



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



In the matter of:

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ISCR Case No. 18-01223

Applicant for Security Clearance

Appearances

For Government: Brittney Meutzel, Esq., Department Counsel

For Applicant: *Pro se*

11/16/2018

Decision

Curry, Marc E., Administrative Judge:

Applicant mitigated the financial considerations security concern. Clearance is granted.

Statement of the Case

On May 8, 2018, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, financial considerations, explaining why it was unable to find it clearly consistent with the national interest to grant security clearance eligibility for him. The DOD CAF took the action 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 *Nat. Sec. Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG) effective within the DOD on June 8, 2017.

On June 11, 2018, Applicant answered the SOR allegations, admitting all of the allegations except 1.i, and requested a decision based on the written record rather than a hearing. On June 27, 2018, Department Counsel prepared a file of relevant material

(FORM). Applicant submitted a response on August 7, 2018. The case was assigned to me on October 1, 2018.

Findings of Fact

Applicant is a 38-year-old woman. Her marriage, beginning in 2003, ended in divorce in 2012. She has a high school diploma and has earned some college credits. (Item 3 at 13-14) Since 2015, she has been working for a defense contractor as a senior administrative assistant. (Item 3 at 14)

Applicant incurred 12 delinquent debts totaling approximately \$52,391, as alleged in the SOR. Approximately \$49,000 of the debts constitute student loan accounts (subparagraphs 1.c – 1.h, and 1.k – 1.l).

In December 2017, Applicant contacted the student loan creditor of the debts alleged in subparagraphs 1.c through 1.h, and negotiated an agreement consolidating the debts into one account. Per the agreement, she has been paying \$219 monthly since January 2018. (Response at 8) As of June 2018, the balance was \$35,294. In February 2012, Applicant contacted the creditor of the student loans alleged in subparagraphs 1.k and 1.l, and developed a rehabilitation loan that consolidated the debts into one account. Under the new agreement, she has been paying five dollars per month since February 2018. (Response at 10-14). Neither of the student loan accounts are in delinquent status.

As for the consumer debts, Applicant has satisfied subparagraph 1.i, totaling \$1,427, in its entirety, and is paying the debt alleged in subparagraph 1.b, totaling \$408, through a payment plan. (Response at 3, 9) She has contacted the creditors alleged in subparagraphs 1.a and 1.j, respectively, and is in the process of arranging settlement agreements. (Response at 2) The debts alleged in subparagraphs 1.a and 1.j total approximately \$800.

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered 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 overall adjudicative goal is a fair, impartial, and commonsense decision. 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, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d).¹

Analysis

Guideline F, Financial Considerations

The security concerns about financial considerations are set forth in AG ¶ 18:

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. . . .

Applicant’s delinquencies trigger the application of disqualifying conditions AG ¶ 19(a), “inability to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations.” There is nothing on file that addresses whether Applicant’s debts were caused by circumstances beyond her control. AG ¶ 20(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,” does not apply.

¹ The factors under AG ¶ 2(d) are as follows:

(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.

Nevertheless, Applicant has either satisfied or is making payments toward the satisfaction of all of her debts except two that total less than \$900. Given the small amount of these debts compared to the debts that Applicant has either satisfied or gotten out of delinquent status, I find her assertion that she is attempting to resolve them credible. AG ¶ 20(c) “. . . there are clear indications that the problem is being resolved or is under control;” and AG ¶ 20(d) “the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts,” apply. Applicant has mitigated the financial considerations security concern.

Formal Findings

Formal findings for 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
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Subparagraphs 1.a – 1.l:	For Applicant
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Conclusion

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

Marc E. Curry
Administrative Judge