



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



In the matter of:

[NAME REDACTED]

Applicant for Security Clearance

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ISCR Case No. 15-04415

**Appearances**

For Government: Rhett Petcher, Esq., Department Counsel  
For Applicant: *Pro se*

11/17/2017

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**Decision**

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MALONE, Matthew E., Administrative Judge:

Applicant did not submit sufficient information to overcome the security concerns raised by his financial problems. His request for eligibility for access to classified information is denied.

**Statement of the Case**

On July 18, 2014, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to renew his eligibility for access to classified information as required for his job with a defense contractor. After reviewing the completed background investigation, Department of Defense (DOD) adjudicators could not determine that it is clearly consistent with the interests of national security for Applicant to have access to classified information.<sup>1</sup>

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<sup>1</sup> Required by Executive Order 10865, as amended, and by the Directive.

On February 28, 2016, DOD issued a Statement of Reasons (SOR) alleging facts that raise security concerns addressed under Guideline F (Financial Considerations). At the time the SOR was written, the DOD CAF applied the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006. On December 10, 2016, the Director of National Intelligence (DNI) issued a new set of AGs, effective for all security clearance adjudications conducted on or after June 8, 2017. I have based my decision in this case on the June 8, 2017 AGs.<sup>2</sup>

Applicant timely responded to the SOR (Answer) and requested a decision without a hearing. On October 26, 2016, Department Counsel for the Defense Office of Hearings and Appeals (DOHA) issued a File of Relevant Material (FORM)<sup>3</sup> in support of the SOR. Applicant received the FORM on November 16, 2016, and had 30 days from the date of receipt to object to the use of the information included in the FORM and to submit additional information in response to the FORM.<sup>4</sup> Applicant timely responded to the FORM and the record closed on December 16, 2016.

I received the case on October 1, 2017. Because so much time had passed between Applicant's response to the FORM and my assignment for a decision, I reopened the record on October 26, 2017, and offered Applicant additional time to submit updated information in support of his case. Applicant did not provide any additional information and the record closed again on November 9, 2017.

### **Findings of Fact**

The Government alleged in the SOR that Applicant owes \$30,461 for 19 delinquent or past-due debts (SOR 1.a – 1.s). Applicant denied the allegations at SOR 1.k, - 1.m, and 1.o. He admitted the remaining allegations. Applicant also provided explanatory remarks with his Answer. In addition to Applicant's admissions, all of the SOR allegations are supported by disclosures he made in his most recent e-QIP as well as an e-QIP he submitted in 2008. Also supporting the SOR are credit reports obtained in 2014 and 2015, and disclosures made by Applicant in a subject interview on January 15, 2015. (FORM, Items 2, 4 – 7)

Applicant is a 66-year-old employee of a defense contractor for whom he has worked since 1996. He served in the United States Air Force from 1970 until 1974. Thereafter, he served in the Army National Guard until 1981. He held a security clearance while in the military, and he currently holds a clearance in connection with his civilian employment. Aside from a brief period of unemployment in 2010, Applicant has been steadily employed for the past 20 years.

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<sup>2</sup> My decision in this case would have been the same under either version of the adjudicative guidelines.

<sup>3</sup> See Directive, Enclosure 3, Section E3.1.7. In the FORM, Department Counsel relies on seven enclosed exhibits (Items 1 - 7).

<sup>4</sup> See Directive, Enclosure 3, Section E3.1.7.

Applicant was married from August 1973 until divorcing in September 1981. He remarried in March 1990 but divorced again in May 2012. When he answered the SOR, he indicated he was engaged to be married. Applicant has three adult children from his first marriage.

Applicant attributes his financial problems to a combination of expenses related to divorce and court-ordered financial support, and unforeseen medical problems. During an interview with a government investigator in January 2015, Applicant stated his intentions to contact his creditors and resolve his debts. In response to the SOR and in response to the FORM, Applicant did not provide any documents that show he has paid or that he is paying any of the debts alleged in the SOR.

### **Policies**

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information,<sup>5</sup> and consideration of the pertinent criteria and adjudication policy in the adjudicative guidelines. Decisions must also reflect consideration of the factors listed in AG ¶ 2(d) of the new guidelines. Commonly referred to as the “whole-person” concept, those factors are:

(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.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest<sup>6</sup> for an applicant to either receive or continue to have access to classified information. Department Counsel must produce sufficient reliable information on which DOD based its preliminary decision to deny or revoke a security clearance for an applicant. Additionally, Department Counsel must prove

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<sup>5</sup> Directive. 6.3.

<sup>6</sup> See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

controverted facts alleged in the SOR.<sup>7</sup> If the Government meets its burden, it then falls to the applicant to refute, extenuate, or mitigate the case for disqualification.<sup>8</sup>

Because no one is entitled to a security clearance, applicants bear a heavy burden of persuasion to establish that it is clearly consistent with the national interest for them to have access to protected information.<sup>9</sup> A person who has access to such information enters into a fiduciary relationship with the Government based on trust and confidence. Thus, there is a compelling need to ensure each applicant possesses the requisite judgment, reliability, and trustworthiness of one who will protect the nation's interests as his or her own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access to classified information in favor of the Government.<sup>10</sup>

## Analysis

### Financial Considerations

The Government's information about Applicant's delinquent debts reasonably raised the security concern expressed at AG ¶ 18:

Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

Available information requires application of the disqualifying conditions at AG ¶¶ 19(a) (*inability to satisfy debts*); 19(b) (*unwillingness to satisfy debts regardless of the ability to do so*); and 19(c) (*a history of not meeting financial obligations*). Applicant did not provide any information that supports the mitigating conditions under AG 20. The security concerns raised by the adverse information about Applicant's finances are not mitigated.

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<sup>7</sup> Directive, E3.1.14.

<sup>8</sup> Directive, E3.1.15.

<sup>9</sup> See *Egan*, 484 U.S. at 528, 531.

<sup>10</sup> See *Egan*; Adjudicative Guidelines, ¶ 2(b).

In addition to my evaluation of the facts and application of the appropriate adjudicative factors under Guideline F, I have reviewed the record before me in the context of the whole-person factors listed in AG ¶ 2(d). I have taken due note of Applicant's honorable military service. Nonetheless, doubts about his suitability remain because of Applicant's longstanding financial problems and the fact that he has not followed through on his stated intentions to repay his debts. Because protection of the interests of national security is the principal focus of these adjudications, any remaining doubts must be resolved against the granting of access to classified information.

### **Formal Findings**

Formal findings 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.s:               Against Applicant

### **Conclusion**

In light of all available information, it is not clearly consistent with the interests of national security for Applicant to have access to classified information. Applicant's request for security clearance eligibility is denied.

MATTHEW E. MALONE  
Administrative Judge