



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



In the matter of: )  
)  
) ISCR Case No. 17-01431  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Adrienne M. Driskill Esq., Department Counsel  
For Applicant: *Pro se*

01/29/2018  
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**Decision**  
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CREAN, Thomas M., Administrative Judge:

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

**Statement of the Case**

On December 10, 2015, 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 January 12 and 23, 2017. (Item 3, Personal Subject Interview (PSI)) 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 May 30, 2017, DOD issued a Statement of Reasons (SOR) to Applicant alleging 48 delinquent debts of security concerns under Guideline F, financial considerations. (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. On June 8, 2017, new AGs were implemented and are effective for decisions issued after that date.<sup>1</sup>

Applicant answered the SOR on June 30, 2017, admitting 37 allegations of delinquent debt, denied six, noted four were paid, and one was being paid. She requested a decision based on the written record. (Item 1) Department Counsel submitted the Government's written case on July 31, 2017. (Item 6) Applicant received a complete file of relevant material (FORM) on August 7, 2017. 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. The case was assigned to me on December 12, 2017.

### **Procedural Issue**

Applicant was advised in the FORM that the summary of the Personal Subject Interview (PSI) with an OPM investigator (Item 3) 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 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 PSI summary. Applicant did not respond to the FORM so she did not raise any objection to the PSI. Since she did not raise any objection to consideration of the PSI, I will consider information in the PSI in my decision.

### **Findings of Fact**

After thoroughly reviewing the case file, I make the following findings of fact. Applicant is 44 years old. She graduated from high school in June 1990, and received an associate's degree in April 1994, and a bachelor's degree in April 2003. She is still taking college level courses. Applicant was a quality assurance analysis from April 2000 to April 2007, and has been a health care consultant for a defense contractor since April 2007. Applicant first married in January 1992 and divorced in April 1998. She married for the second time in July 1998 and divorced in April 2000. She married again in August 2006 and divorced in February 2012. She married again in July 2016. She has two children. (Item 2, e-QIP, dated December 10, 2015; Item 3, PSI, dated January 12 and 23, 2017)

The SOR alleges and credit reports (Item 4, dated April 5, 2017; Item 5, dated January 12, 2016) confirm 48 delinquent debts for Applicant: a charged-off bank debt; a collection account for a telephone bill; 18 medical debts in collection or charged off; 19

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<sup>1</sup> I considered the previous AGs, effective September 1, 2006, as well as the new AGs, effective June 8, 2017. My decision would be the same if the case were considered under the previous AGs.

credit card debts in collection or charged off; six judgments on credit cards or medical debts; and three debts related to rental property debts. The total amount of the delinquent debt is \$36,744.

In her January 2017 PSI and in her response to the SOR, Applicant attributes her delinquent debts to her divorce in 2012, and being on short-term disability receiving only 60% of her pay for six months after an operation. At the PSI, Applicant stated that she intends to review her credit reports and begin making settlement arrangements with creditors.

Applicant provided documents to show that the credit card debt at SOR 1.cc for \$739 has been resolved. Applicant provided a document to show that the judgment for the property in SOR 1.ee for \$2,600 has been resolved. She provided another document concerning a \$50 payment on a credit card that is not identified. She provided documents pertaining to other judgments with hand written notes that the debts were paid in full. However, she did not provide any other documents to establish that these judgments were paid and resolved. The debts at SOR 1.cc and 1.ee are resolved for Applicant.

In the PSI, Applicant did not deny any debts. She was unable to recall the specifics of many of her debts. She reported that she would do additional research to generate a plan to pay off her debts. She will do her best to untangle and pay her bills. However, she noted that because of the number of debts, it will take her a few years to pay off her accounts. (Item 3, PSI, dated January 12 and 23, 2017, at 9 and 12)

Applicant was advised in the FORM, the need to provide documents to verify her payment of any debts or contact with creditors. However, Applicant did not provide any information or documentation to establish payment of most of her debts or her plans to resolve the debts.

### **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(a), 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 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 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.

Section 7 of EO 10865 provides that 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 and 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 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. (AG ¶ 18) An individual who is financially irresponsible may also be irresponsible, unconcerned, or careless in his or 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 meet financial obligations. 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 required to manage his or her 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. Credit reports confirm the SOR delinquent debts. This information is sufficient to raise security concerns under Financial Considerations Disqualifying Conditions AG ¶ 19:

- (a) inability to satisfy debts, and
- (c) a history of not meeting financial obligations.

Applicant's failure to pay debts shows an inability and history of not meeting her financial obligations. Once the Government has established adverse financial issues, the Applicant has the responsibility to refute or mitigate the issue. I considered the information and documents Applicant provided as mitigation in response to the SOR and FORM. The available evidence presented by Applicant does not show that she has resolved or is resolving almost all of her delinquent 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, a death, divorce, or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit counseling service, and there are clear indications that the problem is being resolved 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.

The mitigating conditions do not apply. Applicant received disability payments that were 60% of her salary for six months after surgery in 2012. She did not provide any information how this six-month period of lower income while on disability affected her ability to pay or resolve any debts. The information in the case file shows that she has been gainfully employed since August 2000 except for the short period on disability.

Her regular employment for over 17 years appears to provide her the income and ability to pay her financial obligations.

Applicant did not provide information on her present finances or salary. She claimed that she would contact her creditors to establish payment plans, but she did not present information on contacts with creditors or efforts to establish payment plans. Her lack of action results in her debts being numerous, ongoing, and recent. Her debts were not incurred under circumstances making recurrence unlikely. Applicant presented no evidence that she received financial counseling.

Good faith means acting in a way that shows reasonableness, prudence, honesty, and adherence to duty and obligation. Applicant is not required to be debt-free. All that is required is that Applicant act responsibly given her financial circumstances. Applicant must establish that she has a reasonable plan to resolve financial problems, and that she has taken significant action to implement that plan. Applicant's plan must show a systematic method of handling debts, and meaningful track record of debt payment. A meaningful track record of debt payment can be established by evidence of actual debt payments. A promise to pay delinquent debts is not a substitute for a track record of paying debts in a timely manner and acting in a financially responsible manner. Except for two debts, Applicant did not present evidence of debt payments.

Applicant did not provide sufficient details about what she plans to do to address the debts alleged in the SOR. She did not provide documentation to show proof of payments, correspondence to or from the creditors to establish maintenance of contact, copies of debt disputes, evidence of attempts to negotiate payment plans, or other evidence of debt resolution. There is insufficient evidence to establish why Applicant was unable to make greater progress resolving her debts. There is insufficient assurance that her financial problems are being resolved, are under control, and will not recur in the future. Her lack of reasonable and responsible actions towards her finances is a strong indication that she will not protect and safeguard classified or sensitive information. Applicant failed to mitigate financial security concerns.

### **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(d):

- (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 common-sense 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. Applicant did not provide sufficient credible documentary information to establish that she took or plans to take reasonable and responsible action to resolve her financial obligations. Applicant did not demonstrate appropriate management of her finances and did not show a 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. I conclude Applicant failed to mitigate 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.bb:	Against Applicant
Subparagraph 1.cc:	For Applicant
Subparagraph 1.dd:	Against Applicant
Subparagraph 1.ee:	For Applicant
Subparagraphs 1.ff – 1.vv	Against 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