



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



In the matter of:)
)
) ISCR Case No. 23-02827
)
Applicant for Security Clearance)

Appearances

For Government: Sakeena Farhath, Esq., Department Counsel
For Applicant: *Pro se*

07/31/2024

Decision

Dorsey, Benjamin R., Administrative Judge:

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

Statement of the Case

On December 27, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. On January 17, 2024, Applicant responded to the SOR and requested a decision based on the written record in lieu of a hearing.

The Government’s written case was submitted on March 6, 2024. A complete copy of the file of relevant material (FORM) was provided to Applicant, who had 30 days after receipt of the FORM to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on March 26, 2024, and timely provided a written response (FORM Response). The case was assigned to me on July 17, 2024. The Government exhibits included in the FORM (Items 1-6) are admitted in evidence without objection.

Findings of Fact

Applicant is a 51-year-old employee of a defense contractor for whom he has worked since about May 2023. He has earned a bachelor's degree and a master's degree. From 1995 until 2017, he served on active duty in the Air Force. He retired in 2017 and earned an honorable discharge. He was married from 1998 until 2003 and from 2005 until 2015, with both marriages ending in divorce. He remarried again sometime thereafter. He has two children, ages 18 and 14. (FORM Response; Item 3)

In the SOR, the Government alleged that Applicant had two delinquent debts: a car loan in the amount of \$69,601 (SOR ¶ 1.a); and a credit card in the amount of \$2,682 (SOR ¶ 1.b). In the Answer, Applicant admitted the SOR allegations with additional comments. His admissions are incorporated in my findings of fact. The SOR allegations are established by his admissions and the Government's 2022, 2023, and 2024 credit reports. (Items 2-6)

The delinquent car loan for \$69,601 alleged in SOR ¶ 1.a is being resolved. According to credit reports in the record, the balance on this account is \$14,420 and the Government credit report from 2022 reflects a balance of \$25,220 after a 2018 repossession of the collateral. Applicant has contacted the creditor and requested forgiveness of this debt, but he claimed that he will pay \$1,000 per month until the account is settled in full if the creditor does not forgive the debt. (Items 2-6; FORM Response)

The delinquent credit card for \$2,682 alleged in SOR ¶ 1.b has been resolved. Applicant settled this account for less than the full balance with a payment of \$3,446 on April 24, 2024. Similar to his strategy with the debt in SOR ¶ 1.a, he initially requested that the debt be forgiven with a plan to settle it through payment if the creditor declined his request. When the creditor declined his request, he followed through with his plan.

The SOR and other unalleged delinquent debts became delinquent beginning in about 2017, when Applicant and his second wife divorced. He also had an expensive and time-consuming child-custody dispute. He had periods of unemployment that were caused by transitioning from the military in 2017, and the COVID-19 pandemic. He was unemployed from January 2022 until he started his current job because the government contractor for whom he worked lost its contract. In May 2024, he submitted a personal financial statement that reflected that he earns about \$225,000 annually between his salary and his military retirement. He has about \$12,500 cash in bank accounts, \$17,000 in retirement accounts, and about \$6,200 in revolving (non-delinquent) debt. (Items 4-6; FORM Response)

As evidenced by the credit reports in the record, Applicant has resolved several other delinquent debts over the past two years. The Government's 2023 credit report reflects that he resolved four delinquent accounts by settling them for less than the full balance. His May 2024 Experian credit report reflects that in October 2022 and December 2022, he settled two credit-card accounts for less than the full balance. In July 2023 and April 2024, he settled two telecommunications debts for less than the full balance. In August 2023, he settled an unsecured personal loan for less than the full balance. The

May 2024 Experian credit report reflects no additional delinquent accounts. (Items 4-6; FORM Response)

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.

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

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

Applicant had a car loan and a credit card that were delinquent for several years. The evidence is sufficient to establish the above disqualifying conditions.

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

- (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.

A meaningful track record of debt reform includes evidence that debts have been paid off or resolved. An applicant is not required to show that every debt in the SOR has been paid, and there is no requirement that a plan provide for payments on all outstanding debts simultaneously. ISCR Case No. 14-00504 at 2 (App. Bd. Aug. 4, 2014). Rather, an applicant is required to demonstrate that he or she has “established a plan to resolve his [or her] financial problems and taken significant actions to implement that plan.” There is also no requirement that the first debts paid in furtherance of a reasonable debt plan are the SOR debts. ISCR Case No. 07-06482 at 2 (App. Bd. May 21, 2008). Guideline F mitigation does not require the payment of all the SOR debts. Instead, it requires that Applicant remove trustworthiness and reliability concerns raised by those debts. ISCR Case No. 14-00504 at 3.

In the last two years, Applicant has resolved multiple non-SOR debts. He began these resolutions before he received the SOR. He resolved one of the SOR debts by settling the account for less than the full balance. He has a reasonable plan to settle the car loan that he also followed with the credit card in SOR ¶ 1.b. His financial issues resulted from a divorce and unemployment that were conditions largely beyond his control. He acted responsibly and in good faith with respect to his delinquent debts, including resolving one of the two SOR debts. He provided evidence that he has the financial resources to satisfy the delinquent car loan and meet his other financial obligations. I find that his financial issues are unlikely to recur. As he has resolved one SOR debt and several other non-SOR debts, he has presented sufficient evidence to show that he established a plan to resolve his financial problems and has taken significant steps to implement that plan. I find that he has established a track record of financial responsibility and has removed the trustworthiness and reliability concerns raised by his delinquencies. All the above-referenced mitigating conditions apply.

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 the facts and circumstances

surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis.

Overall, the record evidence leaves me with no questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude that 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.b:	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.

Benjamin R. Dorsey
Administrative Judge