



Applicant. The SOR set forth reasons why a security clearance could not be granted or continued due to financial considerations security concerns.

On June 11, 2007, Applicant answered the SOR and elected to have the matter decided without a hearing. Department Counsel submitted the government's case in a File of Relevant Material (FORM), dated June 27, 2007. Applicant was sent a copy of the FORM, along with notice of his opportunity to file objections and submit material to refute, extenuate, or mitigate the potentially disqualifying conditions. On August 23, 2007, Applicant responded to the FORM. Department Counsel did not object to the material. Applicant's response was admitted into the record. On September 28, 2007, I was assigned the case.

### **FINDINGS OF FACT**

The SOR alleges security concerns based on financial considerations. Applicant admits the 14 debts listed in the SOR. The admissions are incorporated herein as findings of fact. After a thorough review of the record, I make the following findings of fact.

Applicant is a 25-year-old security associate who has worked for a defense contractor since January 2005, and is seeking to obtain a security clearance. In 2006, Applicant's gross salary was \$2,960, her net salary was \$2,160, and her partner's net income was \$3,440. Together their net monthly income was \$5,600 with \$2,200 in monthly expenses. (Item 9) In June 2007, Applicant stated she was separated from her partner who failed to help in paying the joint debts. In August 2007, Applicant stated her net monthly income was not \$3,400 and her boyfriend had his own expenses beside the home expenses, as previously listed. (Applicant's response to FORM)

In August 2004, Applicant separated as an E-4 from the U.S. Army and returned home. She was on active duty from July 2000 through March 2004. (Item 4) Her separation from the Army contributed to her inability to fulfill her financial obligations.

Applicant obtained a \$11,957 car loan (SOR 1.d) from a credit union. The vehicle was involuntarily repossessed when she could not make the \$311 monthly payments. She agreed to repay the creditor \$500 per month on the amount she owed following repossession. In February 2007, Applicant asserted she would be contacting the company about this debt.

Applicant purchased a \$1,213 computer (SOR 1.I). She failed to make her payments. The debt is now \$1,785. (Item 5)

In April 2006, Applicant's Federal income tax refund was intercepted to pay a \$1,375 debt to the military exchange service. In November 2006, Applicant settled a credit card debt for \$448.78. In June 2007, Applicant received financial credit counseling, which is required of individuals wishing to file for bankruptcy protection. In August 2007, Applicant stated she would file for bankruptcy protection when she had saved enough to pay for the bankruptcy. (Applicant's response to FORM)

Applicant asserts she has established repayment plans or contacted the creditors about some of her debts. However, Applicant did not provide documentation the debts were paid or a repayment plan was established.

The FORM contains four credit reports dated June 2005 (Item 7), December 2006 (Item 6), January 2007 (Item 4), and March 2007 (Item 5).

		Creditor	Amount	Current Status
1	a	Cell phone debt.	\$950	Unpaid. In February 2007, Applicant asserted she had set up a repayment plan related to this debt. (Items 4, 6, 7) No supporting documentation received.
2	b	Telephone debt.	\$1,714	Unpaid. In February 2007, Applicant asserted she working on setting up a repayment plan related to this debt. (Items 4, 6, 7)
3	c	Emergency physicians medical bill.	\$205	Unpaid. In Applicant's January 2007 credit report, \$205 was owed. (Items 4, 6, 7)
4	d	Credit Union debt for involuntary auto repossession.	\$9,260	Unpaid. In February 2007, Applicant asserted she would be contacting the company about this debt. (Items 4, 5, 7, 8)
5	e	Credit card debt.	\$288	Unpaid. In February 2007, Applicant asserted she would be making a payment on this debt. (Item 4)
6	f	Credit card debt.	\$4,902	Unpaid. In February 2007, Applicant asserted she was making payments on this debt. (Item 4) In Applicant's January 2007 credit report \$5,902 had been transferred. (Item 4) No supporting documentation received.
7	g	Telephone debt.	\$240	Unpaid. In February 2007, Applicant asserted she working on setting up a repayment plan related to this debt. (Items 4, 6, 7)
8	h	Electric bill.	\$183	Unpaid. In February 2007, Applicant asserted she would be contacting the company about this debt. (Items 4, 5, 6, 8)
9	i	Computer purchase.	\$1,785	Unpaid. In Applicant's March 2007 credit report, \$1,765 was owed. (Items 5, 8)
10	j	Telephone debt.	\$255	Unpaid. In Applicant's January 2007 credit report, \$255 was owed. (Item 4)
11	k	Medical debt for emergency room visit.	\$316	Unpaid. In Applicant's January 2007 credit report, \$316 was owed. (Items 4, 6, 7)
12	l	Collection account for telephone debt.	\$407	Unpaid. In Applicant's March 2007 credit report, \$407 was owed. (Item 5)

13	m	Debt.	\$1,024	Unpaid. In February 2007, Applicant asserted she would be contacting the company about this debt. (Item 4)
14	n	Collection account for cable bill.	\$99	Unpaid. In February 2007, Applicant asserted she would be making a payment on this debt. (Items 4, 7)
			\$21,628	Total debt listed in SOR

### **POLICIES**

The Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, dated August 2006, sets forth Disqualifying Conditions (DC) and Mitigating Conditions (MC) for each applicable guideline. Additionally, each decision must be a fair and impartial commonsense decision based upon the relevant and material facts and circumstances, the whole person concept, and the factors listed in Section 6.3 of the Directive. The adjudicative guidelines are to be applied by administrative judges on a case-by-case basis with an eye toward making determinations that are clearly consistent with the interests of national security. The presence or absence of a particular condition or factor for or against clearance is not determinative of a conclusion for or against an applicant. However, the adjudicative guidelines should be followed whenever a case can be measured against this policy guidance. Considering the evidence as a whole, I conclude the relevant guidelines to be applied here are Guideline F, financial considerations.

### **BURDEN OF PROOF**

The sole purpose of a security clearance decision is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant. Initially, the Government must establish, by substantial evidence, that conditions exist in the personal or professional history of the applicant which disqualify, or may disqualify, an applicant from being eligible for access to classified information. The burden of proof in a security clearance case is something less than a preponderance of evidence, although the government is required to present substantial evidence to meet its burden of proof. Substantial evidence is more than a scintilla, but less than a preponderance of the evidence. All that is required is proof of facts and circumstances which indicate an applicant is at risk for mishandling classified information, or that an applicant does not demonstrate the high degree of judgment, reliability, or trustworthiness required of persons handling classified information. Additionally, the government must prove controverted facts alleged in the SOR. Once the government has met its burden, the burden shifts to an applicant to present evidence to refute, extenuate or mitigate the government's case. Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.<sup>2</sup>

As noted by the United States Supreme Court in *Department of Navy v. Egan*, 484 U.S. 518, 528 (1988), “no one has a ‘right’ to a security clearance.” A person who has access to classified information enters into a fiduciary relationship with the government based on trust and confidence.

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<sup>2</sup> ISCR Case No. 93-1390 (January 27, 1995) at pp. 7-8; Directive, Enclosure 3, Item E3.1.15

The government, therefore, has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability and trustworthiness of one who will protect the national interests. 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 protecting national security. Security clearance determinations should err, if they must, on the side of denials.

## CONCLUSIONS

The Government has satisfied its initial burden of proof under Guideline F, Financial Considerations. A person’s relationship with her creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to repay debts under agreed upon terms. Absent evidence of strong extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is in a position of risk that is inconsistent with the holding of a security clearance. An applicant is not required to be debt free, but is required to manage her finances so as to meet her financial obligations.

Financial considerations become a security concern when a person has significant delinquent debts. An individual who is financially overextended is at risk of having to engage in illegal or unethical acts to generate funds to meet financial obligations. Additionally, an individual who is financially irresponsible may also be irresponsible, unconcerned, or careless in their obligations to protect classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

Applicant owes approximately \$21,600 on 14 delinquent debts. Disqualifying Conditions (DC) 19(a) “inability or unwillingness to satisfy debts” and 19(c) “a history of not meeting financial obligations” apply.

In April 2006, Applicant’s Federal income tax refund was intercepted to pay a debt to the military exchange service and she settled a credit card debt. However, neither of these debts were listed in the SOR. Of the unpaid delinquent accounts, not all of the debts are large debts. More than half the debts are approximately \$400 or less. There is no documentation that any of the debts listed in the SOR have been paid.

Mitigating Condition (MC) 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, or a death, divorce or separation), and the individual acted responsibly under the circumstances,” has very limited applicability. Applicant asserts her separation from the Army contributed to her inability to fulfill her financial obligations. Additionally, she separated from her partner who failed to help pay the joint debts. The impact of these events on her finances is not further described. Applicant has failed to explain how the events caused the financial problems. Without additional information, it is impossible to find that the events caused the debts or that Applicant has acted responsibly under the circumstances.

Only two of the debts in question are related to medical bills (SOR 1.c \$205 and SOR 1.k \$316). These two medical debts do not establish Applicant’s financial problem was caused by unexpected medical emergency.

Applicant has sought financial counseling to qualify for bankruptcy. She asserts she will file for bankruptcy when she has sufficient funds to pay the expense of bankruptcy. She has not demonstrated a positive change in her financial management. The debts remain unpaid. There is no indication the problem is being resolved or under control. MC 2(c) “the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control,” does not apply.

MC 20(d) “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts,” applies. For MC 20(d) to apply there must be an “ability” to repay the debts, the “desire” to repay, and evidence of a good-faith effort to repay. A systematic, concrete method of handling her debts is needed, which is not present here. Applicant asserts she has entered into a repayment agreement with some of the creditors. She failed to document the agreements. She has provided nothing to substantiate her claim of a repayment agreement. She has not provided a plan for paying her delinquent obligations.

In reaching my conclusions I have also considered: the nature, extent, and seriousness of the conduct; Applicant’s age and maturity at the time of the conduct; the circumstances surrounding the conduct; Applicant’s voluntary and knowledgeable participation; the motivation for the conduct; the frequency and recency of the conduct; presence or absence of rehabilitation; potential for pressure, coercion, exploitation, or duress; and the probability that the circumstance or conduct will continue or recur in the future. I find against Applicant as to financial considerations.

### **FORMAL FINDINGS**

Formal Findings as required by Section 3, Paragraph 7, of Enclosure 1 of the Directive are hereby rendered as follows:

Paragraph 1 Financial Considerations:	AGAINST FOR APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	Against Applicant
Subparagraph 1.i:	Against Applicant
Subparagraph 1.j:	Against Applicant
Subparagraph 1.k:	Against Applicant
Subparagraph 1.l:	Against Applicant
Subparagraph 1.m:	Against Applicant
Subparagraph 1.n:	Against Applicant

### **DECISION**

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

**Claude R. Heiny**  
**Administrative Judge**