



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



In the matter of:)	
)	
[NAME REDACTED])	ISCR Case No. 14-02902
)	
Applicant for Security Clearance)	

Appearances

For Government: Richard Stevens, Esq., Department Counsel

For Applicant: *Pro se*

10/06/2015

Decision

MALONE, Matthew E., Administrative Judge:

Applicant failed to present sufficient information to mitigate the security concerns raised by the Government’s adverse information about her financial problems. Her request for a security clearance is denied.

Statement of the Case

On February 14, 2013, Applicant submitted an Electronic Questionnaire for Investigations Processing (EQIP) to obtain a security clearance required for her job with a defense contractor. After reviewing the results of her background investigation, Department of Defense (DOD) adjudicators could not determine that it is clearly consistent with the national interest for Applicant to have access to classified information.¹

¹ Required by Executive Order 10865, as amended, and by DOD Directive 5220.6 (Directive).

On August 8, 2014, DOD issued a Statement of Reasons (SOR) alleging facts that raise security concerns addressed under Guideline F (Financial Considerations).² Applicant timely responded to the SOR and requested a decision without a hearing. On March 10, 2015, Department Counsel issued a File of Relevant Material (FORM)³ in support of the SOR. Applicant received the FORM on April 27, 2015, and was advised she had 30 days from the date of receipt to submit additional information in response to the FORM. The record closed on May 27, 2015, without any response to the FORM from Applicant. The case was assigned to me on August 12, 2015.

Findings of Fact

Under Guideline F, the Government alleged that Applicant owes \$33,126 for six delinquent or past-due debts (SOR 1.a - 1.f). Applicant admitted, with explanation, the SOR 1.a allegation. Applicant denied, with explanation, the debts alleged at SOR 1.b - 1.f. (FORM, Item 1) In addition to her admission, I make the following findings of fact.

Applicant is 51 years old and, since December 2012, she has been employed as an assembler by a defense contractor. She requires a security clearance for her work. Applicant was unemployed from June 2012 until December 2012 after she was terminated from her work as a laboratory manager at a food processing company. Her termination was the result of a disagreement with her immediate supervisor over proper procedures. Applicant had held that job since May 2008. Applicant worked either as a lab technician or lab manager for three other employers between October 1993 and May 2008. (FORM, Items 2 and 3)

Applicant has been married four times. Her first marriage began in November 1986 and ended by divorce in 1990. They had one child together for whom Applicant received child support payments until the child turned 18 in 2007. A second marriage began in 1990 and ended by divorce in 1994. Applicant married for a third time in February 1996 and divorced in April 2003. They had one child together, and Applicant's second husband was ordered to pay child support for their now-17-year-old child, but he has not done so consistently. Applicant married her current husband in September 2006 and has one child, now age 9 from that marriage. (FORM, Items 2 and 3)

When she submitted her EQIP, Applicant disclosed the \$32,090 debt alleged at SOR 1.a. This debt is for the remainder due on a loan that financed the purchase of a mobile home in 1999. When Applicant and her third husband divorced, she was unable to consistently pay the monthly note. After several years of missing payments and catching up when she had the money, the creditor evicted Applicant from the mobile home and repossessed it. When Applicant was interviewed in April 2013 during her background investigation, she indicated that she had retained legal counsel to resolve this matter. She stated that her lawyer had advised her she had no continuing obligation to pay this debt. In response to the SOR, Applicant repeated her position in this regard,

² See Directive, Enclosure 2. See also 32 C.F.R. § 154, Appendix H (2006).

³ See Directive, Enclosure 3, Section E3.1.7. The FORM included five exhibits (Items 1 - 5) proffered in support of the Government's case.

but the debt still appears on her credit report. Applicant also stated that her financial problems have been the result of her divorces, a period of unemployment in 2012, and the financial burdens of raising children as a single mother. (FORM, Items 1 - 5)

Applicant denied the debts alleged at SOR 1.b - 1.f. As to SOR 1.b - 1.e, all of which are for unpaid medical bills, Appellant averred that her insurance should have covered those bills. As to SOR 1.f, a debt for an unpaid insurance premium, she stated that she cancelled the policy. However, in her subject interview, she stated that she was not familiar with the creditor. Applicant's denials left the burden on Department Counsel to produce sufficient reliable information to prove those controverted issues of fact.⁴ All of the debts alleged in this case are documented in the EQIP, in the credit reports provided by Department Counsel, and in the summary of her subject interview. Applicant did not present any additional documentation about the current status of her debts either in response to the SOR or in response to the FORM. (FORM, Items 1 - 5)

Policies

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information,⁵ and consideration of the pertinent criteria and adjudication policy in the adjudicative guidelines. Decisions must also reflect consideration of the factors listed in ¶ 2(a) of the new guidelines. Commonly referred to as the "whole-person" concept, those factors are:

- (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.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest⁶ for an applicant to either receive or continue to have access to classified information. Department Counsel must produce sufficient reliable information on which DOD based its preliminary decision to deny or revoke a security clearance for an applicant. Additionally, Department Counsel must prove

⁴ Directive, E3.1.14.

⁵ Directive, 6.3.

⁶ See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

controverted facts alleged in the SOR.⁷ If the Government meets its burden, it then falls to the applicant to refute, extenuate, or mitigate the case for disqualification.⁸

Because no one is entitled to a security clearance, applicants bear a heavy burden of persuasion to establish that it is clearly consistent with the national interest for them to have access to protected information.⁹ A person who has access to such information enters into a fiduciary relationship with the Government based on trust and confidence. Thus, there is a compelling need to ensure each applicant possesses the requisite judgment, reliability, and trustworthiness of one who will protect the nation's interests as his or her own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access to classified information in favor of the Government.¹⁰

Analysis

Financial Considerations

Available information supports the allegations in the SOR. The facts established herein raise a security concern addressed, in relevant part, at AG ¶ 18 as follows:

Failure or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

More specifically, available information requires application of the disqualifying conditions at AG ¶¶ 19(a) (*inability or unwillingness to satisfy debts*), and 19(c) (*a history of not meeting financial obligations*). I have also considered the potential application of the following AG ¶ 20 mitigating conditions:

(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

⁷ Directive, E3.1.14.

⁸ Directive, E3.1.15.

⁹ See *Egan*, 484 U.S. at 528, 531.

¹⁰ See *Egan*; Adjudicative Guidelines, ¶ 2(b).

downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control; and

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

The record does not support any of these mitigating conditions. Applicant's debts are recent and continue unresolved. Although it may be that Applicant experienced financial difficulties due to factors beyond her control, she did not demonstrate that she has taken any action to address her debts. She did not support her claims that the alleged debts have been resolved or that they are not properly attributable to her. The Government's information supported the SOR allegations, thus shifting the ultimate burden of persuasion to Applicant. She did not meet her burden in this regard. The security concerns about Applicant's finances are not mitigated.

In addition to my evaluation of the facts and application of the appropriate adjudicative factors under Guideline F, I have reviewed the record before me in the context of the whole-person factors listed in AG ¶ 2(a). I note that Applicant has been steadily employed since at least 1993, and that she has been a single mother at various times since 1990. However, without additional information showing she has acted to resolve her financial problems, any positive whole-person information in this record is not sufficient to resolve the doubts about his suitability for continued access to classified information. Because protection of the national interest is the principal goal of these adjudications, those doubts must be resolved against the Applicant.

Formal Findings

Formal findings 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.f:	Against Applicant

Conclusion

In light of all available information, it is not clearly consistent with the national interest for Applicant to have access to classified information. Applicant's request for a security clearance is denied.

MATTHEW E. MALONE
Administrative Judge