



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



In the matter of:)
)
) ISCR Case No. 23-00789
)
Applicant for Security Clearance)

Appearances

For Government: Lauren A. Shure, Esq., Department Counsel
For Applicant: *Pro se*

08/09/2024

Decision

MURPHY, Braden M., Administrative Judge:

Applicant provided sufficient evidence to mitigate the financial security concerns arising from her delinquent debts. Applicant’s eligibility for access to classified information is granted.

Statement of the Case

On October 28, 2022, Applicant submitted a security clearance application (SCA) in connection with her employment in the defense industry. On July 6, 2023, the Department of Defense (DOD) issued her a Statement of Reasons detailing security concerns under Guideline F (financial considerations). DOD issued the SOR 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 National Security Adjudicative Guidelines (AG), which became effective within the DOD on June 8, 2017. Applicant subsequently submitted an undated, unsigned Answer to the SOR. It included a narrative response to each debt alleged, and two documents, which I admitted after the hearing as Applicant’s Exhibits (AE) A and B. (HE III) She also requested a hearing before an administrative judge from the Defense Office of

Hearings and Appeals (DOHA). The case was assigned to me on May 22, 2024. The hearing was held as scheduled on the mutually agreed-upon date of July 16, 2024. The Government submitted Government Exhibits (GE) 1 through 4, all admitted without objection. Applicant testified but did not offer additional documents during her hearing.

I left the hearing record open to allow Applicant the opportunity to submit documentation of debt payments and reference letters. She submitted screenshots showing a “zero balance” on four of her accounts (AE C through AE F), two recent credit scores (AE G, AE H), and six e-mailed reference letters (together as AE I). All post-hearing exhibits were admitted without objection. DOHA received the transcript (Tr.) on July 24, 2024. The record closed on August 1, 2024.

Findings of Fact

Applicant is 45 years old. She has a general equivalency degree (GED) and took some medical courses towards an associate degree about 25 years ago. She married her second husband in 2019 and she has four children, three in their 20s and an 18-year-old daughter who lives at home. She raised them with little to no child support from their fathers. Her husband works in retail. Since October 2022, Applicant has worked in supply chain management on a military base for a defense contractor. She earns \$29.27 an hour. She has never held a clearance before. She previously worked jobs in retail and for a local hospital. She did not disclose any delinquent debts on her SCA but she discussed them freely during her background interview. (GE 1, GE 2; Tr. 13, 23-31, 36-38, 51-52)

The 12 past-due debts in the SOR, mostly consumer debts, total about \$6,559. (GE 3, GE 4) Several of the smaller debts in the SOR are now resolved. These include SOR 1.a, for \$165 (AE E); SOR 1.b, for \$964 (AE A, AE D); SOR 1.d, for \$134 (AE F); and SOR 1.j, a \$140 debt no longer being collected. (AE B) Another credit card debt has a zero balance. (AE C) Medical debts at SOR 1.k (\$94) and 1.l (\$35) are either paid or unrecognized. (Tr. 42-51)

Other consumer debts in the SOR remain unresolved. These are SOR 1.c for \$575; SOR 1.e for \$679, SOR 1.f for \$1,311, SOR 1.g for \$1,155, SOR 1.h for \$706, and SOR 1.i, for \$501. Applicant now owes about \$4,927 in past-due debt. She plans to continue addressing her debts one by one, at about \$100 a month. (Tr. 41, 43-51, 65-66, 77-78)

Applicant attributed her debts to poor money management when she was a single mother. She said her first marriage lasted from 2010 to 2014. Her first husband could not hold a steady job and was not reliable. She eventually moved out with their children and for a time she had to pay for two households. She did not own any credit cards before 2015 or 2016. She said she feels “like a thief” in not being able to address her debts. She said it took her time after years of being single to accept help from her (second) husband, who taught her better financial management skills. (Tr. 32-36, 39-41, 51-56)

Applicant now monitors her credit regularly. Her credit scores are now between 620 and 645 and her rating is described as “fair.” (AE G, AE H; Tr. 41-43) She has two credit cards with modest balances. She and her husband own their home. They are current on their taxes and tax filing requirements. (Tr. 63-64)

Applicant also expressed a clear understanding of her responsibilities for confidentiality in protecting sensitive and classified information, based on her work on the base, and earlier, in a hospital. She is discreet about what she does at work when speaking with others. (Answer; Tr. 77-78)

Applicant submitted character reference letters from several people she knows well, either personally or professionally. All of them attested to her fine character, including her dependability, trustworthiness, responsibility, honesty, dedication, patience, compassion, kindness, and sense of teamwork. (AE I)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.” *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

The adjudicative 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(a), the entire process is a conscientious scrutiny of several 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. 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, 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 as to obtaining 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.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline for financial considerations is set out, in relevant part, 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. . . .

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual 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 delinquent debts, of about \$6,500, are sufficient to raise financial security concerns under AG ¶¶ 19(a) (inability to satisfy debts) and 19(c) (a history of not meeting financial obligations) are raised by the evidence. While this is not a comparative exercise, I note nonetheless that Applicant's SOR debts, as alleged, are well less than \$10,000.

The following mitigating conditions under AG ¶ 20 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, 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.

Applicant's debts were incurred during the years after her divorce, as she struggled to raise her family as a single mother. Her debts are due, at least in part, to circumstances beyond her control. She also acknowledged that her own financial mismanagement and inexperience contributed to her debts. She is making a good-faith effort towards paying them off one by one. She has learned better financial management with the help of her husband. While some of her debts remain, her current past-due debts now total less than \$5,000, and she has a responsible, reasonable plan for addressing them. They are mitigated under AG ¶¶ 20(a), 20(b), and 20(d).

The security concerns over Applicant's debts no longer create doubt about her current reliability, trustworthiness, good judgment, and ability to protect classified information. In reaching this conclusion, I weighed the evidence as a whole and considered that the favorable evidence substantially outweighed the unfavorable evidence. I also gave due consideration to the whole-person concept, her credible testimony, her several years of experience on the base where she works, and to her strong character evidence, under 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.

Overall, the record evidence leaves me with no questions or doubts as to Applicant's eligibility and suitability for a security clearance. I conclude she provided sufficient evidence to mitigate the security concerns arising under Guideline F, financial considerations.

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

Considering all the circumstances presented, it is clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is granted.

Braden M. Murphy
Administrative Judge