



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



In the matter of:)	
)	
)	ISCR Case No. 23-02710
)	
Applicant for Security Clearance)	

Appearances

For Government: Adrienne Driskill, Esq., Department Counsel
For Applicant: *Pro se*

08/07/2024

Decision

COACHER, Robert E., Administrative Judge:

Applicant has not mitigated the financial considerations security concerns. The personal conduct allegation was withdrawn by the Government. Eligibility for access to classified information is denied.

Statement of the Case

On December 27, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a statement of reasons (SOR) detailing security concerns under Guideline F, financial considerations and Guideline E, personal conduct. The DCSA CAS acted under Executive Order (EO) 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 (AG) effective on June 8, 2017.

Applicant answered the SOR on January 2, 2024, and elected to have her case decided on the written record in lieu of a hearing. Department Counsel submitted the Government’s File of Relevant Material on March 8, 2024. The evidence included in the

FORM is identified as Items 3-6 (Items 1 and 2 include pleadings and transmittal information). The FORM was received by Applicant on March 24, 2024. Applicant was given an opportunity to file objections and submit material in refutation, extenuation, or mitigation. She did not file objections to the Government's evidence or submit any exhibits. Items 2-6 are admitted into evidence. The case was assigned to me on July 2, 2024.

Procedural Issue

In the Government's FORM, Department Counsel amended the SOR, pursuant to paragraph E3.1.13, to withdraw the personal conduct allegation, which is no longer at issue.

Findings of Fact

In her SOR answer, Applicant admitted all the allegations, with some explanations. I make the following additional findings of fact.

Applicant is a 25-year-old employee of a federal contractor. She has worked for federal contractors since 2023. She holds an associate degree. She has never married and has one child. (Item 3)

The SOR alleged nine delinquent accounts (student loan, rental-related debts, car repossession deficiencies, and consumer debts) totaling approximately \$49,800. (SOR ¶¶ 1.a – 1.i) The debts are established by credit reports from July 2023 and March 2024. (Items 5-6)

In Applicant's SOR answer, she attributed her financial problems to several contributing factors. She was a young, single mother trying to obtain her college degree. She also experienced extensive periods of unemployment. She was unemployed at the time of her background investigation interview (BI) in August 2023. She receives approximately \$1,000 monthly in child support and about \$500 in the form of food stamps. She did not provide a recent monthly budget or evidence of receiving financial counseling. (Items 2, 4 (*using numbers on the bottom right corner of the pages-p. 7*))

The status of the SOR debts is as follows:

SOR ¶ 1.a-\$14,634. This is a student loan. Applicant incurred this debt when she failed two classes. She owes this debt directly to the university she attended. In her SOR answer, she stated that she established a payment plan with the school. Attached to her SOR answer, she provided a February 2024 email from the school informing her how to make payments. She also provided an undated payment-portal receipt showing that her current balance to the school is \$6,834. The receipt shows a credit card number from which payments should be made, but it does not show a specific amount that will be assessed or the frequency of the payments. (Item 2 and attachments)

SOR ¶ 1.b-\$3,622. This is a rental debt. Applicant denied this debt during her BI, claiming that her employer at the time rented this place for her to live when she was working in a travel location. She did not provide any documentation supporting her dispute of this debt. However, in her SOR answer, she admitted this debt. She also provided a copy of a police report that described a domestic violence incident where she was the alleged victim. There is no information connecting the police report to the nonpayment of rent. I can only infer that Applicant moved out of the location due to the incident. There is no evidence of payment. (Item 2 and attachments, Item 4 (p. 6))

SOR ¶ 1.c-\$1,302. This is a rental debt. Applicant disputed this debt during her BI stating that she left the apartment because of rat infestation. She did not provide any documentation supporting her claimed dispute. She admitted this debt without explanation in her SOR answer. There is no evidence of payment. (Item 2; Item 4 (p. 4))

SOR ¶¶ 1.d-\$964. This is a telephone debt. Applicant disputed this debt during her BI stating that she currently has this phone carrier and is up to date on her account. She did not provide any documentation supporting her claimed dispute. She admitted this debt without explanation in her SOR answer. There is no evidence of payment. (Item 2; Item 4 (p. 7))

SOR ¶ 1.e-\$889. This is a delinquent credit card. Applicant admitted this debt in her BI, stating that she stopped paying it because she lacked the funds to do so. She also admitted this debt in her SOR answer without explanation. There is no evidence of payment. (Item 2; Item 4 (p. 5))

SOR ¶ 1.f-\$608. This is a rental debt. Applicant disputed this debt during her BI stating that she received government assistance to pay this rent during the COVID pandemic. In her SOR answer she included documentation supporting her dispute. This debt is resolved. (Item 2 and attachments, Item 4 (p. 3))

SOR ¶ 1.g-\$321. This is a delinquent credit card. Applicant admitted this debt in her BI, stating that she stopped paying it because she lacked the funds to do so. She also admitted this debt in her SOR answer without explanation. There is no evidence of payment. (Item 2; Item 4 (p. 5))

SOR ¶ 1.h-\$18,244. This is the unpaid balance from a vehicle repossession. Applicant admitted this debt in her BI, stating that she cosigned on a car loan with her mother for a cousin. She also admitted this debt in her SOR answer without explanation. There is no evidence of payment. (Item 2; Item 4 (p. 4))

SOR ¶ 1.i-\$9,294. This is the unpaid balance from a vehicle repossession. Applicant admitted this debt in her BI, stating that she cosigned on a car loan with her mother for her brother. She also admitted this debt in her SOR answer without explanation. There is no evidence of payment. (Item 2; Item 4 (p. 5))

Policies

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 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, these guidelines are applied 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 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.

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 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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that 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

AG ¶ 18 expresses the security concern for financial considerations:

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. I have considered all of them under AG ¶19 and the following potentially apply:

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

Applicant has a history of financial difficulties. She incurred nine delinquent debts totaling approximately \$49,800. She successfully disputed one debt and provided some evidence of a payment plan for her student loan, but the rest of the debts remain unpaid. Applicant's admissions and credit reports establish the debts. I find both disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

- (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;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

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

(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 debts are recent because they are ongoing. Although she successfully disputed one debt, and provided evidence of some payment toward her student loan, she failed to address the remaining debts, which comprise the greatest portion of the overall debt amount. AG ¶ 20(a) is not applicable.

Although Applicant's unemployment and other personal issues were circumstances beyond her control, she did not act responsibly concerning the debts when she failed to address her debts with her creditors. AG ¶ 20(b) is not applicable.

Applicant presented no evidence of financial counseling. She has had financial difficulties for a number of years. Based upon her history, there is no reason to believe that she will right her financial ship in the near future. Even her payment plan for her student loan lacks sufficient information to determine what the terms are and whether she is complying with it. While she successfully disputed one debt, she provided insufficient information regarding the other debts she disputed. Applicant's financial problems are not under control. AG ¶¶ 20(c) and 20(d) do not apply. AG ¶ 20(e) applies only to SOR ¶ 1.f.

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 the 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 guideline 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 have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

I considered Applicant's family circumstances. However, I also considered that she has not adequately addressed her delinquent debts. She has not established a meaningful track record of debt management, which causes me to question her ability to resolve her debts in the future.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. For these reasons, 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 section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs: 1.a-1.e, 1.g-1.i:	Against Applicant
Subparagraphs: 1.f:	For Applicant
Paragraph 2, Guideline E:	WITHDRAWN
Subparagraphs: 1.a:	Withdrawn

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 Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Robert E. Coacher
Administrative Judge