



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



In the matter of:

Applicant for Security Clearance

)  
)  
) ISCR Case No. 15-08525  
)  
)

**Appearances**

For Government: Erin P. Thompson, Esq., Department Counsel

For Applicant: *Pro se*

04/17/2018

**Decision**

KILMARTIN, Robert J., Administrative Judge:

Applicant mitigated the security concerns under Guideline F, financial considerations. Applicant's eligibility for a security clearance is granted.

**Statement of the Case**

Applicant completed a Questionnaire for National Security Positions (SF 86) on March 2, 2015.<sup>1</sup> On June 15, 2016, the Department of Defense (DOD) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The action was taken 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 (AGs) effective within the DOD for SORs issued after September 1, 2006.

On December 10, 2016, the Director of National Intelligence issued Security Executive Agent Directive (SEAD) 4, which revised and replaced the 2006 AGs and became effective for all decisions issued on or after June 8, 2017. Accordingly, I have applied the newly revised AGs to this decision.

---

<sup>1</sup> Also known as a Security Clearance Application (SCA).

Applicant answered the SOR on July 23, 2016, admitting all of the allegations in the SOR except SOR ¶ 1.e. She requested a hearing before an Administrative Judge. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing scheduling the hearing for February 26, 2018. The hearing was convened as scheduled. Government Exhibits (GE) 1 – 5 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AE) A – G, including a custody and visitation order, a child support order, a gift letter, and two character-reference letters. I agreed to leave the record open until March 12, 2018, for supplemental documentation. (Tr. 36) Post-hearing, AE H through AE K were admitted without objection. AE H (two pages) is an agreement to allow the creditor at SOR ¶ 1.a to automatically debit Applicant's bank account starting on July 20, 2016. AE I is a statement from the creditor in SOR ¶ 1.e, stating that Applicant's account has been closed with no further obligations. AE J is a statement from the creditor in SOR ¶ 1.c stating that this account was satisfied on July 6, 2017. AE K is a March 9, 2018 credit report.

### **Findings of Fact<sup>2</sup>**

Applicant is 33 years old. She graduated from high school in 2003, and took some college courses. (Tr. 26) She never married but reports one son, age 11. (Tr. 19) The father of her son was incarcerated for 10 years in 2012. (AE C) He is in arrears on his child-support obligations for over \$9,000. (AE D) Applicant receives no child support. She has been employed as a senior logistician for a federal contractor since June 2015, and she was previously employed as an administrative assistant by a federal contractor since June 2010. She reports a previous security clearance granted in 2004.

The SOR alleges nine delinquent debts totaling \$35,292, including debts placed for collections, and charged-off debts. Applicant admitted all of the alleged delinquent debts in her Answer to the SOR, except for ¶ 1.e, and ¶ 1.i. The latter was paid in full. (Tr. 40) SOR ¶ 1.e was not her account. (AE I, Tr. 38) The telecommunications company creditor conceded that it was mistakenly attributed to Applicant, and it no longer appears on her credit report. (AE K, Tr. 38)

Applicant's financial issues started when she was laid off in 2010 by her previous federal-contractor employer. She remained unemployed for three months.<sup>3</sup> Applicant moved in with her family to cut her expenses. She is also a single mother and receives no child support. (Tr. 27) She engaged a credit counseling firm from 2012 to 2014 to help her resolve her financial problems, but she quit because that firm paid no interest on payments that she made to the firm. (Tr. 29.) She stated in her Answer "I have made arrangements with my creditors to resolve all debts by 2019."

Applicant attached to her Answer an agreement with the creditor to make five payments of \$100 each, starting on August 1, 2016, to satisfy the debt at SOR ¶ 1.a.

---

<sup>2</sup> Unless stated otherwise, the source of the information in this section is Applicant's March 2, 2015 SCA. (GE 1)

<sup>3</sup> Answer, and Item 1.

She also attached documentation showing payments of \$100 a month starting on March 31, 2014, by automatic debit from her bank account to the creditor in SOR ¶ 1.a. Applicant testified that she made a final payment on September 28, 2016 to the creditor in SOR ¶ 1.h. (Tr. 18). She attached a separate agreement with the creditor at SOR ¶ 1.b to pay \$50 each month starting in July 2016. Applicant testified that the delinquent debt in SOR ¶ 1.f has been paid in full. (Tr. 39) The debt in SOR ¶ 1.c has been paid-in full. (AE J)

Applicant testified that she recently purchased a home and her mortgage payments are \$3,655 per month. (Tr. 16, AE A) She had to improve her credit in order to qualify for a mortgage. She has been making mortgage payments for four months. She received a \$75,000 gift from her now deceased grandmother to help her pay off debts, and make a down payment on the house. (Tr. 22, AE E) She used \$13,000 from that gift as a down payment on the house, which cost \$540,000 to purchase. (Tr. 43) Applicant splits the monthly mortgage payments with her boyfriend. (Tr. 52) Her salary is \$65,000 per year. Her latest credit report reflects that she is current on all accounts and she has no additional delinquencies. Her credit score is now 665. (AE K) She also provided two character references attesting to her good character, honesty and trustworthiness. (AE F and AE G)

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 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. 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 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 risk of having to engage in illegal acts to generate funds.

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.

AG ¶ 19 provides conditions that could raise security concerns. The following apply here:

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

Applicant admitted to most of the delinquent debts alleged in the SOR, which are supported by her credit reports. There is sufficient evidence to support the application of the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. 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 problems 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 the problem is being resolved or is under control; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant has now resolved, or entered into a payment plan to resolve virtually all of the alleged delinquent debts. She had compelling family and economic circumstances that explained her financial problems, including a period of unemployment. She is a single mother receiving no child support since the father of her child is incarcerated. These were factors beyond her control. Applicant has since contacted her creditors to make payment arrangements. She followed through with a demonstrated track record of consistent payments pursuant to installment plans with her major creditors. Virtually all of her delinquent debts are now being addressed by payment plans, or otherwise resolved. Applicant has produced evidence that she substantially paid or addressed eight of the nine alleged delinquent debts in the SOR. She has received financial counseling and she has a viable plan going forward. Applicant has acted responsibly despite adverse circumstances. AG ¶¶ 20(a), 20(b), 20(c) and 20(d) apply. I am satisfied that her delinquent debts are being resolved.

### **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 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. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

Applicant's finances are no longer a security concern. There are ample indications that Applicant's financial problems are under control. She provided two character references attesting to her trustworthiness. The record evidence leaves me with no questions or doubts as to Applicant's suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated 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**

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's eligibility for a security clearance. Eligibility for access to classified information is granted.

---

Robert J. Kilmartin  
Administrative Judge

