



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



In the matter of: )  
)  
) ISCR Case No. 15-01642  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Adrienne Strzelczyk, Department Counsel  
For Applicant: *Pro se*

October 18, 2016

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**Decision**

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LOKEY ANDERSON, Darlene D., Administrative Judge:

Applicant submitted her Electronic Questionnaire for Investigations Processing (e-QIP) April 7, 2014. (Government Exhibit 1.) On November 18, 2015, the Department of Defense (DoD), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, (as amended), issued a Statement of Reasons (SOR) to the Applicant, which detailed reasons why the DoD could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant and recommended referral to an Administrative Judge to determine whether clearance should be denied or revoked.

The Applicant responded to the SOR in writing on a date uncertain, in which she elected to have the case determined on a written record in lieu of a hearing. Department Counsel submitted the Government's File of Relevant Material (FORM) to the Applicant on or about December 23, 2015. The Applicant received the FORM on February 16, 2016. The Applicant was instructed to submit information in rebuttal, extenuation or mitigation within 30 days of receipt. The Applicant did not submit a reply to the FORM. This case was assigned to the undersigned on August 22, 2016. Based

upon a review of the pleadings and exhibits, eligibility for access to classified information is denied.

## **FINDINGS OF FACT**

Applicant is 48 years old, and married with four adult children. She has a high school diploma. She is employed with a defense contractor as a General Clerk III and is seeking to obtain a security clearance in connection with this employment.

The Government opposes Applicant's request for a security clearance, on the basis of allegations set forth in the Statement of Reasons (SOR). The following findings of fact are entered as to each paragraph and guideline in the SOR:

Paragraph 1 (Guideline F - Financial Considerations) The Government alleges that Applicant is ineligible for clearance because she is financially overextended and at risk of having to engage in illegal acts to generate funds.

There are twelve delinquent debts and two judgements set forth in the SOR totaling approximately \$25,869. Applicant admitted each of the allegations under this guideline, but contends that allegation 1b., is the same debt as 1.l.' allegation 1.d., is the same debt as 1.m; and allegation 1.e., is the same debt as 1j. Credit reports of Applicant dated April 23, 2014; November 20, 2014; and December 23, 2015, which include information from all three credit reporting agencies, indicate that she is indebted to each of the creditors listed in the SOR. (Government Exhibits 4, 5, and 6.)

Applicant explained that her accounts became delinquent because she lost employment each time her spouse was transferred to a different active duty military station. The record indicates that her husband transferred duty stations on September 1999; October 2003; June 2005; and December 2008. Applicant was unemployed from January 2003 to October 2006; and October 2013 to March 2014. Applicant began working for her current employer in April 2014. She states that she is now in the process of paying off her debts.

Each of the delinquent credit card accounts listed in the SOR, except one, remains outstanding:

1.a., 1.b., 1.c., 1.d., 1.e., 1f., 1.k., 1.l. Delinquent credit card accounts in the amounts of \$3,984; \$2,150; \$2,083; \$1,945; \$1,037; were placed for collection and remain owing.

1.f. A judgment entered against the Applicant in 2013, in the amount of \$3,628, remains outstanding.

1.g. A judgement entered against Applicant in 2012, in the amount of \$3,526, remains outstanding.

1.h., 1.i., and 1.j. Delinquent debts owed to banks for post-due accounts have been charged off.

1.k. A delinquent debt owed to a creditor in the amount of \$1,695 was paid in full in August 2014. Applicant provided an accounts receivable record from the creditor that proves the account has been paid. (See Applicant's Answer to SOR.)

1.m. A delinquent debt owed to a creditor is being paid through a payment arrangement. Applicant contends that the current balance is \$2,025.

1.n. A delinquent debt owed to a creditor in the approximate amount of \$1,596 is being paid through a payment plan set up by the Applicant. Applicant contends that the current balance is now \$478.82.

Applicant has failed to submit any documentary evidence to substantiate efforts or payment arrangements made to resolve her delinquent debts. In fact, the record is bare and shows no mitigation.

## **POLICIES**

Enclosure 2 of the Directive sets forth adjudication policies divided into "Disqualifying Factors" and "Mitigating Factors." The following Disqualifying Factors and Mitigating Factors are found to be applicable in this case:

### Guideline F (Financial Considerations)

18. *The Concern.* 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.

#### Conditions that could raise a security concern:

19.(a) inability or unwillingness to satisfy debts; and

19.(c) a history of not meeting financial obligations.

#### Condition that could mitigate security concerns:

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.

In addition, as set forth in Enclosure 2 of the Directive at pages 18-19, in evaluating the relevance of an individual's conduct, the Administrative Judge should consider the following general factors:

- a. The nature, extent, and seriousness of the conduct and surrounding circumstances;
- b. The circumstances surrounding the conduct, to include knowledgeable participation;
- c. The frequency and recency of the conduct;
- d. The individual's age and maturity at the time of the conduct;
- e. The extent to which participation is voluntary;
- f. The presence or absence of rehabilitation and other permanent behavioral changes;
- g. The motivation for the conduct;
- h. The potential for pressure, coercion, exploitation or duress; and
- i. The likelihood of continuation or recurrence.

The eligibility criteria established in the DoD Directive identify personal characteristics and conduct, which are reasonably related to the ultimate question, posed in Section 2 of Executive Order 10865, of whether it is "clearly consistent with the national interest" to grant an Applicant's request for access to classified information.

The DoD Directive states, "The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is an acceptable security risk. Eligibility for access to classified information is predicated upon the individual meeting these personnel security guidelines. The adjudicative process is the careful weighing of a number of variables known as the whole-person concept. Available, reliable information about the person, past and present, favorable and unfavorable should be considered in reaching a determination." The Administrative Judge can draw only those inferences or conclusions that have reasonable and logical basis in the evidence of record. The Judge cannot draw inferences or conclusions based on evidence, which is speculative or conjectural in nature. Finally, as emphasized by President Eisenhower in Executive Order 10865, "Any determination under this order . . . shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the Applicant concerned."

## **CONCLUSIONS**

In the defense industry, the security of classified industrial secrets is entrusted to civilian workers who must be counted upon to safeguard such sensitive information twenty-four hours per day, seven days per week. The Government is therefore appropriately concerned when available information indicates that an applicant for clearance may be involved in instances of financial irresponsibility, which demonstrate poor judgment or unreliability.

It is the Government's responsibility to present substantial evidence to support the finding of a nexus, or rational connection, between the applicant's conduct and the holding of a security clearance. If such a case has been established, the burden then shifts to the applicant to go forward with evidence in rebuttal, explanation or mitigation, which is sufficient to overcome or outweigh the Government's case. The applicant bears the ultimate burden of persuasion in proving that it is clearly consistent with the national interest to grant him or her a security clearance.

In this case the Government has met its initial burden of proving that Applicant has been financially irresponsible (Guideline F). This evidence indicates poor judgment, unreliability and untrustworthiness on the part of the Applicant. Because of the scope and nature of the Applicant's conduct, I conclude there is a nexus or connection with her security clearance eligibility.

The evidence shows that with life's circumstances, Applicant has simply been unable to properly manage her finances over the years. As a result, she owes her creditors approximately \$25,000. She claims that because of her husband's frequent duty station moves, she has been unable to maintain employment. This situation can cause a significant financial hardship. However, even so, Applicant is required to live within her means and pay his bills on time. She must also exercise financial responsibility that demonstrates that she is and has been reasonable. There is no such evidence in the record. At this time, she remains excessively indebted and cannot pay her delinquent debts. She states that she is currently laid off her job which presents another set back in getting her debts resolved in the future.

Applicant's history of excessive indebtedness demonstrates a pattern of unreliability, and poor judgment. Without more, Applicant has failed to establish that she is financially responsible. Furthermore, there is no evidence that she has received credit counseling to help her set a budget and learn to live within it, or that her finances are under control.

Under the particular circumstances of this case, Applicant has not met her burden of proving that she is worthy of a security clearance. She has not sufficiently addressed her delinquent debts in the SOR. Thus, it cannot be said that she has made a good-faith effort to resolve her past due indebtedness. She has not shown that she is or has been reasonably, responsibly, or prudently addressing her financial situation. Applicant has not demonstrated that she can properly handle her financial affairs or that

she is fiscally responsible. Assuming that she demonstrates a history and pattern of fiscal responsibility, including the fact she has not acquired any new debt that she is unable to pay, she may be eligible for a security clearance sometime in the future. However, she is not eligible now. Considering all of the evidence, Applicant has not introduced persuasive evidence in rebuttal, explanation, or mitigation that is sufficient to overcome the Government's case.

Under Guideline F (Financial Considerations), Disqualifying Conditions 19.(a) *inability or unwillingness to satisfy debts*; and 19.(c) *a history of not meeting financial obligations*, apply. Mitigating Condition 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* also applies but is not controlling in this case. Applicant has not paid her delinquent debts, nor has she made a good faith effort to do so. Applicant remains excessive indebted. This does not show good judgment. Applicant could benefit from intense financial counseling. In this case, none of the mitigating conditions are applicable. Accordingly, I find against the Applicant under Guideline F (Financial Considerations).

I have also considered the "whole-person concept" in evaluating Applicant's eligibility for access to classified information. Under the particular facts of this case, the totality of the conduct set forth above, when viewed under all of the guidelines as a whole, support a whole-person assessment of poor judgement, untrustworthiness, unreliability, a lack of candor, an unwillingness to comply with rules and regulations, and/or other characteristics indicating that the person may not properly safeguard classified information.

I have considered all of the evidence presented. It does not mitigate the negative effects of her history of financial indebtedness, and the effects that it can have on her ability to safeguard classified information. On balance, it is concluded that Applicant has not overcome the Government's case opposing her request for a security clearance. Accordingly, the evidence supports a finding against Applicant as to the factual and conclusionary allegations expressed in Paragraph 1 of the SOR.

## FORMAL FINDINGS

Formal findings For or Against the applicant on the allegations in the SOR, as required by Paragraph 25 of Enclosure 3 of the Directive are:

Paragraph 1:		Against the Applicant.
Subpara.	1.a.	Against the Applicant.
Subpara.	1.b.	Against the Applicant.
Subpara.	1.c.	Against the Applicant.
Subpara.	1.d.	Against the Applicant.
Subpara.	1.e.	Against the Applicant.
Subpara.	1.f.	Against the Applicant.
Subpara.	1.g.	Against the Applicant.
Subpara.	1.h.	Against the Applicant.
Subpara.	1.i.	Against the Applicant.
Subpara.	1.j.	Against the Applicant.
Subpara.	1.k.	For the Applicant.
Subpara.	1.l.	Against the Applicant.
Subpara.	1.m.	Against the Applicant.
Subpara.	1.n.	Against the Applicant.

## DECISION

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

Darlene Lokey Anderson  
Administrative Judge