



**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. 18-00851

**Appearances**

For Government: Tara R. Karoian, Esq., Department Counsel  
For Applicant: *Pro se*

11/27/2018

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**Decision**

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MALONE, Matthew E., Administrative Judge:

Applicant did not provide sufficient information in response to the Government's case to overcome the security concerns raised by his financial problems. Applicant's request for eligibility for access to classified information is denied.

**Statement of the Case**

On July 6, 2016, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain eligibility for access to classified information as part of his employment with a defense contractor. After reviewing the completed background investigation, adjudicators at the Department of Defense Consolidated Adjudications Facility (DOD CAF) could not determine that it was 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 DOD Directive 5220.6 (Directive).

On April 6, 2018, the DOD CAF issued a Statement of Reasons (SOR) alleging facts that raise security concerns addressed under Guideline F (Financial Considerations).<sup>2</sup> Applicant timely responded to the SOR (Answer) and requested a decision without a hearing.

On July 10, 2018, 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 July 24, 2018, and he was informed he 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> The record closed on August 23, 2018, after Applicant did not respond to the FORM. I received this case for decision on November 21, 2018.

### **Findings of Fact**

Under Guideline F, the Government alleged that Applicant owed \$19,573 for 16 delinquent or past-due debts (SOR 1.a – 1.p). SOR 1.j addressed a \$4,061 delinquent state income tax debt being enforced through a lien against Applicant. SOR 1.e – 1.i represent delinquent medical bills totaling \$738. Applicant admitted, without explanation, each of the SOR allegations. (FORM, Items 1 and 2)

All of the SOR allegations are supported by Applicant's admissions to the SOR; by his responses to financial questions presented through interrogatories from DOD CAF; by credit reports obtained by the DOD CAF in August 2016 and January 2018; and by a summary of a personal subject interview (PSI) conducted on June 26, 2016 (FORM, Items 2 – 7) In addition to the facts thus established, I make the following findings of fact.

Applicant is a 45-year-old employee of a defense contractor, for whom he has worked since December 2014. From March 2000 until February 2014, Applicant was an employee of State A. In April 2014, he moved to State B, where he currently resides. Applicant was unemployed from February 2014 until May 2014, when he found a part-time job he held, in addition to his current job, until August 2015. (FORM, Items 2 and 3)

Applicant was married from August 1999 until divorcing in August 2006. He and his ex-wife had twin children, now age 18. Applicant also has an 11-year-old child for whom he pays child support as required. (FORM, Items 3 and 7)

Applicant attributes his financial problems to his period of unemployment in 2014. During his 2016 PSI, and in response to DOD CAF interrogatories, Applicant stated that his current finances were sound and that he was meeting all of his financial obligations. He also averred that he would start paying off his past-due debts. He did not otherwise

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<sup>2</sup> See Directive, Enclosure 2.

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

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

provide any information in response to the SOR regarding payment or resolution of his debts. Likewise, Applicant did not provide any information about his finances in response to the FORM.

## **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 ¶ 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 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. 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

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

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

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

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

resolution of any reasonable doubt about an applicant's suitability for access to classified information in favor of the Government.<sup>9</sup>

## Analysis

### Financial Considerations

This record reasonably raises 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.

More specifically, this record requires application of the disqualifying conditions at AG ¶¶ 19(a) (*inability to satisfy debts*); 19(c) (*a history of not meeting financial obligations*); and 19(f) (*failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required*). By contrast, none of the information presented in this record supports application of any of the pertinent AG ¶ 20 mitigating conditions. Applicant's loss of income was, arguably, beyond his control, thus evoking AG ¶ 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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances.

Nonetheless, Applicant did not present any information showing he acted reasonably under the circumstances. Additionally, he submitted no information that would require consideration of the other AG ¶ 20 mitigating conditions. The record shows Applicant's debts are current, insofar as they are still unresolved; that he has not made any payments to those debts; that he has not sought any professional financial assistance or counseling to improve his finances; and that he has not paid his state tax debt. The security concerns raised by the adverse information about Applicant's finances are not mitigated.

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

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). My review of all of the available information leaves unanswered the doubts about Applicant's suitability for access to classified information that were raised by his financial problems. Because protection of the national interest is the principal focus of these adjudications, any remaining doubts must be resolved against the individual.

### **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.p:                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