



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



In the matter of:)	
)	
)	ISCR Case No. 21-01793
)	
Applicant for Security Clearance)	

Appearances

For Government: Patricia Lynch Epps, Esq., Department Counsel
For Applicant: *Pro se*

June 20, 2023

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On November 2, 2020, Applicant submitted a security clearance application (e-QIP). (Item 3.) On April 26, 2022, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations. (Item 1.) The action was taken under Executive Order 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 for Determining Eligibility for Access to Classified Information*, effective within the DoD after June 8, 2017.

Applicant responded to the SOR (Answer) on May 4, 2022. (Item 2.) She requested that her case be decided by an administrative judge on the written record. Department Counsel submitted the Government’s written case on July 6, 2022. A complete copy of the File of Relevant Material (FORM), containing six Items was received by Applicant on August 31, 2022. She was afforded an opportunity to file

objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. Applicant submitted no response to the FORM. DOHA assigned the case to me on May 24, 2023. Items 1 through 6 will hereinafter be referred to as Government Exhibits 1 through 6.

Findings of Fact

Applicant is 28 years old. She has never married, has no children, and no military service. She has a high school diploma and some college. She is employed by defense contractors as a Security Officer/Site Supervisor. She is seeking to obtain a security clearance in connection with her employment.

Guideline F - Financial Considerations

The Government alleged that Applicant is ineligible for a clearance because she made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about her reliability, trustworthiness and ability to protect classified information.

The SOR alleges that the Applicant is indebted to eight creditors totaling approximately \$22,977, for delinquent accounts that have either been placed for collection or charged off. Applicant admits each of the allegations set forth in the SOR. Applicant's credit report dated November 25, 2020, confirms the indebtedness. (Government Exhibit 5.) Since October 2020, Applicant has been employed part-time as a Security Officer for company 1. Since April 2015, she has been working full time as a Site Supervisor for company 2. Applicant was granted an interim security clearance in November 2020.

Applicant attributes her financial delinquencies to multiple issues. She stated that there was a period of time when she lost her part-time job and was under-employed. She also describes a period in 2018 where she did not receive a paycheck of \$1,000 to \$1,300 that she was expecting during an approved period of vacation. Her hours were reduced to part-time for two months, that reduced her income by \$200 to \$300 weekly. She also incurred unexpected medical expenses for plastic surgery after a car accident in December 2016 that was not her fault. (Government Exhibit 4.)

In her security clearance application dated November 2020, and during her personal subject interview dated January 2021, Applicant stated that she was in the process of setting up payments plans; or was in a payment plan; or was attempting to locate the creditor's contact information to establish a payment plan. (Government Exhibits 3 and 4.)

In her answer to the SOR, Applicant stated that she has entered into payment arrangements with all of her debts except allegations 1.b., and 1.h. In regard to 1.b., she stated that she has been unable to obtain the creditor's information, and with 1.h., she is attempting to communicate with her insurance company regarding her GAP

coverage for her car. Applicant provided no further information. (Government Exhibit 2.)

The following delinquent debts set forth in the SOR are of security concern:

1.a. A delinquent debt is owed to a creditor for an account that was charged off in the approximate amount of \$8,772. Applicant stated that she has set up a payment arrangement. (Government Exhibit 2.) Besides this, there is no documentary evidence to show that Applicant has done anything to resolve the debt. The debt remains owing.

1.b. A delinquent debt is owed to a creditor for an account that was charged off in the approximate amount of \$2,568. Applicant stated that she attempted to set up a payment arrangement, but the collection agency cannot find her account. (Government Exhibit 2.) There is no documentary evidence to show that Applicant has done anything to resolve the debt. The debt remains owing.

1.c. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$1,212. Applicant stated that she has set up a payment arrangement. (Government Exhibit 2.) Besides this, there is no documentary evidence to show that Applicant has done anything to resolve the debt. The debt remains owing.

1.d. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$482. Applicant stated that she has set up a payment arrangement. (Government Exhibit 2.) Besides this, there is no documentary evidence to show that Applicant has done anything to resolve the debt. The debt remains owing.

1.e. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$349. Applicant stated that a payment arrangement was set up. (Government Exhibit 2.) Besides this, there is no documentary evidence to show that Applicant has done anything to resolve the debt. The debt remains owing.

1.f. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$120. Applicant stated that a payment arrangement was set up. (Government Exhibit 2.) Besides this, there is no documentary evidence to show that Applicant has done anything to resolve the debt. The debt remains owing.

1.g. A delinquent debt is owed to a creditor for an account that was charged off in the approximate amount of \$904. Applicant stated that a payment arrangement was set up. (Government Exhibit 2.) Besides this, there is no evidence to show that Applicant has done anything to resolve the debt. The debt remains owing.

1.h. A delinquent debt is owed to a creditor for an account that was charged off in the approximate amount of \$7,590. Applicant explained that her car was totaled through no fault of her own. She has GAP insurance and is contacting them about the coverage payoff. Besides this, there is no documentary evidence to show that Applicant has done anything to resolve the debt. The debt remains owing.

Applicant claims that her financial situation is stable, and she lives within her means. She stated that she is currently meeting all of her financial obligations on time. (Government Exhibit 4.)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 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 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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 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 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 as to potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 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* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F - Financial Considerations

The security concern for Financial Considerations 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. 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Three are potentially applicable in this case:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant has incurred delinquent debts totaling approximately \$22,977. These accounts have either been charged off or placed for collection. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under the Financial Considerations guideline are potentially applicable under 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;
- (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), 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.

There is nothing in the record to demonstrate that Applicant has made efforts to mitigate the Government's concerns under Guideline F. Without documentary evidence substantiating her assertions that she has been making payments to the creditors, that she is currently financially responsible, and that she is able to meet her future financial obligations, Applicant has not carried her burden of proof to establish mitigation of the security concerns alleged in the SOR. Applicant stated that under-employment contributed to her financial difficulties but provides nothing more. She gives no reasonable excuse for her excessive indebtedness or why it still exists when she has been employed on a full-time basis since 2015. While Applicant claims that she has entered into payment agreements, and has been making payments toward her debts, she has submitted no documentary evidence to support these claims. From the limited evidence presented, her debts remain delinquent and owing. Applicant's inaction for so long reflects a pattern of unreliability, untrustworthiness, and poor judgment. Accordingly, Applicant does not meet the requirements to access classified information.

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 relevant facts and circumstances surrounding this case. I conclude Applicant has not 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 ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a. through 1.h.	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.

Darlene Lokey Anderson
Administrative Judge