DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 24-01471
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Cassie Ford, Esq., Department Counsel
For Applicant: *Pro se*

02/19/2025
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Decision
_____

GOLDSTEIN, Jennifer I., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on July 31, 2023. On October 29, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) sent her a Statement of Reasons (SOR) alleging security concerns under Guideline F. The DCSA CAS acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

Applicant timely answered the SOR on November 12, 2024, and requested a decision based on the written record in lieu of a hearing. On January 3, 2025, the Government sent Applicant a complete copy of its written case, a file of relevant material

(FORM), including pleadings and evidentiary documents identified as Items 1 through 8. She was given an opportunity to submit a documentary response setting forth objections, rebuttal, extenuation, mitigation, or explanation to the Government's evidence. She received the FORM on January 27, 2025. She was given 30 days to submit a response to the FORM. She submitted a response on February 1, 2025 (Response). The case was assigned to me on February 13, 2025.

Evidentiary Matters

Items 1 through 4 contain the pleadings in the case and are part of the record. Items 5 through 8 are admitted into evidence without objections, as is Applicant's Response.

Findings of Fact

Applicant is a 57-year-old employee of a government contractor. She earned a bachelor's degree in 2005 and a diploma from another program in 2013. She has worked for her current employer since July 2023, but is currently on leave without pay. She also identified a second employer, who she has been working for in customer service since 2019. She listed unemployment in January 2007 to January 2008, July 2014 to February 2015, February 2017, August 2017 through February 2019, and August 2019. She served on active duty in the Navy from 1987 to 1995. (GE 5; Response)

The SOR alleged Applicant is indebted on five delinquent debts in the total amount of $46,411. She admitted the debts alleged in SOR ¶¶ 1.a-1.c, but denied SOR ¶¶ 1.d and 1.e. The debts are as follows:

SOR ¶ 1.a alleged that Applicant was indebted on a charged-off account in the amount of $38,726. This debt was for a second mortgage in the original amount of $56,000. Applicant noted in her Response that she has tried to get the company to send her "payment slips" but they chose to charge off the debt. She suggested that the company may have written the debt off as a loss, but she presented no 1099-C or other documentation to show the debt was canceled. This debt is unresolved. (GE 6, GE 7, GE 8; Response)

SOR ¶ 1.b alleged that Applicant was indebted on a charged-off account in the amount of $3,968. She used this card for general purposes like food and clothing. This debt has been past due since at least May 2018. This debt is unresolved. (GE 6, GE 7

SOR ¶ 1.c alleged that Applicant was indebted on a charged-off credit card in the amount of $3,257. This debt has been past due since at least March 2018. This debt is unresolved. (GE 6, GE 7

Applicant opened multiple student-loan accounts in 2013 to finance her diploma. SOR ¶ 1.d alleged that Applicant was $285 past due on a student loan debt totaling $2,330. SOR ¶ 1.e alleged that Applicant was $175 past due on a second student loan debt totaling $1,625. Her monthly payments on these two student loans were set at $36 per month and $22 per month, respectively. However, Applicant explained that these debts were now held by another creditor and that they are in good standing. The 2024 credit report reflects student loans taken the same amounts in the same months as those alleged in SOR ¶¶ 1.d and 1.e. Their status is "pays as agreed." These debts are being resolved. (GE 6, GE 7, Response)

Applicant's Response reflects that she has had a clearance since 1988. She claims to have had "no issues." She admits that she had financial problems during her periods of unemployment, but contests that that reflects on her reliability and trustworthiness. (Response)

Policies

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to "control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Exec. Or. 10865

§ 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. *See Egan* at 531. Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record." See ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019) It is "less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n,* 383 U.S. 607, 620 (1966). "Substantial evidence" is "more than a scintilla but less than a preponderance." *See v. Washington Metro. Area Transit Auth.,* 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan* at 531.

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

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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 greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Two are potentially applicable in this case:

(a) inability to satisfy debts; and

(c) a history of not meeting financial obligations.

Since 2018, Applicant has had financial delinquencies that she was unable to resolve. The evidence is sufficient to raise these disqualifying conditions.

AG ¶ 20 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 20 including:

(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 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; and

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

A security clearance adjudication is an evaluation of an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 0902160 (App. Bd. Jun. 21, 2010). The adjudicative guidelines do not require that an individual make payment on all delinquent debts simultaneously, pay the debts alleged in the SOR first, or establish resolution of every debt alleged in the SOR. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant's student loans listed in SOR ¶¶ 1.d and 1.e are currently paid as agreed. She has demonstrated a good-faith effort to address those two accounts. AG ¶ 20(d) provides mitigation for their past delinquencies.

Applicant has not demonstrated a plan to resolve the delinquencies listed in SOR ¶¶ 1.a-1.c. While she has had significant periods of unemployment, her last listed unemployment was in 2019. She presented no documentation of her efforts to resolve these debts. I find that Applicant's finances cast doubt on her current reliability, trustworthiness, and judgment. AG ¶¶ 20(a), 20(b), and 20(d) are not established with respect to SOR ¶¶ 1.a-1.c.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall commonsense judgment based upon careful consideration of the adjudicative guidelines, each of which is to be evaluated in the context of the whole person. An 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.

I have incorporated my comments under Guideline F in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). I considered Applicant's explanations for her delinquencies, including significant periods of unemployment, as well as her long history of service to the United States as a military member and government contractor. After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, I conclude that Applicant has not mitigated the security concerns raised under Financial Considerations.

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.c: Against Applicant
Subparagraphs 1.d-1.e: For Applicant

Conclusion

I conclude that it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Clearance is denied.

Jennifer I. Goldstein
Administrative Judge