4.)

1.f. Collection Account - \$2,029. Applicant defaulted on this account in 2019. She wrote in her Answer that she entered into a payment plan with the creditor "starting January 5th, 2023." She provided no documentation evidencing the payment plan or any payments made pursuant to the plan. This debt is not resolved. (Item 1 at 5; Item 2 at 46-47; Item 3 at 4; Item 4 at 3; Item 5 at 4.)

1.g. Collection Account - \$1,960. Applicant defaulted on this account in 2018. She wrote in her Answer that she entered into a payment plan with the creditor "starting January 5th, 2023." She provided no documentation evidencing the payment plan or any payments made pursuant to the plan. This debt is not resolved. (Item 1 at 5; Item 2 at 45-46; Item 3 at 4; Item 4 at 3; Item 5 at 5.)

1.h Credit-Card Debt - \$1,830. Applicant defaulted on this account in 2019. This debt is not resolved. (Item 2 at 38-39; Item 3 at 4; Item 4 at 4; Item 5 at 6.)

1.i. Medical-Collection Account - \$1,441. This account was placed for collection in 2020. This debt is not resolved. (Item 3 at 5; Item 4 at 4; Item 5 at 6.)

1.j. Collection Account - \$841. Applicant defaulted on this account in 2020. She wrote in her Answer that she entered into a payment plan with the creditor "starting January 5th, 2023." She provided no documentation evidencing the payment plan or any payments made pursuant to the plan. This debt is not resolved. (Item 1 at 5; Item 2 at 37-38; Item 3 at 5, 7; Item 4 at 4; Item 5 at 5.)

1.k. Collection Account - \$603. Applicant defaulted on this account in 2019. She wrote in her Answer that she entered into a payment plan with the creditor “starting January 5th, 2023.” She provided no documentation evidencing the payment plan or any payments made pursuant to the plan. This debt is not resolved. (Item 1 at 5; Item 2 at 39-40; Item 4 at 4; Item 5 at 5.)

1.l. Credit-Card Debt - \$426. Applicant defaulted on this account in 2019. This debt is not resolved. (Item 2 at 40-41; Item 3 at 6; Item 4 at 4; Item 5 at 8.)

1.m. Collection Account - \$381. This account was placed for collection in 2021. This debt is not resolved. (Item 2 at 49; Item 3 at 6; Item 4 at 4-5.)

1.n. Medical-Collection Account - \$241. This account was placed for collection in 2019. This debt is not resolved. (Item 3 at 6; Item 4 at 5.)

1.o. Collection Account - \$110. This account was placed for collection in 2019. This debt is not resolved. (Item 2 at 44-45; Item 3 at 7; Item 4 at 5.)

1.p. Collection Account - \$91. This account was placed for collection in 2019. This debt is not resolved. (Item 3 at 7; Item 4 at 5.)

1.q. Loan Account - \$17,117. This debt is only listed in Applicant’s December 2021 credit report and in her December 2021 e-QIP. The creditor charged off the debt. Applicant offered no evidence explaining steps she has taken to resolve this delinquent debt. This debt is not resolved. (Item 2 at 47-48; Item 3 at 2.)

1.r. Medical-Collection Account - \$659. This debt was placed for collection in 2021. This debt is not resolved. (Item 3 at 5.)

Applicant submitted no documentation or additional information concerning her debts or current income. She provided no information detailing her plans for resolving her past-due indebtedness or demonstrating other indicia of trustworthiness and good judgment. Also, I am unable to make a credibility assessment as Applicant elected not to have a hearing.

Policies

When evaluating an applicant’s suitability for national security eligibility, 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 Executive Order 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* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

Paragraph 1 (Guideline F, Financial Considerations)

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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.

AG ¶ 19 describes two conditions that could raise security concerns and may be disqualifying in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant incurred about \$43,000 in past-due accounts over the last three or four years that remain unresolved. The 18 debts listed in the SOR, which Applicant admitted being delinquent, establish the application of the foregoing disqualifying conditions and shift the burden to Applicant to mitigate the Government's security concerns.

The guideline includes three conditions in AG ¶ 20 that could mitigate the security concerns arising from Applicant's financial difficulties:

- (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, or 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.

The record evidence does not establish any of the above mitigating conditions. Applicant asserted in her e-QIP, without any specific information, that her failure to pay her debts was due to personally and financially difficult times. It is apparent from her e-QIP that she experienced significant periods of unemployment. In her Answer, she claimed that she had been in contact with her creditors "to make future plans to repay as soon as I'm able." She also claimed that she had arranged payment plans with respect to four of her SOR debts. However, she provided no documentary evidence or any details to show that she took any such steps or otherwise acted responsibly under the circumstances. Also, she did not submit any financial information from which I can determine whether she is capable of resolving these debts in a reasonable, responsible,

and timely fashion. None of the above mitigating conditions have been established. Paragraph 1 is found against Applicant.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's potential for national security eligibility 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 national security 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 considered the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. Applicant has not mitigated the security concerns raised by her past-due indebtedness. Financial irresponsibility is likely to continue, and the potential for pressure, exploitation, or duress remains undiminished. Overall, the record evidence leaves me with substantial questions and doubts as to Applicant's suitability for national security eligibility and a security clearance at the present time.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:

AGAINST APPLICANT

Subparagraphs 1.a through 1.r:

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 or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

JOHN BAYARD GLENDON
Administrative Judge