



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



In the matter of:)	
)	
)	ISCR Case No. 21-02806
)	
Applicant for Security Clearance)	

Appearances

For Government: Daniel P. O’Reilley, Esq., Department Counsel
For Applicant: *Pro se*

12/07/2023

Decision

LAFAYE, Gatha, Administrative Judge:

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

Statement of the Case

On November 18, 2022, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). Applicant responded to the SOR and requested a hearing before an administrative judge. The case was assigned to me on about July 11, 2023. The hearing was convened as scheduled on September 13, 2023. Government Exhibits (GE) 1 through 4 were admitted in evidence without objection. Applicant and one witness testified. Applicant also submitted Applicant’s Exhibits (AE) A through H, which were admitted in evidence without objection.

Findings of Fact

In Applicant’s response to the SOR, she admitted allegations in SOR ¶¶ 1.a. through 1.i, but denied allegations in SOR ¶¶ 1.h, and 1.j. For each admitted allegation,

she provided clarifying comments to explain the underlying circumstances. Her admissions with clarifying comments are incorporated in my findings of fact.

Applicant is a 54-year-old interpreter and linguist sponsored by a defense contractor. She is a fluent speaker of the Pashtun, Urdu, Hindi, and Punjabi languages, in addition to English. She earned associate and bachelor's degrees in 1990 prior to her arrival in the United States. (GE 1 at 16; Tr. 34-35) Born in Pakistan, she married a U.S. citizen in 1991 and moved to the United States in 1992. She became a naturalized U.S. citizen in April 2007, and she currently holds dual U.S. and Pakistan citizenship. (GE 1; Tr. 29-31)

After their marriage in 1991, Applicant and her husband became parents to five children ages 32, 31, 28, and 20-year-old twins. In 2007, they divorced and Applicant became the custodial parent of their five children. (GE 1; Tr. 29-31)

From 2008 through about February 2012, Applicant worked part-time as a community college instructor. She was laid off following a company-wide reduction in force, and remained unemployed for about 10 months. She enrolled in college courses during this period of unemployment to enhance her marketable skills. (GE 1)

In December 2012, Applicant found work as a defense contract linguist. After training, she deployed to Afghanistan for her duties until about July 2013. She left the position after experiencing a family emergency. She was unemployed for about eight months before finding another defense contract linguist position in March 2014. She worked in the same position with two different defense contractors from March 2014 through about April 2016, when she was released from the contract. About four months of unemployment followed her release. (GE 1)

From October 2016 through about June 2017, Applicant found work as a part-time substitute teacher, but was struggling financially due to not having enough work hours. She moved the family to another state and was unemployed from June 2017 through October 2018. She worked as a ride-share driver during this period, and she would do other odd jobs to help "keep a roof over her children's heads." She did whatever she could to earn money. (GE 1; Tr. 48-50) During this period, she and her children lived in low income, federally subsidized housing and the family received subsidized monies for food expenditures. She received about \$373 per month in child support payments from her ex-husband, and he would reduce the amount sent every time a child would reach the age of 18 years. (Tr. 33-34, and 85-86) During periods of unemployment or underemployment, she used personal loans and credit cards to pay housing and other essential living expenses until she could find work.

Between 2017 and 2021, several of Applicant's extended family members died unexpectedly, including her bother, both parents, and a grandmother; and as the eldest daughter, she was expected to contribute to the family's payment of funeral expenses based on religious traditions, a moral obligation. (Tr. 62-69)

In about October 2018, Applicant began working as a self-employed contractor doing over-the-phone interpretation for two defense contractors. (GE 1 pp. 17-18; Tr. at 36) She has been employed since she created this position, though her work is not steady. Her employment at this time is sporadic: she may or may not get called for an assignment. She works on an “as needed” basis. (Tr. at 38) In between calls for work, she babysits her grandchildren. Applicant currently does not have her own home or apartment. She lives with her second-eldest daughter as she awaits more stable work as a linguist. (Tr. 38-43) Applicant is currently financially supported by her emergency savings and three of her adult children. (Tr. 39-42, and 95-97)

From December 2021 through about April 2023, Applicant deployed to Kuwait and worked as an interpreter for a defense contractor. She received a salary of \$80,000 U.S. dollars per year including bonuses. No hazardous duty pay was included in the arrangement. (Tr. 43-45) The defense contractor paid for housing, but she was required to pay living expenses including food, water, driving/taxi service, taxes, and daily expenses for the interpreter business. Her salary was paid in U.S. dollars, but she was required to conduct business in the local Kuwaiti currency, the Kuwaiti dinar, a very expensive currency. (Tr. 46-47) Applicant stated she sent about \$1,200 home to her children for their living expenses. Her youngest children, twins, were under 20 years old when she started the position.

The SOR alleges 12 financial concerns (SOR ¶¶ 1.a – 1.l) totaling about \$52,000 in delinquent consumer and medical debts reflected in credit bureau reports from April 2021, November 2022, and August 2023. (GE 2, 3, and 4) The evidence in this case, including Applicant’s and her witness’s testimony and documents submitted in mitigation (AE A - AE H), is summarized below.

SOR ¶¶ 1.a (\$19,055), 1.e (\$5,264), and 1.f (\$3,154): Applicant admitted these consumer debts, all from the same creditor, with explanation. She fell behind on payments during periods of unemployed. She immediately contacted the creditor to work out revised payment arrangements. She was given a six-month reprieve during the COVID-19 pandemic, and restarted payments afterwards. She provided proof of their current agreement, and demonstrated that she has been paying a combined amount of \$100 per month spread between the three debts over an extended time. Her receipts in AE D, and reduced account balances reflected in GE 4: SOR ¶¶ 1.a (\$16,230), 1.e (\$4,814), and 1.f (\$2,704); show she is following their agreement. (GE 2, 3, and 4; AE D; and Tr. 52-56) These debts are being resolved.

SOR ¶¶ 1.b (\$7,865) and 1.c (\$7,623): Applicant admitted these consumer debts from the same creditor with explanation. She fell behind on her debts during periods of unemployment, and particularly the COVID-19 pandemic. She immediately contacted the creditor to work out revised payment arrangements. She provided proof, in AE E, that she has been paying \$65 per month on each account for an extended time. Reduced account balances are reflected in GE 3 and 4. (GE 2, 3, and 4; AE E; and Tr. at 56, 70-71) These debts are being resolved.

SOR ¶ 1.d (\$5,523): Applicant admitted this consumer debt with explanation. She fell behind on her debts during periods of unemployment, and particularly the COVID-19 pandemic. In her March 2022 response to the SOR, she stated she was on a repayment plan with the creditor. At some point, the creditor no longer wanted to collect the debt and stated it was sending her a form 1099, cancellation of debt. She was working in the middle east at the time, and did not receive the creditor's 1099. She contacted the creditor upon her return to the United States. She provided notes of her communications with creditors while deployed in support of her testimony. (AE H) The creditor was unable to locate her debt or provide information concerning the whereabouts of the form 1099. The debt does not appear in GE 3 or 4. She is awaiting the creditor's final communication regarding the 1099. (SOR response of March 2022; GE 2; AE H; and Tr. 71-73) This debt is being resolved.

SOR ¶¶ 1.g (\$2,470) and 1.i (\$387): Applicant admitted these consumer debts with explanation. As with the other delinquent debts, Applicant fell behind on her payments during periods of unemployment, and particularly during the COVID-19 pandemic. She testified the creditor in SOR ¶ 1.g was unwilling to work with her initially. (Tr. at 56). However, her eldest daughter helped her to pay off this delinquent debt over time. She presented evidence she consistently made payments starting in about June 2022. (AE H) Her paid receipts in AE D and H and the reduced balance reflected in GE 4 for SOR ¶ 1.g (\$1,482), demonstrates she took action to repay this delinquent debt. The debt is now paid off. (GE 2, 3 and 4; AE D and H; Tr. at 56, 73) Moreover, Applicant negotiated settlement of the delinquent debt in SOR 1.i, and paid it off while deployed. (AE H; and Tr. at 78) The debt in SOR ¶ 1.i appears in GE 2, but it does not appear in GE 3 or 4. Both debts are resolved.

SOR ¶¶ 1.h (\$870) and 1.j (\$136): Applicant consistently and credibly denied these medical debts. Per the 2021 credit report, these medical charges were incurred in about 2016, a time when Applicant was unemployed and living in federally subsidized housing. (GE 2 pp. 4-5) She testified these debts were covered by Medicaid, and she initially filed documents incorrectly. She resubmitted the documents and Medicaid paid balances on both accounts. (SOR response of March 2022; GE 2; Tr. at 16, 77) These debts are resolved.

SOR ¶¶ 1.k (\$86) and 1.l (\$327): Applicant admitted these debts with explanation. The medical debt in SOR ¶ 1.k, incurred in 2016, was also paid by Medicaid. (GE 2; Tr. at 77). This debt does not appear in GE 3 or 4. Nor does it appear in AE G. Finally, Applicant also submitted proof she paid off the consumer debt in SOR ¶ 1.l in AE D. (GE 2; AE D at 20; Tr. at 81) Both debts are resolved.

Applicant is supported by sporadic employment as an interpreter and by three of her adult children who have helped her to repay delinquent debts in this SOR. She also has emergency funds spread across three savings accounts. She currently resides with her daughter, and she has no additional bills to pay. She lives frugally, and she credibly testified she is committed to resolving her remaining delinquent debts; and that she is on track to accomplish her goal in about 12 to 24 months. (Tr. at 97). Her finances are better without additional living expenses. She reported has two pending full-time linguist job

prospects. She has successfully maintained a budget in the past while unemployed and living in federally subsidized housing; she knows how to keep a budget. (Tr. at 84, 87, 95, 97)

Applicant volunteers for a local church that provides food to the community. She called a witness, her daughter, who has been instrumental in helping her get back on her feet after tumultuous periods of unemployment and underemployment. She submitted letters attesting to her positive moral character. She is praised for her character, dependability, honesty, work ethic, trustworthiness, and resilience. (Tr. 87-98; AE A)

Policies

This case is adjudicated 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), which became effective on June 8, 2017.

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 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 the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), 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."

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 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of 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.

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 and the evidence in the case 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”).

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

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

AG ¶ 20(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.

Applicant's financial challenges began after her divorce in 2007, after she became the custodial parent of five children with minimal financial support from her ex-husband. She subsequently found work as a part-time community college instructor in 2008, until her layoff in early 2012, followed by a 10-month period of unemployment. She lifted herself up, taking college courses to enhance her marketable skills so that by late 2012, she was competitively selected for her first linguist position and thereafter deployed for the first time to the middle east. While there, she experienced a family emergency that caused an early return in July 2013. An eight-month unemployment period followed before she found another comparable position in March 2014. She worked successfully for two different defense contractors before being released from the contract in April 2016. She was unemployed again, this time for four months.

Additional facts set forth in the findings of facts will not be repeated here. In short, over the last 10-15 years, Applicant has experienced multiple challenges beyond her control including a divorce, multiple periods of unemployment, and unexpected deaths in her extended family that created moral obligations for her to contribute financially as best she could. She responded to each of these challenges reasonably and responsibly. AG ¶ 20(b) is applicable here. Moreover, AG ¶ 20(d) applies under the facts of this case. Applicant submitted substantial evidence showing her consistent effort to repay her delinquent debts, and her adherence agreed repayment plans. Applicant consistently and credibly denied debts in SOR ¶¶ 1.h and 1.j, supported by documentary evidence. Finally, AG ¶ 20(e) applies to these allegations.

Applicant's finances are not perfect, but perfection is not required. A security clearance adjudication is not a debt collection procedure. It is a procedure designed to evaluate an applicant's judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). An applicant is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. An applicant need only establish a plan to resolve the financial problems and take significant actions to implement the plan. There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant established she has a plan to resolve her remaining financial issues, and she has taken action to implement her plan. She has acted responsibly under the circumstances and made good-faith efforts to pay her delinquent debts. Although AG ¶ 20(a) does not fully apply because some of her debts are ongoing, her current financial situation does not cast doubt on her judgment, reliability, trustworthiness, and ability to protect classified information. Under the facts of this case, Applicant has mitigated the security concerns regarding her finances.

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 have incorporated my comments under Guideline F in my whole-person analysis. I also considered Applicant's favorable character evidence.

Overall, the record evidence leaves me without any questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant 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.i:	For Applicant

Conclusion

It is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Gatha LaFaye
Administrative Judge