



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



In the matter of:

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) ISCR Case No. 15-04487  
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Applicant for Security Clearance

**Appearances**

For Government: Douglas Velvel, Esq., Department Counsel

For Applicant: *Pro se*

09/07/2016

**Decision**

CREAN, Thomas M., Administrative Judge:

Applicant did not provide sufficient documentation to mitigate security concerns for financial considerations under Guideline F. Eligibility for access to classified information is denied.

**Statement of the Case**

On August 21, 2014, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain a security clearance required for employment with a defense contractor. (Item 2) Applicant was interviewed by a security investigator from the Office of Personnel Management (OPM) on March 2, 2015. (Item 5) After reviewing the results of the OPM investigation, the Department of Defense (DOD) could not make the affirmative findings required to issue a security clearance. On November 27, 2015, DOD issued a Statement of Reasons (SOR) to Applicant detailing security concerns for financial considerations under Guideline F. (Item 1) The action was taken 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) effective in the DOD on September 1, 2006.

Applicant answered the SOR on January 11, 2016. She admitted the 34 allegations of delinquent debt with explanations. She noted that some of the debts were duplicates. She elected to have the matter decided on the written record. (Item 1) Department Counsel submitted the Government's written case on February 22, 2016. Applicant received a complete file of relevant material (FORM) on March 3, 2016, and she was provided the opportunity to file objections and to submit material to refute, extenuate, or mitigate the disqualifying conditions. Applicant did not respond to the FORM. I was assigned the case on September 6, 2016.

### **Procedural Issues**

Applicant was advised in the FORM that the summary of the Personal Subject Interview (PSI) with an OPM agent (Item 5) was not authenticated and could not be considered over her objection. She was further advised that she could make any corrections, additions, or deletions to the summary to make it clear and accurate, and she could object to the admission of the summary as not authenticated by a Government witness. She was additionally advised that if no objection was raised to the summary, the Administrative Judge could determine that she waived any objection to the admissibility of the summary. Applicant did not respond to the FORM, so she did not raise any objection to consideration of the information in the PSI. Any objection to the information is waived. I will consider information in the PSI in my decision.

### **Findings of Fact**

I thoroughly reviewed the case file and the pleadings. I make the following findings of fact.

Applicant is 30 years old. She received her GED in 2004. She was employed in various low-paying clerk positions from 2004 until 2014. Since August 2014, she has been employed at a military maintenance facility. She has never been married, but has two children at home ages seven and ten. She has never received any support for the children from the fathers. (Item 2, e-QIP, dated August 21, 2014; and Item 5, PSI, dated March 2, 2015)

The SOR lists and credit reports (Item 4, dated November 23, 2015; and Item 5, dated September 13, 2014) confirm the following delinquent debts for Applicant: a judgment for medical debts filed by a hospital for \$6,450 (SOR 1.a); a debt for apartment rent in collection for \$1,510 (SOR 1.b); another debt for apartment rent for a different apartment in collection for \$1,400 (SOR 1.c); medical debts in collection for \$408 (SOR 1.d), \$503 (SOR 1.e), \$408 (SOR 1.f), \$408 (SOR 1.g), \$506 (SOR 1.h), \$529 (SOR 1.i), \$529 (SOR 1.j), \$788 (SOR 1.k), \$563 (SOR 1.l), \$1,004 (SOR 1.m), \$560 (SOR 1.n), \$1,259 (SOR 1.o), \$373 (SOR 1.p), \$481 (SOR 1.q), \$361 (SOR 1.r), \$436 (SOR 1.s), \$1,078 (SOR 1.t), \$1,371 (SOR 1.u), \$458 (SOR 1.v), \$595 (SOR 1.w),

\$408 (SOR 1.x), \$53 (SOR 1.bb), \$53 (SOR 1.cc), \$53 (SOR 1.dd), \$50 (SOR 1.ee), \$50 (SOR 1.ff), \$50 (SOR 1.gg), and \$50 (SOR 1.hh); a loan to pay medical expenses past due for \$265 on a balance of \$540 (SOR 1.y); a debt to a local housing authority for \$180 (SOR 1.z); and a debt to a city for \$179 (SOR 1.aa). Applicant established that the delinquent debt at SOR 1.a is a compilation of many smaller medical debts owed the hospital creditor listed in the SOR. It is not known how many of the listed medical debts are included in the cumulative \$6,450 medical debt at SOR 1.a. Applicant established that the debts at SOR 1.f, 1.g, and 1.x are duplicates of the debt at SOR 1.d. Applicant established that SOR 1.j is a duplicate debt of the debt at SOR 1.i, as well as the debt at SOR 1.n being a duplicate of the debt at SOR 1.l. Applicant established that the debts at SOR 1.cc. and 1.dd are duplicates of the debt at SOR 1.bb, and the debts at SOR 1.ff, 1.gg, and 1.hh are duplicates of the debt at SOR 1.ee. The amount of the delinquent debt listed in the SOR is approximately \$23,644. All of the debts are listed on the credit reports. There is over \$2,500 in identifiable duplicate debt. Considering the potential duplicate debts, the amount of delinquent debt is less than \$20,000. The debts at SOR 1.f, 1.g, 1.n, 1.x, 1.cc, 1.dd, 1.ff, 1.gg, and 1.hh are resolved for Applicant.

In both the PSI and in her response to the SOR, Applicant attributes her delinquent debts, particularly the medical debts, to being a single mother with two children, to her employment in low-paying positions, and her lack of health insurance. Applicant has a history of a medical problem that required hospital treatment. She has not been contacted by any creditor or collection agency in an attempt to collect any debt from her. Applicant noted in the PSI that since she now has quality well-paying employment, she would start to contact creditors and make arrangements to pay her financial obligations. (Item 5, PSI, at 3/4)

In her response to the SOR, Applicant reports that she has been trying to clear up her delinquent debt since she received the SOR and has a good-paying job. She claims to have established a payment plan with the collection agency, and funds will be taken from her account on the 21<sup>st</sup> of each month to pay debts. Applicant provided no documentation to verify either her claim of a payment plan or payments under a plan to resolve her delinquent debt. The Department Counsel pointed out in the FORM that Applicant did not provide documentation showing any debt payments, or a plan she established with the creditors to pay the debts, or an improving financial status. Department Counsel emphasized that Applicant should provide documentation to establish that she is acting responsibly and in good faith to repay her financial obligations. Since Applicant did not respond to the FORM, she provided no documentation of payment of any of the debts or concerning her financial status in spite of the suggestion from Department Counsel.

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially

disqualifying conditions and mitigating conditions, which must be considered in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

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.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

## **Analysis**

### **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, thereby raising 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. (AG ¶ 18) This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a

person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or careless in her obligations to protect classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

A person's relationship with her creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to repay debts under agreed terms. Absent evidence of strong extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is in a situation of risk inconsistent with the holding of a security clearance. An applicant is not required to be debt free, but is required to manage finances in such a way as to meet financial obligations.

Adverse information in credit reports can normally meet the substantial evidence standard to establish financial delinquency. Applicant has a history of delinquent debts as documented in her credit reports, by her testimony to the OPM investigator, and her response to the allegations in the SOR. All of Applicant's SOR debts are listed on the credit reports at Items 3 and 4. The evidence is sufficient to raise security concerns under Financial Considerations Disqualifying Conditions AG ¶ 19(a) (inability or unwillingness to satisfy debts), and AG ¶ 19(c) (a history of not meeting financial obligations). The information raises both an inability and an unwillingness to pay delinquent debt. Once the Government has established delinquent debt, the Applicant has the responsibility to refute or mitigate those debts.

I considered the following Financial Consideration Mitigating Conditions under AG ¶ 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;
- (b) the conditions that resulted in the financial problems 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 has initiated a good-faith effort to repay the overdue creditors or otherwise resolve debts.

The mitigating conditions do not apply. Applicant's debts are numerous, recent, and were not incurred under circumstances making recurrence unlikely. Applicant is a single mother not receiving support from her children's fathers. She was employed in low-paying positions without health insurance. While these were conditions beyond her control, she has not acted responsibly. She was aware that her financial problems were a security concern when she was interviewed by the security investigator in March 2015. She has been gainfully employed since August 2014. However, she has not presented other information to verify actions taken to learn about, resolve, and pay her delinquent debts. The evidence does not support responsible management of her finances and her financial problems are not under control. Based on Applicant's failure to verify her debts and make any arrangements to pay her debts, it is clear that she has not been reasonable and responsible in regard to her finances. Her lack of reasonable and responsible action towards her finances is a strong indication that she may not protect and safeguard classified information.

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for access to classified information by considering the totality of the applicant's conduct and all relevant circumstances. The 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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for access to classified information must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I considered that Applicant is a single mother raising two children while employed in low-paying jobs. Even though Applicant has been gainfully employed at a good-paying job since August 2014, she did not provide sufficient credible documentary information to establish that she has taken reasonable and responsible action to resolve her financial problems. Applicant did not demonstrate appropriate management of her finances and a consistent record of action to resolve financial issues. Overall, the record evidence leaves me with questions and doubts concerning Applicant's judgment, reliability, and trustworthiness. She has not established her suitability for access to classified information. For all these reasons, I

conclude Applicant has not mitigated the security concerns arising from her 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:	AGAINST APPLICANT
Subparagraphs 1.a - 1.e:	Against Applicant
Subparagraphs 1.f – 1.g	For Applicant
Subparagraph 1.h – 1.i:	Against Applicant
Subparagraph 1.j:	For Applicant
Subparagraphs 1.k – 1.m:	Against Applicant
Subparagraph 1.n:	For Applicant
Subparagraph 1.o – 1.w:	Against Applicant
Subparagraph 1.x:	For Applicant
Subparagraph 1.y – 1.bb:	Against Applicant
Subparagraph 1.cc – 1.dd:	For Applicant
Subparagraph 1.ee:	Against Applicant
Subparagraphs 1.ff – 1.hh:	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 access to classified information. Eligibility for access to classified information is denied.

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THOMAS M. CREAN  
Administrative Judge