



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



In the matter of: )  
)  
) ISCR Case No. 15-08719  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Aubrey M. De Angelis., Department Counsel  
For Applicant: *Pro se*

10/31/2017

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**Decision**

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NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense's (DOD) intent to deny her eligibility for a security clearance. Despite Applicant's good-faith efforts to resolve her delinquent debts, she failed to establish a track record of debt repayment or financial rehabilitation. Clearance is denied.

**Statement of the Case**

On May 6, 2016, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline.<sup>1</sup> DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant's security clearance and recommended her case be submitted to an administrative judge for consideration.

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<sup>1</sup> The DOD CAF acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive), and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, implemented on September 1, 2006.

Applicant answered the SOR and requested a decision without a hearing.<sup>2</sup> The Government submitted its written case on August 12, 2016. A complete copy of the file of relevant material (FORM) and the Directive were provided to Applicant. She received the FORM on August 22, 2016, and provided a response. The documents appended to the FORM are admitted as Government's Exhibits (GE) 1 through 7, and those offered by Applicant are admitted as Applicant's Exhibit (AE) A. All documents are admitted without objection.

### **Procedural Matters**

While the case was pending decision, the Director of National Intelligence (DNI) issued Security Executive Agent Directive 4, establishing the National Security Adjudicative Guidelines (AG) applicable to all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position. The 2017 AG superseded the AG implemented in September 2006, and they are effective for any adjudication made on or after June 8, 2017. Accordingly, I have applied them in this case.

### **Findings of Fact**

Applicant has worked for a federal contractor since 2013. She previously served on active duty in the United States Air Force from March 2006 to January 2011. As of November 2014, she served in the Hawaii Air National Guard. She claims to have held a security clearance while on active duty. On her most recent security clearance application, dated November 2014, Applicant disclosed receiving a warning from her Air National Guard command for violating the terms of her government-issued travel credit card in April 2013. She also disclosed a delinquent credit card account and the balance due on a broken lease. The ensuing investigation revealed additional delinquent accounts. The SOR alleges that Applicant owes \$23,600 on 11 delinquent accounts and that she was evicted from an apartment in October 2013.

Applicant blames her financial problems on a series of events between 2013 and 2014, including family emergencies, maternity leave, and periods of unemployment for herself and her husband. According to her answer to the SOR, between September 2015 and May 2016, Applicant contacted her creditors and arranged payment plans for the accounts alleged in SOR ¶¶ 1.b, 1.d, 1.e, 1.f, 1.g, and 1.h. She paid off the account alleged in SOR ¶ 1.k (\$171). In May 2016, Applicant contacted a credit-counseling service, but it is unclear if Applicant completed any financial counseling with the organization.

In her September 2016 response to the FORM, Applicant did not provide evidence of the payments under the plans she negotiated months earlier. Instead, she provided an August 2016 enrollment agreement for a debt-relief program to resolve SOR ¶¶ 1.a, 1.b, 1.d, 1.f, 1.g, 1.h, 1.j, and 1.i. Under the terms of the agreement, Applicant agreed to pay \$413 monthly for 40 months, beginning in August 2016.

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<sup>2</sup> GE 1.

Applicant did not provide evidence of the August or September 2016 payments. According to the monthly budget she prepared as part of her enrollment with the debt relief program, Applicant, a married mother of two, will only have \$17 in disposable income after paying the program's monthly payment.

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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 national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence.

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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Section 7 of EO 10865 provides that adverse decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Financial Considerations**

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgement, or willingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. . . . An individual who is financially overextended is at a greater risk of having to engage in illegal or otherwise questionable acts to generate funds.<sup>3</sup>

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<sup>3</sup> AG ¶ 18.

The record establishes the Government's *prima facie* case that Applicant has demonstrated a history of not meeting financial obligations and inability to pay her creditors.<sup>4</sup> Applicant receives partial mitigation of the security concerns as her financial problems were caused by events beyond her control. She also receives partial mitigation for her efforts to resolve her delinquent accounts and her enrollment in a debt-relief program. However, absent a track record of debt repayment, the record does not support a finding that Applicant acted responsibly in light of her circumstances, that she is adhering to a good-faith effort to repay her creditors, or that her financial problems are under control.<sup>5</sup>

After reviewing the record, doubts remain about Applicant's suitability for access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(d). Although Applicant has demonstrated a strong desire to repay her creditors and is taking steps to do so, she has not provided evidence to show that she has implemented her plans. Furthermore, the record raises concerns about her ability to afford the debt-relief program's payment plan. Having failed to establish a track record of debt repayment and financial rehabilitation, the security concerns remain.

This decision should not be construed as a determination that Applicant cannot or will not attain the type of financial stability necessary to justify the granting of a security clearance. The award of a security clearance is not a once in a lifetime occurrence, but is based on applying the factors, both disqualifying and mitigating, to the evidence presented. A clearance is not granted due to Applicant's current circumstances. However, in the future, she may well demonstrate persuasive evidence of her security worthiness.

### **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, Financial Considerations: | AGAINST APPLICANT |
| Subparagraphs 1.a – 1.l:               | Against Applicant |

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<sup>4</sup> Applicable financial considerations disqualifying conditions: AG ¶¶ 19 (a) inability to satisfy debts; and, (c) a history of not meeting financial obligations.

<sup>5</sup> I considered the following financial considerations mitigating conditions: AG ¶¶ 20(b) the conditions the resulted in the financial problems were largely beyond the person's control . . . , and the person acted responsibly under the circumstances; (c) the individual has received or is receiving financial counseling for the problems from a legitimate and credible source, . . . and there are clear indications that the problem is being resolve or is under control; and (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

## **Conclusion**

Based on the record, 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.

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Nichole L. Noel  
Administrative Judge