



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



In the matter of:

ISCR Case No. 12-11376

Applicant for Security Clearance

Appearances

For Government: Caroline E. Heintzelman, Esq., Department Counsel

For Applicant: *Pro se*

09/02/2016

Decision

COACHER, Robert E., Administrative Judge:

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

Statement of the Case

On July 30, 2015, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (financial considerations). DOD acted 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) effective within the DOD on September 1, 2006.

Applicant answered the SOR on November 23, 2015, and elected to have her case decided on the written record without a hearing. Department Counsel submitted the Government's File of Relevant Material (FORM) on January 25, 2016 (the

Government evidence is referred to in the FORM as “Evidence”, but in this decision the evidence will be referred to as Items). The FORM was mailed to Applicant who received it on February 2, 2016. Applicant was given an opportunity to file objections and submit material in refutation, extenuation, or mitigation. She submitted a response to the FORM containing Applicant’s exhibits (AE) A-1 through A-15, which were admitted into evidence without objection. The case was assigned to me on May 10, 2016.

Findings of Fact

In Applicant’s answer to the SOR she admitted ¶¶ 1.c and 1.f-1.i. She denied the remaining allegations. The admissions are adopted as findings of fact. After a thorough and careful review of the pleadings and evidence submitted, I make the following additional findings of fact.

Applicant is 45 years old. She is divorced and has four children. She has worked for her current employer, a federal contractor, since June 2001. She has a bachelor’s degree. She did not serve in the military, but has held a security clearance since 2002 with no apparent incidents.¹

The SOR lists eight delinquent debts in the total amount of approximately \$71,037. It also included an allegation that she had a Chapter 13 bankruptcy dismissed. The debts are supported by credit report entries from December 2011 and June 2015, and other evidence contained in the FORM.²

Applicant had her Chapter 13 bankruptcy reinstated, completed her required payment plan, and had her debts discharged in December 2015. The status of Applicant’s SOR debts is as follows:³

SOR ¶ 1.a:

This is a mortgage account in the amount of \$50,150. Applicant provided documentation showing this account was included in her Chapter 13 bankruptcy. She negotiated a loan modification that was approved by the bankruptcy court. This debt is being resolved.⁴

SOR ¶ 1.b (same as ¶ 1.e):

This is a car loan debt in the amount of \$4,584 (in ¶ 1.e the amount of debt is listed as \$13,207). Applicant produced documentation that these two debts are for the

¹ Items 2-3.

² Items 3-6.

³ AE A-1, A-6 to A-10.

⁴ Item 2 (pp. 7-16); AE A-6 to A-10.

same transaction and that the debt was satisfied and the lien released. This debt is resolved.⁵

SOR ¶ 1.c:

This is a medical debt in the amount of \$350. Applicant researched this debt and discovered it should have been paid by insurance. She submitted a claim for this amount. This debt is resolved.⁶

SOR ¶ 1.d:

This is a medical debt in the amount of \$147. Applicant provided documentation showing the debt was discharged through her Chapter 13 bankruptcy. This debt is resolved.⁷

SOR ¶ 1.e (see ¶ 1.b above):

This debt is being resolved.⁸

SOR ¶ 1.f:

The Chapter 13 bankruptcy was reinstated and Applicant made all required payments under the approved plan. Her debts were discharged in December 2015.⁹

SOR ¶ 1.g:

This is a telecommunications debt in the amount of \$94. Applicant provided documentation showing she is current on her debt with this same carrier. This debt is resolved.¹⁰

SOR ¶¶ 1.h and 1.i:

These are consumer debts in the amounts of \$927 and \$578. Applicant provided documentation showing she settled these debts in October 2015. These debts are resolved.¹¹

⁵ Item 2 (pp. 17-23); AE A-11 to A-12.

⁶ Item 2 (p. 2).

⁷ AE A-4, A-6 to A-10.

⁸ Item 2 (pp. 17-23); AE A-11 to A-12.

⁹ AE A-6 to A-10.

¹⁰ Item 2 (p. 31).

Non-SOR payments:

Applicant is in good standing with her student loan account. Her total indebtedness is approximately \$17,868. Her last payment was \$191 in March 2016.¹²

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(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 access to classified information will be resolved in favor of 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

¹¹ Item 2 (pp. 32-33).

¹² AE A-14 and A-15.

extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 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 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.

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

Applicant had delinquent debts that were unpaid or unresolved. 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:

- (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.

Applicant has resolved, or is resolving her debts, through Chapter 13 bankruptcy and payments. She is current on her student loan debt. The one medical debt that remains unresolved was submitted to her insurance company. She has established a

track record of addressing her debts. There is sufficient evidence to indicate that Applicant's debts are being resolved and that she has made good-faith efforts to resolve the one that remains. I find AG ¶¶ 20(c) and 20(d) 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 the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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 the facts and circumstances surrounding this case. Applicant has stabilized her finances and has shown significant progress towards getting her finances back on track.

Overall, the record evidence leaves me with no questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising under Guideline F.

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

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Robert E. Coacher
Administrative Judge