

KEYWORD: Financial

DIGEST: Applicant has a history of financial problems, which includes more than \$14,000 in delinquent student loans. She did not present sufficient evidence to mitigate the financial considerations concern. Eligibility is denied.

CASENO: 06-22514.h1

DATE: 04/17/2007

DATE: April 17, 2007

In re:)	
)	
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SSN: -----)	ADP Case No. 06-22514
)	
Applicant for Public Trust Position)	
)	

**DECISION OF ADMINISTRATIVE JUDGE
MICHAEL H. LEONARD**

APPEARANCES

FOR GOVERNMENT

Candace L. Le'i, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant has a history of financial problems, which includes more than \$14,000 in delinquent student loans. She did not present sufficient evidence to mitigate the financial

considerations concern. Eligibility is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) reviewed Applicant's eligibility to occupy an automated data processing (ADP) position designated as an ADP I, II, or III position to support a contract with the Defense Department. This case involves an adjudication of Applicant's eligibility to occupy an ADP position, not an adjudication of Applicant's eligibility for a security clearance. As a result of the review, the agency recommended Applicant's case be submitted to an administrative judge for a determination whether Applicant is eligible to occupy such a position.

Acting under Department of Defense Directive 5220.6, dated January 2, 1992, as amended (Directive), DOHA issued a statement of reasons (SOR) to Applicant on December 11, 2006.¹ The SOR—which is equivalent to an administrative complaint—details the factual basis for the action and alleges a concern under Guideline F for financial considerations based on multiple delinquent debts, to include student loans and unpaid judgments.

In addition to the Directive, this case is brought under the revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information approved by the President on December 29, 2005. The revised guidelines were then modified by the Defense Department, effective September 1, 2006. They supersede or replace the guidelines published in Enclosure 2 to the Directive and Appendix 8 to DoD Regulation 5200.2-R, and they apply to all adjudications and other determinations where an SOR has been issued on September 1, 2006, or thereafter.² They apply to this case because (1) the SOR is dated December 11, 2006, and (2) this case qualifies as an other determination. Both the Directive and the Regulation are pending formal amendment. A copy of the revised guidelines was provided to Applicant along with the SOR.

Applicant timely replied to the SOR in writing on January 3, 2007. She elected to have her case decided on the written record in lieu of a hearing.

On January 31, 2007, the government submitted its written case consisting of all relevant and material information that could be adduced at a hearing. This so-called file of relevant material (FORM) was mailed to Applicant and it was received by her February 12, 2007. Applicant's reply to the FORM is a two-page letter, dated March 5, 2007, with a one-page enclosure. It was reviewed by department counsel who voiced no objections, and it is admitted into the record as Exhibit A. The case was assigned to me April 3, 2007.

¹ See Memorandum from the Deputy Under Secretary of Defense for Counterintelligence and Security, dated November 19, 2004, Subject: Adjudication of Trustworthiness Cases (directing DOHA to utilize Defense Department Directive 5220.6 to resolve contractor cases forwarded to it for a trustworthiness determination, to include those cases involving ADP I, II, and III positions).

² See Memorandum from the Under Secretary of Defense for Intelligence, dated August 30, 2006, Subject: Implementation of Adjudicative Guidelines for Determining Eligibility for Access to Classified Information (December 29, 2005).

FINDINGS OF FACT

Applicant's response to the SOR is mixed. She denied or disagreed with the indebtedness alleged in subparagraphs 1.a, 1.c, 1.d, 1.f, 1.i, 1.k, 1.n, 1.o, and 1.p. She admitted or agreed with the indebtedness alleged in the remaining subparagraphs. Her admissions are incorporated herein as findings of fact, and I make the following findings of fact.

1. Applicant is a 39-year-old employee of a company that provides services to the Defense Department. She has worked in this job since 2005. Her job involves having access to unclassified information. In conjunction with her employment, Applicant completed a questionnaire for public trust positions (Standard Form 85P) in October 2005.

2. Applicant has a history of financial problems, as evidenced by derogatory information in credit reports from 2006 and 2007. The public record section of the 2006 credit report revealed five judgments against Applicant, one of which was satisfied. In addition, the report revealed a number of collection and charged-off accounts. The 2007 credit report further revealed or confirmed Applicant's unfavorable financial history. It revealed the same five judgments, and it also listed a number of collection and charged-off accounts.

3. The SOR alleges that Applicant has 18 delinquent debts for more than \$29,000. Based on the evidence as a whole, I find by substantial evidence that the record evidence establishes all 18 delinquent debts. In particular, proof of Applicant's delinquent debts is found in the 2006 and 2007 credit reports. Her delinquent indebtedness includes two student loans for more than \$12,000.

4. In her reply to the FORM, Applicant provided written responses about her indebtedness. She made a brief statement for each debt that further admitted or denied the debt. Except for her student loans, she did not provide any documentary evidence establishing proof of payment, proof of settlement, proof of a repayment agreement, or proof of some step taken to dispute or resolve the debts in question. For example, such proof might include court records (satisfaction of judgments), receipts, copies of cancelled checks, account statements, bank statements, and correspondence (by mail or e-mail) verifying the status of delinquent accounts or repayment agreements with creditors.

5. Concerning her delinquent student loans, Applicant has been in a loan-rehabilitation program making payments for the last ten months. She stated that after her March 2007 payment, the loans will be considered current. A copy of a debt-collection bill from the U.S. Education Department, with a due date of March 8, 2007, reflects that Applicant is making monthly payments on two student loans with a current total balance of \$14,878.

6. As evidence of her trustworthiness, Applicant pointed out that she held a security clearance when she worked for the U.S. Navy in 1994, and she has worked for other companies where she has had access to sensitive information. She never mishandled such information, and she asserts she would not do so despite her financial situation.

CONCLUSIONS

Under Guideline F, a concern typically exists due to significant unpaid 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. Similarly, an individual who is financially irresponsible may also be irresponsible, unconcerned, negligent, or careless in properly handling and safeguarding sensitive information.

Here, based on the record evidence as a whole, a concern is raised by significant unpaid debts. Applicant has a history of financial problems. She has delinquent consumer debts, unpaid judgments, and delinquent student loans. Viewing the record evidence as a whole, the following disqualifying conditions (DC) under Guideline F apply: (1) inability or unwillingness to satisfy debts, and (2) a history of not meeting financial obligations. To sum up, the record evidence shows a pattern of financial problems.

I reviewed the mitigating conditions under the guideline and conclude none apply. She has not presented sufficient evidence to mitigate the financial considerations concern. In particular, the record evidence is insufficient to establish that she has made a good-faith effort to pay or otherwise resolve her indebtedness. Although she has made progress with her student loans, the loans are not yet current through the loan-rehabilitation program. In addition, I reach this conclusion because Applicant has not (except for the student loans) documented the actions, if any, she has taken to address her financial problems. The lack of documentation makes it difficult to reach a favorable decision.

At this point, Applicant's history of financial problems—which includes delinquent student loans—militates against granting her eligibility for an ADP position. Accordingly, I conclude that Applicant failed to establish it is in the interests of national security to grant her eligibility for an ADP I, II, or III position. In reaching this conclusion, I also considered Applicant's case under the whole-person concept and my whole-person analysis does not support a favorable outcome for Applicant.

FORMAL FINDINGS

Here are my conclusions for each allegation in the SOR:

_____ SOR Paragraph 1–Guideline F:	Against Applicant
Subparagraphs a–r :	Against Applicant

DECISION

In light of all of the facts and circumstances, it is not clearly consistent with the interests of national security to grant or continue Applicant's eligibility for an ADP I, II, or III position. Eligibility is denied.

Michael H. Leonard

Administrative Judge