



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:	)	
	)	
	)	
[NAME REDACTED]	)	ISCR Case No. 14-06151
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Daniel F. Crowley, Esq., Department Counsel  
For Applicant: *Pro se*

03/25/2016

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**Decision**

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MALONE, Matthew E., Administrative Judge:

Applicant did not meet her burden of producing information that mitigates the security concerns about her past-due or delinquent debts. Her request for access to classified information is denied.

**Statement of the Case**

On March 6, 2014, Applicant submitted an Electronic Questionnaire for Investigations Processing (EQIP) to obtain eligibility for access to classified information required as part of her employment with a defense contractor. After reviewing the completed background investigation, Department of Defense (DOD) adjudicators could not determine that it is clearly consistent with the national interest for Applicant to have access to classified information.<sup>1</sup>

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<sup>1</sup> Required by Executive Order 10865, as amended, and by the Directive.

On March 11, 2015, DOD issued a Statement of Reasons (SOR) alleging facts that raise security concerns addressed under Guideline F (Financial Considerations).<sup>2</sup> Applicant timely responded to the SOR and requested a decision without a hearing. On August 31, 2015, Department Counsel for the Defense Office of Hearings and Appeals (DOHA) issued a File of Relevant Material (FORM)<sup>3</sup> in support of the SOR. Applicant received the FORM on September 21, 2015, and had 30 days from the date of receipt to submit additional information in response to the FORM. Applicant did not submit additional information within the time allotted. The record closed on October 21, 2015, and the case was assigned to me on November 12, 2015.

### **Findings of Fact**

Under Guideline F, the Government alleged that Applicant owes \$86,104 for eight delinquent or past-due accounts (SOR 1.a - 1.h). Applicant denied the allegations at SOR 1.b - 1.d, and 1.h, claiming that they were her ex-husband's responsibility. She also stated her intent to contact her creditors and negotiate repayment plans. (FORM, Item 1) In addition to the facts established by her admissions to the remaining allegations, I make the following findings of fact.

Applicant is a 42-year-old employee of a defense contractor, where she has worked as a quality assurance inspector since July 2000. She was married from June 1994 until divorcing in March 2005. She is a single mother of a 16-year-old child, and claims she has not received any child support from her ex-husband. (FORM, Items 1 and 2)

When she submitted her EQIP, Applicant did not disclose any delinquent or past-due debts in response to EQIP Section 26 (Financial Record) questions. On April 14, 2014, she was interviewed by a Government investigator. She confirmed her negative response regarding financial problems, but was confronted with the results of a credit report obtained as part of her background investigation. Applicant generally denied knowledge of any of the debts contained in the credit report, and she stated her assumption that the debts were joint marital obligations that she thought her ex-husband had resolved. (FORM, Items 3 and 4).

Although Applicant's credit reports reflect a few joint debts, the debts alleged in the SOR are all documented in those reports as individual accounts attributable to Applicant. The debts listed at SOR 1.a and 1.g, both of which Applicant admits are her responsibility, were either opened or referred for collection in October 2006 and June 2001, respectively. The rest of the SOR debts documented in her credit history originated with their current creditors between May 2011 and November 2013, or between six and eight years after Applicant's divorce. She has not paid or otherwise resolved any of them. (FORM, Items 3 and 4)

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<sup>2</sup> See Directive, Enclosure 2. See also 32 C.F.R. § 154, Appendix H (2006).

<sup>3</sup> See Directive, Enclosure 3, Section E3.1.7. The FORM included five exhibits (Items 1 - 5) proffered in support of the Government's case.

## Policies

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information,<sup>4</sup> and consideration of the pertinent criteria and adjudication policy in the adjudicative guidelines. Decisions must also reflect consideration of the factors listed in ¶ 2(a) of the new guidelines. Commonly referred to as the “whole-person” concept, those factors are:

(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.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest<sup>5</sup> for an applicant to either receive or continue to have access to classified information. Department Counsel must produce sufficient reliable information on which DOD based its preliminary decision to deny or revoke a security clearance for an applicant. Additionally, Department Counsel must prove controverted facts alleged in the SOR.<sup>6</sup> If the Government meets its burden, it then falls to the applicant to refute, extenuate, or mitigate the case for disqualification.<sup>7</sup>

Because no one is entitled to a security clearance, applicants bear a heavy burden of persuasion to establish that it is clearly consistent with the national interest for them to have access to protected information.<sup>8</sup> A person who has access to such information enters into a fiduciary relationship with the Government based on trust and confidence. Thus, there is a compelling need to ensure each applicant possesses the requisite judgment, reliability, and trustworthiness of one who will protect the nation's interests as his or her own. The “clearly consistent with the national interest” standard

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<sup>4</sup> Directive. 6.3.

<sup>5</sup> See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>6</sup> Directive, E3.1.14.

<sup>7</sup> Directive, E3.1.15.

<sup>8</sup> See *Egan*, 484 U.S. at 528, 531.

compels resolution of any reasonable doubt about an applicant's suitability for access to classified information in favor of the Government.<sup>9</sup>

## Analysis

### Financial Considerations

The Government met its burden of production in support of the allegations in the SOR. The facts established herein raise a security concern addressed, in relevant part, at AG ¶ 18 as follows:

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.

More specifically, available information requires application of the disqualifying conditions at AG ¶¶ 19(a) (*inability or unwillingness to satisfy debts*) and 19(c) (*a history of not meeting financial obligations*).

In response to the Government's information, it was incumbent on Applicant to produce information sufficient to refute or mitigate the facts established against her. Applicant's response to the SOR was (1) to assert that some of the debts were partially her ex-husband's responsibility, and (2) that she would negotiate with the creditors for those debts she acknowledged as hers to establish repayment plans. As to the former, the entries in her credit history identifying the debts alleged in the SOR list them as "individual" rather than "joint" accounts. Applicant has not presented any information in response to either the SOR or the FORM that shows otherwise. She also did not present any information to show that she has tried to pay or otherwise resolve her debts.

In consideration of all of the foregoing, I conclude that none of the pertinent AG ¶ 20 mitigating conditions apply. Applicant's debts are current, she did not support her claims that some are not hers, she has not made any payments on her debts, and she has not sought any financial counseling or other professional help for her financial problems. Even if her debts stem from her failed marriage, it has been more than 10 years since her divorce and there has been no identifiable action taken to address her debts.

In addition to evaluating the facts and applying the appropriate adjudicative factors under Guideline F, I have reviewed the record before me in the context of the whole-person factors listed in AG ¶ 2(a). Applicant is presumed to be a mature, responsible mother and employee. Nonetheless, Applicant had the burden of presenting

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<sup>9</sup> See *Egan*; Adjudicative Guidelines, ¶ 2(b).

sufficient information to refute the SOR allegations or to mitigate the security concerns established by the Government's information. Without such information, doubts remain about her suitability for access to classified information. Because protection of the national interest is the principal focus of these adjudications, those doubts must be resolved against the Applicant.

### **Formal Findings**

Formal findings 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.h:           Against Applicant

### **Conclusion**

In light of all available information, it is not clearly consistent with the national interest for Applicant to have access to classified information. Applicant's request for a security clearance is denied.

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MATTHEW E. MALONE  
Administrative Judge