

KEYWORD: Financial

DIGEST: Applicant is 47 years old and has worked as a document specialist for a defense contractor since August 2005. Prior to her current employment, she was unemployed for at least 18 months. During her period of unemployment, she did not take care of her financial obligations. Applicant has 16 delinquent debts totaling about \$16,479. She has not paid any of her creditors since she resumed employment in 2005. Clearance is denied.

CASENO: 06-24750.h1

DATE: 07/30/2007

DATE: July 30, 2007

In re:)	
)	
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SSN: -----)	ISCR Case No. 06-24750
)	
Applicant for Security Clearance)	
)	

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

APPEARANCES

FOR GOVERNMENT

Julie R. Edmunds, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is 47 years old and has worked as a document specialist for a defense contractor since August 2005. Prior to her current employment, she was unemployed for at least 18 months. During her period of unemployment, she did not take care of her financial obligations. Applicant has 16 delinquent debts totaling about \$16,479. She has not paid any of her creditors since she resumed employment in 2005. Clearance is denied.

STATEMENT OF THE CASE

On October 11, 2005, Applicant executed a Security Clearance Application (SF 86).¹ On March 30, 2007, the Defense Office of Hearings and Appeals (DOHA) declined to grant a security clearance and issued a Statement of Reasons (SOR)² to Applicant, 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 AG was provided to Applicant when the SOR was issued.

In a sworn, written statement dated April 17, 2007, Applicant responded to the SOR allegations and elected to have the case decided on the written record in lieu of a hearing. On May 3, 2007, Department counsel prepared a File of Relevant Material (FORM), containing six Items, and mailed Applicant a complete copy on May 4, 2007. Applicant received the FORM on May 7, 2007, and had 30 days from receipt to file objections and submit material in refutation, extenuation, or mitigation. Applicant did not submit any information in response to the FORM. The case was assigned to me on July 19, 2007.

MOTION TO AMEND THE STATEMENT OF REASONS

In the FORM, the Government submitted a Motion to Amend the SOR as follows:

- (1) In subparagraph 1.d, replace “Cap 1 Bank” with “WFNNB.”
- (2) Strike subparagraph 1.g and replace with the following:

“You are indebted to Cap 1 Bank in the approximate amount of \$912, for an account charged off in September 2005. As of March 13, 2007, this debt had not been paid.”

In the absence of an objection, the Government’s request to amend the SOR is granted. Accordingly, the SOR is amended as stated above.

FINDINGS OF FACT

Applicant admitted the factual allegations under subparagraphs 1.a through 1.l of the SOR. 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:

¹Item 1 (Security Clearance Application, dated October 11, 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).

Applicant is 47 years old and single. Since August 2005, she has worked as a document specialist for a defense contractor. Applicant has a long history of financial problems going back to 2003. Prior to her current job, she was unemployed for more than a year and developed a history of unpaid financial obligations.

In February 2007, Applicant completed a set of Interrogatories related to her financial responsibility.³ She responded to her numerous delinquent debts and stated:

It is my intent to start contacting the creditors and start paying off these accounts as soon as possible.

Since April, 2003, I have been unemployed approximately 1-1/2 years and have just established steady employment since August, 2005.

I also have been helping my mother in the past few years, as much as possible for her cancer treatments, doctor visits, and medication.

In March 2007, the Government filed an SOR and alleged in subparagraphs 1.a through 1.1 that Applicant had 16 delinquent debts totaling \$16,479. Applicant admits all of the delinquent debts.⁴ Her delinquent debts are detailed in a credit bureau report, dated March 13, 2007.⁵ The accounts in the credit report either are in collection or have been charged off, demonstrating their long time delinquency. In the Interrogatories, Applicant questioned a charge for \$5,931 and stated she did not know the creditor. She admitted this debt in her Answer.

Applicant's total net monthly income is approximately \$2,447. Her total monthly expenses are \$2,317. Her net remainder each month without paying on these debts is about \$130.⁶ She has no assets or bank savings.

POLICIES

Enclosure two of the Directive sets forth adjudicative guidelines to be considered in evaluating a person's eligibility to hold a security clearance. Included in the guidelines are disqualifying conditions (DC) and mitigating conditions (MC) applicable to each specific 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 factors listed in the Directive. Specifically these are: (1) the nature and seriousness of the conduct and surrounding circumstances; (2) the frequency and recency of the conduct; (3) the age of the applicant; (4) the motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the consequences; (5) the absence or presence

³Item 6 (Response to DOHA Interrogatories, signed on February 5, 2007).

⁴Item 3 (Applicant's Answer, dated April 17, 2007).

⁵Item 5 (Credit Bureau Report, dated March 13, 2007).

⁶Item 6, *supra*, note 3.

of rehabilitation; and (6) the probability that the circumstances or conduct will continue or recur in the future. Although the presence or absence of a particular condition or factor for or against clearance is not outcome determinative, the adjudicative guidelines should be followed whenever a case can be measured against this policy guidance.

The sole purpose of a security clearance determination is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant.⁷ The Government has the burden of proving controverted facts.⁸ The burden of proof is something less than a preponderance of evidence.⁹ Once the Government has met its burden, the burden shifts to an applicant to present evidence of refutation, extenuation, or mitigation to overcome the case against him.¹⁰ Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.¹¹

No one has a right to a security clearance¹² and “the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials.”¹³ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.¹⁴ The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant.¹⁵ 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.

CONCLUSIONS

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

Guideline ¶ 18 articulates the Government’s concern regarding financial problems. “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.

⁷ISCR Case No. 96-0277 (July 11, 1997) at 2.

⁸ISCR Case No. 97-0016 (December 31, 1997) at 3; Directive, Enclosure 3, ¶ E3.1.14.

⁹*Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

¹⁰ISCR Case No. 94-1075 (August 10, 1995) at 3-4; Directive, Enclosure 3, ¶ E3.1.15.

¹¹ISCR Case No. 93-1390 (January 27, 1995) at 7-8; Directive, Enclosure 3, ¶ E3.1.15.

¹²*Egan*, 484 U.S. at 531.

¹³*Id.*

¹⁴*Id.*; Directive, Enclosure 2, ¶ E2.2.2.

¹⁵Executive Order 10865 § 7.

An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.”

Applicant has a long history of financial problems going back to 2003. She has 16 delinquent debts, totaling \$16,479. The number of debts, the amount of indebtedness, and the period of the time the debts have been delinquent indicate the Government has proved a *prima facie* case for financial considerations. Accordingly, Financial Considerations Disqualifying Conditions ¶ 19(a) (*inability or unwillingness to satisfy debts*) and ¶ 19(c) (*a history of not meeting financial obligations*) apply.

Various factors can mitigate Applicant’s financial considerations security concerns. Applicant is in a precarious financial situation. Her net remainder each month without paying on these debts is about \$130. Moreover, Applicant cannot demonstrate that her financial problems are unlikely to recur. Hence, Financial Considerations Mitigating Condition ¶ 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*) does not apply. Applicant states that she has been unemployed for at least a year and a half and is also helping her mother financially since her mother was diagnosed with cancer. Thus, ¶ 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*) applies. Applicant states that she would like to contact creditors and arrange payment plans. These debts became delinquent in 2003. In August 2005, she resumed employment and has not contacted any creditor to establish payment plans. She has not taken advantage of counseling to assist her in handling her financial problems, especially in light of the fact that she only has \$130 remaining each month after her basic expenses are paid. Thus, ¶ 20(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*) and ¶ 20(d) (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*) do not apply. Allegations 1.a through 1.1 of the SOR are decided against Applicant.

Having found for her on one mitigating condition, I now turn to the general factors of the whole person concept. Applicant is 47 years old and has obviously had some financial setbacks in her life starting around 2003. She is keenly aware of her delinquent debts. While she is sincere that she would like to pay her outstanding obligations, she has no plan to date on how to accomplish that goal. Financial counseling could assist her in resolving and understanding her precarious financial situation.

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 (Financial Considerations):	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant

Subparagraph 1.d:	Against Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	Against Applicant
Subparagraph 1.i:	Against Applicant
Subparagraph 1.j:	Against Applicant
Subparagraph 1.k:	Against Applicant
Subparagraph 1.l:	Against Applicant

DECISION

In light of all of the circumstances in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Jacqueline T. Williams
Administrative Judge