



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 17-04399  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Erin P. Thompson, Esq., Department Counsel  
For Applicant: *Pro Se*

02/19/2019

**Decision**

CREAN, Thomas M., Administrative Judge:

Based on a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is denied. Applicant did not present sufficient information and documents to mitigate financial considerations security concerns.

**Statement of the Case**

On March 13, 2017, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to retain a security clearance required for a position with a contractor for a government agency. After reviewing the background investigation, the Department of Defense (DOD) could not make the affirmative findings required to grant a security clearance. DOD issued to Applicant a Statement of Reasons (SOR), dated January 23, 2018, detailing security concerns for financial considerations under Guideline F. The action was taken under Executive Order E.O.) 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 (AG) effective in the DOD on June 8, 2017.

Applicant answered the SOR on March 5, 2018. She admitted the six allegations of delinquent debt, but contested the amount of the debt in SOR 1.d. Department Counsel was prepared to proceed on March 23, 2018, and I was assigned the case on July 19, 2018. DOD issued a notice of hearing on September 21, 2018, for a hearing on October 25, 2018. I convened the hearing as scheduled. The Government's two exhibits (GX 1-2) were admitted into the record without objection. Applicant testified, and introduced three exhibits (AX A-C) that were admitted into the record without objection. I left the record open for Applicant to submit additional documents. Applicant timely submitted four additional documents that I marked and admitted into the record as AX D through G. Department Counsel had no objection to the admission of the documents. (GX 3, e-mail, dated November 16, 2018) I received the transcript of the hearing (Tr.) on November 2, 2018, and the record closed on November 16, 2018, on receipt of the post-hearing documents.

### **Findings of Fact**

After a thorough review of the pleadings, transcript, and exhibits, I make the following findings of fact. Applicant is 36 years old. She graduated from high school in 2000, and has completed studies for and received a real estate agent's license. She married in August 2007, and she and her husband had twins together. Her husband has a child from a previous relationship. Her husband became disabled in 2010. He cannot work and receives disability. Applicant and her husband do not live together, and he does not contribute on a recurrent basis to Applicant for family support.

Applicant has been an executive assistant for a government agency since 2002. She received her first security clearance in 2002. Her monthly net pay is \$3,600, with monthly expenses of approximately \$3,300, leave her approximately \$300 monthly in discretionary income. (Tr. 13-21, 33-35; GX 1, E-QIP, dated March 13, 2017)

The SOR lists, and a credit report (GX 2, dated June 29, 2017) confirms the following delinquent debts for Applicant: an automobile loan charged-off for \$10,578 (SOR 1.a); another automobile loan in collection for \$7,166 (SOR 1.b); a telephone service debt in collection for \$1,182 (SOR 1.c); a charged-off account for furniture for \$1,057 (SOR 1.d); a utility debt in collection for \$1,495 (SOR 1.e); and a communication service debt in collection for \$800 (SOR 1.f). The total amount of the delinquent debt is approximately \$21,000.

Applicant stated that her financial problems started in 2010 when her husband could not work because of a disability from a kidney transplant. Even though she was no longer responsible for support of her husband, she lost his income. She had twins in 2010, becoming a single mother responsible for totally supporting her children on one income. She did not have sufficient income to keep current with her bills. (Tr. 17-21)

Applicant testified that she had been making the car payments associated with the debt at SOR 1.a. She missed a few payments and the amount of the payments, interest, and penalties were added to the end of her loan. She stated she did not know

that the missed payments were accruing both penalties and interest. The balance of the debt listed in the SOR includes the amount of the missed payments and the additional fees. The creditor requested full payment, but Applicant did not have the funds for the requested payment. The creditor repossessed the car. Applicant does not believe she received credit for the value of the repossessed car. However, she did not provide any documents to verify any contact with the creditor establishing the reasons for the debt.

Applicant received a settlement offer of payment of \$3,700 by March 2019. Applicant stated her intention to pay the settlement, but she did not provide any documentation to establish that she made any payments towards the settlement agreement. (Tr. 21-25; AX A, Letter, dated October 5, 2018)

The debt at SOR 1.b is for a vehicle that Applicant cosigned for her husband. At the time that he purchased the vehicle, her husband was working and he could afford the vehicle. After purchasing the car, he required a kidney transplant and could no longer work, and he could not afford to make payments on the vehicle. The creditor wanted full payment of the debt. Since Applicant only had one income, she could not afford to make the payments. Applicant reached a payment arrangement with the creditor in October 2018 for payment of \$100 per month on the debt. Applicant provided a receipt for the one payment she made in October 2018. She stated her intention to continue to make payments. However, she has not provided any documents to verify she that she has continued to make the payments. (Tr. 25-27)

The debt at SOR 1.c is for television-cable service. Most of the debt is for equipment that Applicant claims was returned. Applicant does not have a receipt to show that she returned the equipment. However, Applicant's latest bill from the company received on November 16, 2018, is for \$76.44. There is no listing in the bill for equipment. This indicates that the cost of the equipment has been paid or Applicant received credit for the equipment she returned. This debt is resolved for Applicant. (Tr. 27-29; AX D, Bill, dated November 16, 2018)

The debt in collection at SOR 1.d is for furniture. Applicant claims to have made payments on the debt at the furniture store. She does not have a receipt for the payments, and she disputes the amount of the debt. She claims the debt is only \$542.43 because of the payments she claims were made. She stated that she intends to pay the debt in monthly payments. She has not provided information to verify she has continued to make the payments. (Tr. 29)

Applicant has not made any payment on the utility debt at SOR 1.e. She plans to resolve the debt before the end of 2018. She did not provide any documents concerning any payments made on the debt. (Tr. 29-30)

The debt at SOR 1.f is for television-cable service that Applicant had at a previous location. She believes the debt was paid, but she does not have a receipt. Applicant now has cable service with the same provider. Her latest bill shows that her

payments are current and that her current bill of \$388.77 is a normal bill. This debt is resolved for Applicant. (Tr. 30-31; AX E, bill, dated November 1, 2018)

Applicant has not received financial counseling. She is current with her state and federal taxes. She has no other debts than those listed on the SOR. (Tr. 31-32)

Applicant provided two letters of recommendation. Her present government supervisor noted that Applicant has worked for her since 2009. Applicant's work has been consistent and without error. Her duties require a high level of confidentiality and financial oversight. She is entrusted with sensitive personnel information. Her supervisor is aware of Applicant's personal and family challenges. Applicant is not extravagant but is someone that is aiding a husband with a lifetime medical challenge. (AX F, Letter, dated November 5, 2018)

The second letter is from Applicant's immediate program manager and corporate supervisor. He has known Applicant for four years. Applicant handles herself with professionalism, respect, and loyalty to the government client. She has proven herself worthy of having access to classified information. (AX G, Letter, dated October 31, 2018).

### **Policies**

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 must 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 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.

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 in seeking 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 the 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**

#### **Financial Considerations:**

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. An individual who is financially irresponsible, may also be irresponsible, unconcerned, or careless in his 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. An individual who is financially overextended is at risk of having to engage in illegal or otherwise questionable acts to generate funds. (AG ¶ 18).

A person’s relationship with his or her creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to meet financial obligations. Absent evidence of strong extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is in a situation of risk inconsistent with the holding of a security clearance. An applicant is required to manage his or her finances in such a way as to meet financial obligations.

Adverse information in credit reports can normally meet the substantial evidence standard to establish financial delinquency. A Credit report confirms the delinquent debts listed in the SOR. This information is sufficient to raise security concerns under Financial Considerations Disqualifying Conditions AG ¶ 19:

- (a) inability to satisfy debts,
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Once the Government has established the adverse financial issue, the Applicant has the responsibility to refute or mitigate the issue. Based on the information provided

by Applicant, I considered the following Financial Consideration Mitigating Conditions under AG ¶ 20:

(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, or a death, divorce, or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the person has received or is receiving counseling for the problem from a legitimate and credible sources, such as a non-profit credit counselling service, and there are clear indications that the problem is being resolved or is under control;

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

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

The mitigating conditions apply only in part and not to all the debts. Applicant's debts are recent, numerous and not resolved. Applicant did not provide information concerning financial counseling or participation in any debt-relief programs. Applicant's debts may have been partially caused by her husband's illness that prevents him from working and providing support to the family. Her husband is on disability and does not live with her. She is raising their two children by herself. His condition and her lack of support from him is and will be recurring.

Applicant's husband's disability is a condition beyond her control, but her failure to pay her debts under her financial circumstances casts doubt on her current reliability, trustworthiness, and good judgment. She has not established that she acted responsibly towards her debts under the circumstances. She has discretionary funds each month to use for debt payments, but she has not provided information to show she is using the funds to pay debts. She has car-loan debt that is not resolved because she failed to stay current with car payments when due. She did not provide documents to show she is making payments on another car loan that she cosigned. While she established that two communication service debts are current, she has not provided sufficient documentation to establish and verify that she paid utility and furniture debts. In other

words, she has not established that she took reasonable and adequate action to resolve her debts when she had sufficient income.

Good faith means acting in a way that shows reasonableness, prudence, honesty, and adherence to duty and obligation. Applicant is not required to be debt-free nor must her plan require paying off all debts immediately or simultaneously. All that is required is that Applicant act responsibly given her circumstances. Applicant must establish that she has a reasonable plan to resolve financial problems, and that she has taken significant action to implement that plan. Applicant's plan must show a systematic method of handling debts, and Applicant must establish a meaningful track record of debt payment. A promise to pay delinquent debts is not a substitute for a track record of paying debts in a timely manner and acting in a financially responsible manner.

Applicant did not provide information to establish that she resolved the debts alleged in the SOR except for the communication debts listed at SOR 1.c, and 1.f. Applicant did not present any information to establish that she has a plan indicating how she will pay or resolve the remaining debts. Applicant has been gainfully employed since at least 2009. Her income is significant and she seems to have sufficient income to make progress in resolving her delinquent debts. She has not presented any evidence of a budget and the state of her finances.

Applicant did not establish that she acted reasonably under the circumstances. Except for the communication debts, Applicant presented no evidence of debt payments or resolution of other debts. She did not develop or present plans to pay her remaining delinquent debts. She did not provide documentation to show continued payments of her debts or correspondence with creditors to establish she is in contact with them, copies of debt disputes, evidence of attempts to negotiate payment plans, or other evidence of progress or resolution. There is no clear evidence that her debt problems have been resolved, so her finances are not under control. There is insufficient evidence to establish why Applicant was unable to make greater progress resolving her debts.

Applicant's ability to resolve her financial problems seem to be within her means and control. Since she did not present a plan to resolve her financial problems or make an effort to pay or resolve her delinquent debts, she has not established a good-faith effort to pay her debts. Her lack of reasonable and responsible actions towards her finances is a strong indication that she will not protect and safeguard classified or sensitive information. Applicant did not present sufficient information to mitigate financial security concerns.

## **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 considered the letters of recommendation from Applicant's supervisors. However, Applicant did not present sufficient and adequate evidence to establish that she took reasonable and responsible action to resolve her financial obligations. Applicant did not demonstrate appropriate management of her finances and did not show a record of action to resolve financial issues. Overall, the record evidence leaves me with questions and doubts concerning Applicant's judgment, reliability, and trustworthiness. She has not established her suitability for access to classified information. For all these reasons, I conclude Applicant failed to mitigate the security concerns arising from her financial situation. Eligibility for access to classified information is denied.

### **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:	AGAINST APPLICANT
Subparagraphs 1.a -1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Subparagraphs 1.d – 1.e:	Against Applicant
Subparagraph 1.f:	For Applicant

### **Conclusion**



In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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THOMAS M. CREAN  
Administrative Judge