



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



In the matter of: )  
)  
) ISCR Case No. 11-00923  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Caroline H. Jeffreys, Esq., Department Counsel

For Applicant: *Pro se*

December 21, 2011

**Decision**

---

O'BRIEN, Rita C., Administrative Judge:

Based upon a review of the pleadings, exhibits, and testimony, I conclude that Applicant has mitigated the security concerns raised under the guideline for Financial Considerations. Accordingly, her request for a security clearance is granted.

**Statement of the Case**

Applicant requested a security clearance by submitting an Electronic Questionnaire for Investigations Processing (SF 86) on August 31, 2010. After reviewing the results of the ensuing background investigation, adjudicators for the Defense Office of Hearings and Appeals (DOHA) were unable to make a preliminary affirmative finding<sup>1</sup> that it is clearly consistent with the national interest to grant Applicant's request. On August 5, 2011, DOHA issued to Applicant a Statement of

---

<sup>1</sup> Required by Executive Order 10865, as amended, and DoD Directive 5220.6 (Directive), as amended.

Reasons (SOR), which specified the basis for its decision: security concerns addressed in the Directive under Guideline F (Financial Considerations) of the Adjudicative Guidelines (AG).<sup>2</sup>

In her Answer to the SOR, dated August 23, 2011, Applicant denied six of the seven allegations in the SOR. She also requested a hearing before an administrative judge. Department Counsel was prepared to proceed on September 14, 2011, and I received the case on September 27, 2011. DOHA issued a Notice of Hearing on October 14, 2011. I convened the hearing as scheduled on November 9, 2011.

During the hearing, the Government offered five exhibits, which I admitted as Government Exhibit (GE) 1 through 5. Applicant testified, and offered six exhibits, which I admitted as Applicant's Exhibit (AE) A through G.<sup>3</sup> I held the record open to allow Applicant to submit additional documentation. She timely submitted four documents, which I admitted as AE H through K.

### **Findings of Fact**

Applicant's admissions to the SOR allegations are incorporated as findings of fact. After a thorough review of the pleadings, Applicant's response to the SOR, and the record evidence, I make the following additional findings of fact.

Applicant, 33 years old, is a single mother of a 14-year-old son. She supports him, as well as her grandmother, who has lived with her for the past three years. She received a bachelor's degree in 2000. She has worked for a defense contractor since August 2010 as a senior financial analyst. Other than several weeks in 2003-2004, Applicant has been steadily employed since at least 2003. She held a security clearance from 1998 to 2007 with no security incidents. Applicant explained in her security interview that she became delinquent on several debts because she was supporting her grandmother, and she had a tenant who was not paying the rent. (GE 1, 2; Tr. 17-20, 25, 43, 47, 58)

In January 2011, Applicant launched a non-profit organization to help women and girls who are adversely affected by sexual assault or sexual abuse. She recently initiated a campaign related to the organization, and spent a significant amount of her own funds to produce it. She expects to obtain sponsorship for the organization in the future. (Tr. 23-25, 58-59)

---

<sup>2</sup> Adjudication of the case is controlled by the Adjudicative Guidelines, which supersede the guidelines listed in Enclosure 2 to the Directive. They apply to all adjudications or trustworthiness determinations in which an SOR was issued on or after September 1, 2006.

<sup>3</sup> Through error, the exhibits are numbered AE A through E, and G through K; the file does not contain an exhibit AE F.

Applicant's net income as of the hearing date was approximately \$6,000 per month. She listed monthly expenses and debt payments on her personal financial statement (PFS) of June 2011. Her expenses of \$3,220 and debt payments of approximately \$500 equal a total outlay of approximately \$3,720. Her current net remainder appears to be approximately \$2,280. However, the PFS did not include other expenses, including her grandmother's monthly medical expenses of about \$300 to \$500, as well as her son's monthly tuition of \$858. After deducting this additional outlay of about \$1,260 per month, her monthly net remainder is about \$1,000. She does not receive child support for her son. She does not have a car loan or credit card accounts. She has student loans, which are current. (GE 2; Tr. 20-23, 25-28)

The current status of Applicant's debts follows. Unless otherwise noted, the debts appear in Applicant's credit bureau reports of September 2010, and March and July 2011. (GE 3, 4, 5)

#### **Credit card, allegation 1.a (\$2,418) - PAYMENT PLAN**

Applicant could not afford to continue paying on this account, and stopped payments in about February 2009. She spoke with the creditor in September 2010 and accepted a settlement offer of \$1,542. She resumed monthly payments at that time. Applicant missed several payments while she negotiated again to reduce the settlement amount, but the creditor would not agree. She has now agreed to pay the entire balance, with monthly payments of \$100 to \$150. She had made nine payments totaling \$850 as of November 2011. (GE 2; AE A; Tr. 28-31)

#### **Mortgage loan, allegation 1.b (\$66,278) – RESOLVED**

In 2007, Applicant and her mother purchased a home in which they lived together. Applicant's name is on the deed, but not on the loan. The mortgage is current. Applicant bought another property in 2007, in her name only, for \$335,000. Her father became the tenant, and said he would make the mortgage payments of \$2,100 per month. However, he was unable to pay the full amount, and Applicant had to make up the difference. She testified that her father misrepresented to her that he could afford the payments. He continued to represent that he could pay, but remained unable to do so. He also needed Applicant's help paying utilities and other house expenses. In mid-2008, while Applicant was out of town, her father did not make a payment. (GE 2; AE B, H, I, J, K; Tr. 35-45, 49-53)

The house also needed repairs, requiring Applicant to spend significant funds. Applicant sought a loan modification. She was informed she needed to be delinquent to qualify; at that point, she stopped making payments. Her loan company approved a modification. To fully qualify for the modification, Applicant was required to make three timely consecutive payments. Her father made three payments, but the check for the third payment was written on insufficient funds, so Applicant no longer qualified for the modification. The last payment was at the end of 2010. Applicant testified that she would never have purchased the property if she realized that her father was unable to meet the payments. (GE 2; AE B, H, I, J, K; Tr. 35-45, 49-53)

Applicant has no intention to keep the house. As of the hearing date, the mortgage lender approved her for a short sale of approximately \$175,000. Her understanding is that she will not be responsible for any deficiency, based on a federal mortgage program. She believes she may be responsible for taxes on the deficiency. Applicant put the house on the market, and negotiated with two interested investors. Both were cash purchasers, and both were approved by the lender. Applicant accepted an offer, and submitted a residential contract of sale, with a sale price of \$104,000. The buyer signed the contract on November 14, 2011, and Applicant forwarded a copy the buyer's check for earnest money of \$1,000. (GE 2; AE B, H, I, J, K; Tr. 35-45, 49-53)

**Allegation 1.c (\$5,337) – RESOLVED**

Several years ago, Applicant's father purchased a campsite. Without Applicant's knowledge, he added her name to the deed. When he stopped making payments, the creditor pursued Applicant. In 2007, she paid the debt of \$1,447, and then paid to have her name removed from the deed. Subsequently, she was contacted about a second debt with the same creditor for approximately \$5,300. Applicant disputed the debt. At the hearing, she provided a 2007 letter from the collection agency noting that her balance in relation to the campsite account is zero. The debt does not appear on her November 2011 credit report. (GE 2; AE C, D; Tr. 32-34)

**Allegation 1.d (\$7,302) – PAID**

Applicant negotiated a settlement of this debt for \$2,000. She provided documentation showing that she paid the settlement balance in full on November 23, 2010. The balance is now zero. (GE 2; AE C, E; Tr. 34-35)

**City Government, allegations 1.e (\$105); 1.f – (\$100); 1.g (\$100) – PAID**

The three debts represent traffic tickets. Applicant provided documentation showing that she paid them in full in November 2010 through an electronic transfer from her checking account. She testified that the debts do not appear on her November 2011 credit report because the local jurisdiction removes them from the credit report within 30 days of payment. (GE 2; AE C, G; Tr. 34-35)

**Policies**

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

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

---

<sup>6</sup> Directive. 6.3.

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 adjudicative factors addressed under Guideline F (Financial Considerations).

A security clearance decision is intended only to resolve the questions of 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. 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 the 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>6</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>7</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 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 accrued significant debts that were unpaid and in collection status. The record supports application of the following disqualifying conditions under AG ¶19:

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

---

<sup>7</sup> See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

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

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

The Financial Considerations guideline also contains factors that can mitigate security concerns. I have considered the mitigating factors under AG ¶ 20, especially the following:

(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; and

(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.

Several factors affected Applicant's finances. She has supported her son for years without child support. She also supports her grandmother and pays her medical bills. The most significant circumstance is her father's inability to meet his promise to pay the mortgage on a property Applicant bought in 2007. He repeatedly said that he could afford the payments, and repeatedly failed to keep his word. Applicant did not realize that he would be unable to meet the expense. His repeated failure to keep his promises was unforeseen and beyond Applicant's control. She acted reasonably by meeting the mortgage payments when he could not. She also retained an agent, put the house on the market, and now has a sales contract in place for the property. AG ¶ 20(b) applies.

Applicant has been making efforts to resolve her financial situation. The mortgage debt, the largest debt in the SOR, is in the process of being resolved, as she has a contract for sale for the property. She has resolved the remaining six SOR debts. She has paid four debts in full. She successfully disputed the fifth debt of \$5,300, showing that she paid the creditor four years ago. She has made nine payments on the sixth debt (allegation 1.a) and has reduced the amount owed. She provided documentation to support all of her claims. Applicant has made a good-faith effort, resulting in substantial progress in resolving her financial situation. AG ¶¶ 20 (c), (d), and (e) apply.

## Whole-Person Analysis

Under the whole-person concept, an administrative judge must evaluate the applicant's security eligibility by considering the totality of an applicant's conduct and all the circumstances. An 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 that the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Under the cited guideline, I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case.

Applicant has resolved five of the six SOR debts. The largest debt, for the mortgage loan on a rental property, is in the process of being resolved as she has accepted an offer of sale. She has sufficient monthly cash flow after meeting her expenses and debts to meet the payment plan in place for one debt. Applicant has made a good-faith effort to meet her financial obligations. Her testimony was credible and sincere. Despite her financial problems, she has demonstrated maturity and strong character by raising her child on her own, supporting her grandmother, and providing a valuable public service through her non-profit organization, which assists victims of sexual assault.

Overall, the record evidence satisfies the doubts raised about Applicant's suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the security concerns raised by the cited adjudicative guideline.

### Formal Findings

Paragraph 1, Guideline F	FOR APPLICANT
Subparagraphs 1.a – 1.g	For Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the interests of national security to allow Applicant access to classified information. Applicant's request for a security clearance is granted.

---

RITA C. O'BRIEN  
Administrative Judge