



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



In the matter of: )  
)  
) ISCR Case No. 10-09789  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Tovah A. Minster, Esq., Department Counsel  
For Applicant: *Pro se*

06/29/2012

**Decision**

O'BRIEN, Rita C., Administrative Judge:

Applicant failed to mitigate the security concerns raised under the financial considerations guideline. Her request for a security clearance is denied.

**Statement of the Case**

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP), signed on June 30, 2010, to request a security clearance required as part of her employment with a defense contractor (Item 5). On March 7, 2012, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) (Item 1), pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended; and the adjudicative guidelines (AG) implemented by the DoD on September 1, 2006. The SOR listed security concerns

addressed in the Directive under Guideline F (Financial Considerations). In her Answer to the SOR, dated March 15, 2012, Applicant admitted 16 of 17 allegations, and requested a decision without a hearing. (Item 4)

Department Counsel submitted a file of relevant materials (FORM)<sup>1</sup> in support of the Government's preliminary decision to deny Applicant's request. The FORM was forwarded to Applicant on April 26, 2012, and she received it on May 8, 2012. She was given 30 days from that date to file a response. Applicant did not submit a response. The case was assigned to me on June 29, 2012.

### **Findings of Fact**

Applicant's admissions to the allegations listed in the SOR are incorporated as findings of fact. After reviewing the pleadings and the FORM, I make the following additional findings of fact.

Applicant is 25 years of age. She is single and has one child, three years of age. She earned an associate's degree in business administration in 2007, and attended college for one additional year. (Item 5)

While attending college, Applicant worked part-time as a sales associate and as a receptionist. After college, she worked full-time as an accounts clerk. In June 2010, she began her current position as an administrative assistant for a defense contractor. In her September 2011 response to a DOHA interrogatory, Applicant stated that her delinquencies began in 2005, while she was in college, when she was 18 to 21 years of age. She notes that she became more responsible after her daughter's birth, but the debts had already accumulated. When she began working full-time, she used her modest salary to pay daily living expenses. (Items 4 - 6)

The debts listed in the SOR, which total \$63,800, appear in Applicant's credit reports of July and December 2010, September 2011, and February 2012. In her interrogatory response, Applicant stated that she has made arrangements for a \$100 per month payment plan on a \$1,652 SOR debt, and a \$50-per-month plan on another debt; reduced a cable bill from \$1,165 to \$290; received a settlement offer on one debt; and planned to consolidate several student loans. She did not provide proof of these claims. Applicant also disputed the debt alleged at SOR ¶ 1.d, stating that it is a duplicate of the debt alleged at ¶ 1.b. She also believes that the debt at ¶1.i is a duplicate of the debt at ¶ 1.h. However, she did not provide documentation supporting these claims, or showing that she has disputed the debts with the credit agencies. She intends to pay her delinquent debts. Applicant did not state that she has had financial counseling. The file does not include information about Applicant's current salary, expenses, or budget. (Items 4, 6 – 10)

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<sup>1</sup> See Directive, Enclosure 3, Section E3.1.7. The FORM included eight documents (Items 1 - 8) 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, and consideration of the pertinent criteria and adjudication policy in the AG.<sup>2</sup> Decisions must also reflect consideration of the factors listed in ¶ 2(a) of the Guidelines, commonly referred to as the “whole-person” concept. The presence or absence of a disqualifying or mitigating condition does not determine a conclusion for or against an applicant. However, specific applicable guidelines are followed when a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. In this case, the pleadings and the information presented by the parties require consideration of the security concerns and adjudicative factors addressed under Guideline F (financial considerations).

A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest<sup>3</sup> for an applicant to either receive or continue to have access to classified information. The Government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the Government must be able to prove controverted facts alleged in the SOR. If the Government meets its burden, it then falls to applicant to refute, extenuate or mitigate the Government’s case.

Because no one has a “right” to a security clearance, an applicant bears a heavy burden of persuasion.<sup>4</sup> A person who has access to classified information enters into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability, and trustworthiness of one who will protect the national interests as her or her own. The “clearly consistent with the national interest” standard compels resolution of any reasonable doubt about an applicant’s suitability for access in favor of the Government.<sup>5</sup>

## Analysis

### Guideline F, Financial Considerations

AG ¶ 18 expresses the security concern pertaining to financial considerations:

Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or

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<sup>2</sup> Directive. 6.3.

<sup>3</sup> See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>4</sup> See *Egan*, 484 U.S. at 528, 531.

<sup>5</sup> See *Egan*; AG ¶ 2(b).

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 over-extended is at risk of having to engage in illegal acts to generate funds.

Applicant has a history of financial problems. As of the date of the SOR, she had past-due debts totaling more than \$63,000. Her history of failing to meet her financial obligations supports the application of disqualifying conditions AG ¶ 19(a) (*inability or unwillingness to satisfy debts*) and AG ¶ 19(c) (*a history of not meeting financial obligations*).

Under AG ¶ 20, the following conditions can potentially mitigate security concerns:

(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;

(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

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

Applicant's debts started to become delinquent seven years ago. However, they are recent, because they are still delinquent. Her unresolved financial situation casts doubt on her judgment and reliability, and AG ¶ 20(a) cannot be applied.

Applicant states that she initiated payment plans on several SOR debts. However, she provided no documentary evidence to confirm that she has established payment plans, or any proof that she has made payments. Other than unsupported statements that she will work on her debts, she offered no evidence of concrete efforts to resolve them. The record does not contain sufficient evidence to show Applicant has made a good-faith effort to resolve her debts, and her finances are not under control. AG ¶¶ 20(c) and 20(d) do not apply.

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all the circumstances. I have evaluated the facts presented and have applied the appropriate adjudicative factors under the cited guideline. I have also reviewed the record before me in the context of the whole-person factors listed in 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.

Over the past seven years, Applicant has accrued more than \$63,000 in delinquent debt. She was put on notice that delinquent debts are a security concern when she completed her security clearance application in June 2010, and again during her security interview in July 2010. Applicants are not required to be debt-free; however, they are expected to develop a plan to resolve their debts, and provide evidence of actions to implement that plan. To date, Applicant has provided no evidence of a credible plan to deal with the SOR debts, or evidence that she has begun making payments on them.

A fair and commonsense assessment of the available information shows that Applicant has not satisfied the doubts raised about her suitability for a security clearance. For these reasons, I conclude Applicant has not mitigated the security concerns arising from the cited adjudicative guideline.

### **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 as follows:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a – 1.q:	Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to allow Applicant access to classified information. Applicant's request for a security clearance is denied.

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RITA C. O'BRIEN  
Administrative Judge