

KEYWORD: Financial

DIGEST: Applicant is 52 years old and has been employed as a logistics technician for a defense contractor since June 2004. She has two outstanding federal tax liens totaling \$11,121. There is an outstanding delinquent debt to a hospital for a \$3,482. She proffered evidence of payment of these debts. Applicant has mitigated the financial considerations security concerns. Clearance is granted.

CASENO: 06-17707.h1

DATE: 05/31/2007

DATE: May 31, 2007

In re:)	
)	
-----)	
SSN: -----)	ISCR Case No. 06-17707
)	
Applicant for Security Clearance)	
)	

**DECISION OF ADMINISTRATIVE JUDGE
JACQUELINE T. WILLIAMS**

APPEARANCES

FOR GOVERNMENT

Emilio Jaksetic, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is 52 years old and has been employed as a logistics technician for a defense contractor since June 2004. She has two outstanding federal tax liens totaling \$11,121. There is an

outstanding delinquent debt to a hospital for a \$3,482. She proffered evidence of payment of these debts. Applicant has mitigated the financial considerations security concerns. Clearance is granted.

STATEMENT OF THE CASE

On August 15, 2005, Applicant executed an Electronic Questionnaire for Investigations Processing (e-QIP).¹ On October 23, 2006, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR)² detailing the basis for its decision—security concerns raised under Guideline F (Financial Considerations) of the revised Adjudicative Guidelines (AG) issued on December 29, 2005, and implemented by the Department of Defense for SORs issued after September 1, 2006. The revised guidelines were provided to Applicant when the SOR was issued.

On December 21, 2006, Applicant responded to the SOR allegations and requested a hearing. The case was assigned to me on February 21, 2007. A Notice of Hearing was issued on February 28, 2007, scheduling the hearing for March 14, 2007. The hearing was conducted as scheduled. At the hearing, the Government submitted four exhibits (Exs. 1-4) and Applicant submitted four exhibits (Exs. A-D), all of which were admitted into the record without objection. The record was left open until March 28, 2007 to give Applicant time to submit additional documents. By memorandum dated March 27, 2007, the Government forwarded five additional documents submitted by Applicant, without objection. These documents were identified as Exs. E-I³ and admitted. The transcript (Tr.) was received on March 27, 2007.

FINDINGS OF FACT

Applicant admitted all the factual allegations pertaining to financial considerations under Guideline F cited in the SOR, subparagraphs 1.a through 1.d. Those admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following findings of fact:

Applicant is 52 years old and has worked as a logistics technician for a defense contractor since June 2004. She was married in June 1983 and divorced in May 2002. She has a grown adult daughter, as well as an adult stepdaughter that Applicant raised from the age of six.⁴ Applicant is a high school graduate and attended a community college from February 2003 to April 2003.⁵ Her

¹Ex. 1 (Electronic Questionnaire for Investigations Processing, dated August 15, 2005).

²Pursuant to Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960), as amended, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended (Directive).

³Ex. E (Letter from Applicant, dated March 27, 2007); Ex. F (Payment Statement); Ex. G (Hospital payment); Ex. H (Hospital payment); Ex. I (Copy of scheduled payment).

⁴Tr. 63.

⁵Tr. 27.

annual salary is approximately \$36,000.⁶ In June 2006, she started a part-time job at a retail department store, and works one to two days a week, at a rate of \$7 per hour.⁷

On June 20, 2001, Applicant filed Chapter 7 bankruptcy, with total assets of \$7,950 and total liabilities of \$52,701. This bankruptcy was discharged on October 1, 2001.⁸ Prior to the bankruptcy, she did not have health insurance. She has severe asthma and was often in and out of the hospital.⁹ Her hospital bills accumulated, along with other debts, and led her to file bankruptcy.

In 2002, Applicant lost her full-time job that she had worked at for 12 years.¹⁰ A year of unemployment followed, which included unemployment insurance.¹¹ During this year, Applicant had asthma, sleep apnea, and was hospitalized for her extreme weight. She then had gastric bypass surgery.

Applicant is indebted to the Internal Revenue Service (IRS) on a federal tax lien in the approximate amount of \$2,142 entered in about October 2002. There is another outstanding federal tax lien owed to the IRS in the approximate amount of \$8,979 entered in about October 2002. Applicant has a payment agreement of \$65 each month to pay off both liens.¹² However, she pays the IRS \$50 each month through a payroll deduction.¹³ Payroll deductions were made for the period ending January 31, 2007, February 15, 2007, and February 28, 2007.¹⁴ These payments will continue until 2009.¹⁵ In 2009, she will have finished paying off her car note of \$300 a month. That \$300 will then be paid to the IRS toward her tax debt.¹⁶ She believes she currently owes between \$7,000 and \$8,000 to the IRS for the tax liens.¹⁷

In about November 2003, Applicant lost her job. Immediately thereafter, she was hospitalized due to a severe asthma attack. She did not have any health insurance. Applicant is indebted to a

⁶Tr. 30.

⁷Tr. 30.

⁸Bankruptcy Case No. 01-18010 (Case docket and list of creditors).

⁹Tr. 49-50.

¹⁰Tr. 33.

¹¹Tr. 34.

¹²Tr. 38.

¹³Tr. 38; Ex. B (Letter from IRS re: installment agreement, dated January 5, 2007, and other related documents). She had been paying the IRS \$32.50 through a payroll deduction. *See Ex. B, supra*, at 2.

¹⁴Ex. B, *supra*, note 10, at 3-5.

¹⁵Tr. 39.

¹⁶Tr. 39.

¹⁷Tr. 54.

hospital in the approximate amount of \$3,482 on an account placed for collection. On November 6, 2006, Applicant received a letter from the hospital regarding her outstanding bill. The letter stated, in part: “We believe that you may be eligible for financial assistance with your hospital bills through a special program established by [the hospital].”¹⁸ By letter dated March 12, 2007, the hospital informed her that based on her application for financial assistance, her application was approved for a 75 percent reduction.¹⁹ By letter dated March 13, 2007, the hospital informed her that she was “expected to pay the remaining balance of \$1,063.89 at \$50 per month starting March 13, 2007.”²⁰ On March 13, 2007, Applicant made a credit card payment to the hospital. Every month on the 9th and 24th, a payment of \$25 will be automatically deducted from her checking account and paid directly to the hospital.²¹ A payment was made on April 9, 2007.²² The final payment is due on April 24, 2008.

Although not an allegation in the SOR, Applicant proffered evidence that she has paid her delinquent debt with the state through payroll deductions.²³ She paid approximately \$319 until the debt of \$1,201.96 was paid in full.²⁴

Applicant’s mother testified as a character witness. She acknowledged that Applicant developed asthma as an adult and had been hospitalized numerous times because of that condition.²⁵ Her mother indicated that Applicant also had sleep apnea as well as a weight problem.²⁶ She was aware that her daughter did not have health insurance during her last hospital stay, and incurred a hospital bill of more than \$3,000.²⁷

POLICIES

¹⁸Ex. A (Information regarding debts state in the SOR), at 4-5.

¹⁹Ex. A, *supra*, note 4, at 5-6.

²⁰Ex. A, *supra*, note 4, at 7.

²¹Tr. 41-43.

²²Exs. E-I, *supra*, note 2.

²³Ex. C (Earnings and Leave Statements).

²⁴Ex. C

²⁵Tr. 68.

²⁶Tr. 68-69.

²⁷Tr. 69.

“[N]o one has a ‘right’ to a security clearance.”²⁸ 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 occupy a position . . . that will give that person access to such information.”²⁹ The President 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.”³⁰ An applicant has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance. The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials.³¹ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.³² The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.³³

The revised Adjudicative Guidelines set forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. Additionally, each security clearance decision must be a fair and impartial commonsense decision based on the relevant and material facts and circumstances, the whole-person concept, along with the adjudicative process factors listed in listed in the Directive and AG ¶ 2(a).

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, together with the whole-person concept, are set forth and discussed in the conclusions section below.

CONCLUSIONS

I have carefully considered all the facts in evidence and the legal standards, and I reach the following conclusions.

Financial considerations are a security concern because 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. The

²⁸*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

²⁹*Id.* at 527.

³⁰Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960).

³¹ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

³²*Id.*; Directive, ¶ E2.2.2.

³³Exec. Or. 10865 § 7.

Government has established a *prima facie* case for disqualification under Guideline F, financial considerations.

Applicant filed for bankruptcy in 2001. She is indebted to the IRS on two federal tax liens, totaling \$11,121. She also is indebted to a hospital for \$3,482. Thus, Financial Considerations Disqualifying Conditions (FC DC) 19(a) (*inability or unwillingness to satisfy debts*) and FC DC 19(c) (*a history of not meeting financial obligations*) apply.

Various factors can mitigate financial considerations. In 2002, Applicant lost her full-time job that she had worked at for 12 years.³⁴ A year of unemployment followed.³⁵ During this year, Applicant had asthma, sleep apnea, and was hospitalized for her extreme weight. She then had gastric bypass surgery. In about November 2003, Applicant lost her job. Immediately thereafter, she was hospitalized due to a severe asthma attack. She did not have any health insurance. Applicant owes \$3,482 to the hospital. She also has two tax liens with IRS for \$11,121. However, she has entered a payment plan with the IRS. She also has entered a payment plan with the hospital. Based on those facts, Financial Considerations Mitigating Conditions (FC 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*) and FC MC 20(c) (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*) apply. Applicant has mitigated the Government's case. Allegations 1.a through 1.d of the SOR are found for Applicant.

I have considered all the evidence in the case. I have also considered the "whole person" concept in evaluating Applicant's risk and vulnerability in protecting our national interests. Applicant has been plagued with health problems that required hospitalization during a time when she had no health insurance. A hospital bill was delinquent until she received a reduction in the debt based on her meager earnings. Two federal tax liens are now in the process of being paid off due to her payment arrangements with the IRS. I conclude Applicant has mitigated the security concerns arising from her financial difficulties. Based on the evidence of record, it is clearly consistent with the national interest to grant Applicant a security clearance. For the reasons stated, I conclude Applicant is suitable for access to classified information.

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:

³⁴Tr. 33.

³⁵Tr. 34.

Paragraph 1. Guideline F (Financial Considerations):

FOR APPLICANT

Subparagraph 1.a:

For Applicant

Subparagraph 1.b:

For Applicant

Subparagraph 1.c:

For Applicant

Subparagraph 1.d:

For Applicant

DECISION

In light of all of the circumstances in the case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Jacqueline T. Williams
Administrative Judge