



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



In the matter of: )  
)  
) ISCR Case No. 11-06157  
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)  
Applicant for Security Clearance )

**Appearances**

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

09/28/2012

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**Decision**

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CURRY, Marc E., Administrative Judge:

Applicant’s omission of relevant financial information from her security clearance application was unintentional. Therefore, there are no personal conduct security concerns. Applicant failed, however, to mitigate the security concern raised under Guideline F, financial considerations. Clearance is denied.

**Statement of the Case**

On April 27, 2012, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines F, financial considerations, and E, personal conduct. DOHA acted 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) implemented by the DoD on September 1, 2006.

In an answer dated June 1, 2012, Applicant admitted all the allegations listed in Paragraph 1, and denied Paragraph 2. She requested a decision without a hearing. On June 26, 2012, Department Counsel prepared a File of Relevant Material (FORM). Applicant received it on June 29, 2012, and was instructed to file any objections or provide any supplementary information by July 29, 2012. Applicant did not file any additional information, and the case was assigned to me on September 7, 2012.

### **Findings of Fact**

Applicant is a 66-year-old married woman with two adult children. She is a high school graduate. She has spent most of her career working as an administrative specialist. She has worked in this field for a defense contractor since September 2010. In this position, she has access to sensitive company data including travel destinations of employees, proposal data, and contract change numbers. (Item 6 at 21)

Applicant currently has approximately \$25,000 in delinquent debt, as listed in the SOR. These bills have been delinquent since November 2010. (Item 6 at 4) Applicant attributes her financial problems to her husband's unemployment. Specifically, he lost his job in April 2009 and has been unable to obtain another job since then. In November 2009, Applicant and her husband went on a tropical island cruise. (Item 4 at 46)

In September 2011, Applicant satisfied the debt listed in subparagraph 1.g, totalling \$1,243. (Item 6 at 13) She contends that she has been making monthly \$100 payments towards the debts listed in subparagraphs 1.a, and 1.d through 1.f, but provided no corroborating evidence. She promised to begin satisfying subparagraphs 1.b and 1.c in the future. It is unknown from the record whether Applicant is working with a financial counselor.

Applicant completed a security clearance application in September 2010. She answered "no" to the following questions:

For the following, answer for the last 7 years, unless otherwise specified –

26g. Have you had bills or debts turned over to a collection agency?

26m. Have you been over 180 days delinquent on any debt(s)?

26n. Are you currently over 90 days delinquent on any debt(s)?

In September 2010, an investigator interviewed Applicant. She volunteered that she had overdue debts at the time she completed the application, but was unsure of how long they had been delinquent. (Item 4 at 3) None of the debts were more than 180 days late

when she completed the security clearance application. (*Compare* Item 1 at 55 with Items 7 and 8)

## **Policies**

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied together with the factors listed in the adjudicative process. According to AG ¶ 2(c), the entire process is a 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. Under Directive ¶ E3.1.14, the government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

## **Analysis**

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

Under this guideline, “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” (AG ¶ 18). Moreover, “an individual who is financially overextended is at risk of having to engage in illegal acts to generate funds” (*Id.*). Applicant’s financial delinquencies trigger the application of AG ¶¶ 19(a), “inability or unwillingness to satisfy debts,” and 19(c), “a history of not meeting financial obligations.” The following mitigating conditions under AG ¶ 20 are potentially applicable:

(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; and

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

Applicant contends that her financial problems began when her husband lost his job in April 2009; however, five months later, in November 2009, they went on a tropical island cruise. AG ¶ 20(b) does not apply.

Applicant satisfied subparagraph 1.g. However, she provided no evidence that she is either receiving financial counseling or paying any of the other debts. Consequently, although the proof she provided indicating the payment of subparagraph 1.g is sufficient to resolve it in her favor, there is insufficient evidence to apply AG ¶¶ 26(c) or 26(d).

### **Personal Conduct**

Under this guideline, “conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified information.” Moreover, “of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.” (AG ¶ 15)

Applicant’s omissions from her security clearance application raise the issue of whether AG ¶16(a), “deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities,” applies. One-hundred and eighty days had not elapsed from the time Applicant’s bills became delinquent to the time she completed the security clearance application. Consequently, she did not falsify question 26m.

Applicant’s explanation to the investigator that she did not list the delinquencies because she was unsure of how long they had been delinquent when she completed the security clearance application was credible in light of the fact that she voluntarily disclosed the delinquencies at the interview. I conclude there that there are no personal conduct security concerns.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). They are as follows:

- (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.

Absent more supporting documentation of Applicant's payment efforts, I cannot gauge her debt repayment progress. Also, Applicant provided no evidence of whole-person factors that could be weighed in her favor such as strong work performance or significant community involvement. Under these circumstances, I conclude Applicant has failed to mitigate the security concern.

### **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:	AGAINST APPLICANT
Subparagraphs 1.a - 1.f:	Against Applicant
Subparagraph 1.g:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For 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 grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

MARC E. CURRY  
Administrative Judge