



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)	
)	
[NAME REDACTED])	ISCR Case No. 14-03363
)	
Applicant for Security Clearance)	

Appearances

For Government: Stephanie C. Hess, Esq., Department Counsel

For Applicant: *Pro se*

07/31/2015

Decision

MALONE, Matthew E., Administrative Judge:

Applicant failed to mitigate the security concerns about her significant and persistent financial problems. Her request for a security clearance is denied.

Statement of the Case

On December 26, 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 completed 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), as amended.

On August 6, 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 December 2, 2014, Department Counsel issued a File of Relevant Material (FORM)³ in support of the SOR. Applicant received the FORM on May 15, 2015, and was advised she had 30 days from the date of receipt to submit additional information in response to the FORM. Applicant did not respond to the FORM, and the case was assigned to me on June 25, 2015.

Findings of Fact

Under Guideline F, the Government alleged that Applicant owes \$18,201 for five delinquent or past-due debts (SOR 1.a - 1.e) after previously having been discharged of more than \$108,000 of debt in May 2011 through a Chapter 7 bankruptcy petition filed in January 2011 (SOR 1.f). Applicant admitted all of the SOR allegations. (FORM, Items 1 and 3) In addition to her admissions, I make the following findings of fact.

Applicant is 26 years old and works as an engineering technician for a defense contractor. She has held that job since November 2013. Between 2006 and 2013, Applicant had 18 different jobs, with brief periods of unemployment interspersed. Applicant was fired from, or left under adverse circumstances, seven of those jobs. Others she left for better opportunities. (FORM, Item 5)

When Applicant submitted her EQIP, she disclosed the debts and the bankruptcy alleged in the SOR. The bankruptcy discharged her of more than \$108,000 in debts. A credit report obtained in January 2014 documented the alleged debts, all of which were incurred after the Chapter 7 discharge in 2011.

Applicant and her husband, married since May 2009, have been separated since August 2013. Applicant has blamed her financial problems on the fact that her husband did not work, but opened accounts in her name and did not pay those debts. Applicant did not support her claims with any documentation. Likewise, she claimed that she would pay her debts as soon as she is able to do so. There is no information in the case file that suggests she has contacted any of her creditors or made any debt payments.

Policies

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information,⁴ and consideration of the pertinent criteria and adjudication policy in the adjudicative

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.

⁴ Directive. 6.3.

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 interest⁵ 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 controverted facts alleged in the SOR.⁶ If the Government meets its burden, it then falls to the applicant to refute, extenuate, or mitigate the case for disqualification.⁷

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.⁸ 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.⁹

⁵ See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁶ Directive, E3.1.14.

⁷ Directive, E3.1.15.

⁸ See *Egan*, 484 U.S. at 528, 531.

⁹ See *Egan*; Adjudicative Guidelines, ¶ 2(b).

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*). At age 26, Applicant already has a long history of unresolved indebtedness. Despite an earlier discharge of debts in bankruptcy, she has incurred more unpaid debt that remains unresolved. In response to the Government's concerns stated in the SOR and in the FORM, Applicant has provided nothing on which to base application of any of the AG ¶ 20 mitigating conditions. She did not show, for example, that, in fact, her husband is responsible for the debts in her name or that she has contacted her creditors to somehow resolve even her modest debts. On balance, Applicant has not met her burden of persuasion to refute or mitigate the security concerns raised by the Government's information.

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). There is little, if any, information in this record bearing on the whole person factors. Applicant's financial problems are recent and ongoing. While it is commendable that she fully disclosed her adverse financial information, this is not enough to overcome significant doubts about her suitability for access to classified information. Because protection of the national interest is the principal focus of these adjudications, those doubts must be resolved against the individual.

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