



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
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----- ) ISCR Case No. 14-00644  
 )  
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Applicant for Security Clearance )

**Appearances**

For Government: Fahryn Hoffman, Esquire, Department Counsel  
For Applicant: *Pro se*

10/02/2014

**Decision**

HOWE, Philip S., Administrative Judge:

On November 7, 2013, Applicant submitted his Electronic Questionnaire for Investigations Processing (e-QIP; SF 86). On April 8, 2014, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (Financial Considerations). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense on September 1, 2006.

Applicant acknowledged receipt of the SOR on April 16, 2014. He answered the SOR in writing on April 29, 2014, and requested a hearing before an administrative judge. The Defense Office of Hearings and Appeals (DOHA) received the request before May 21, 2014, when a letter to Applicant explaining the hearing process was sent to him from the Department Counsel. Then, Department Counsel was prepared to proceed on June 16, 2014. I received the case assignment on June 19, 2014. DOHA

issued a Notice of Hearing on June 26, 2014, and I convened the hearing as scheduled on July 23, 2014. The Government offered Exhibits 1 through 3, which were received without objection. Applicant testified and had no exhibits to submit at the hearing.

DOHA received the transcript of the hearing (Tr.) on August 4, 2014. I granted Applicant's request to keep the record open until August 6, 2014, to submit additional matters. On that date, he submitted Exhibits A to G, without objection. The record closed on August 6, 2014. Based upon a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is granted.

### **Findings of Fact**

In his Answer to the SOR Applicant admitted all the factual allegations in the SOR, with explanations. He also provided additional information to support his request for eligibility for a security clearance.

Applicant is 29 years old. He is unmarried. He works for a defense contractor and has since November 2013. Applicant has a bachelor's degree that he obtained in 2011. He has four delinquent debts listed in the SOR totaling \$15,784. Three debts are under \$300 each and his education loan debt is \$15,166. (Tr.15-17, 52; SOR)

Applicant had a security clearance in July 2007 while working for another defense contractor and attending college. He had no security violations while holding that clearance. (Tr. 18)

The student loan listed in the SOR is a private loan. Applicant could not make payments on that loan while in school because his part-time job did not generate sufficient income. The requested loan repayment amount was \$400 monthly. His other student loans are deferred. For a long time he thought this loan was also a federal loan that could be placed in forbearance. Then he learning it was not such a loan. This loan is listed in Subparagraph 1.a of the SOR. The creditor offered Applicant a settlement of \$6,800 payable with \$400 monthly payments for April, May, and June of 2014. Then the payments increase to \$622 monthly from July 2014 to March 2015. This debt is being resolved by an installment payment plan on a settlement amount. (Tr. 18-29, 42; Exhibits C, D)

Applicant owes two medical debts, both for \$275, listed in SOR Subparagraphs 1.b and 1.c. Applicant settled these debts for \$469 total, and paid \$234.50 each on April 16, and May 16, 2014. These debts are resolved. (Tr. 29, 30, 42; Exhibits A, E)

The final SOR debt is for \$68 owed on a medical debt listed in Subparagraph 1.d. Applicant has not been able to identify the creditor to whom this debt is owed. He has not resolved it. (Tr. 30-32, 47)

Applicant owes about \$65,000 in total student loans. His annual salary is about the same amount. Applicant also has a budget he developed. The budget shows his

monthly paycheck is \$3,400 after taxes and other deductions. He submitted it as an exhibit. He has \$859 per month as net income after paying all debts and monthly expenses. (Tr. 33-37; Exhibit G)

Applicant did not submit any character statements or work place evaluations.

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful 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 (AG ¶ 2(a)). 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 access to classified information will be resolved in favor of 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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 the applicant may deliberately or inadvertently fail to protect or 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.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F, Financial Considerations**

The security concerns relating to the guideline for Financial Considerations are set out in AG ¶ 18:

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 guideline at AG ¶ 19 contains nine disqualifying conditions that could raise security concerns. Two conditions are applicable to the facts in this case:

- (a) inability or unwillingness to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant accumulated \$15,784 in delinquent debt from 2010 to the present time that remains unpaid. Applicant has four delinquent debts listed in the SOR. The largest debt for \$15,166 is a student loan, which is not in forbearance as are his other student loans

The guideline in AG ¶ 20 contains six conditions that could mitigate security concerns arising from financial difficulties. Two conditions may be applicable:

- (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, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;

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

(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; and,

(f) the affluence resulted from a legal source of income.

Applicant is paying his debts in an orderly manner. He repaid two small SOR-listed debts, and has an installment payment plan for a student loan. His other student loans are in forbearance and were not included in the SOR. Only a \$68 debt remains unpaid and Applicant stated he will pay it when he finds the proper creditor to pay. This debt is small and of no security concern. Therefore, there are clear indications from the evidence that the financial problems are under control and being resolved. AG ¶ 20 (c) applies.

Applicant paid two debts and has an installment payment plan for the student loan. He has about \$600 remaining after expenses are paid each month to save or invest. He is managing his money responsibly as shown by the budget he submitted as an exhibit. AG ¶ 20 (d) applies because of Applicant's good-faith efforts to repay his delinquent debts.

The remaining mitigating conditions are not relevant under the facts presented.

### **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 an applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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.

AG ¶ 2(c) requires each case must be judged on its own merits. 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. When these problems first began, Applicant was a young man, still in college. He accumulated student loan debt to pay for his college education. Now, he has a responsible job and is managing his money carefully. He also had a security clearance without any problems while he worked for a time at a defense contractor when he was in college. Applicant made changes in his financial and professional life by getting a good job and living responsibly. There is no likelihood of any pressure, coercion, exploitation, or duress. The likelihood of continuation or recurrence is absent.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising from his financial considerations. I conclude the whole person concept for Applicant.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a to 1.d:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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PHILIP S. HOWE  
Administrative Judge