



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



In the matter of:	)	
	)	
[NAME REDACTED]	)	ISCR Case No. 14-05097
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Braden M. Murphy, Esq., Department Counsel  
For Applicant: *Pro se*

02/22/2016

**Decision**

MALONE, Matthew E., Administrative Judge:

Applicant did not mitigate the security concerns about her past-due or delinquent debts. Her request for access to classified information is denied.

**Statement of the Case**

On November 18, 2013, Applicant submitted an Electronic Questionnaire for Investigations Processing (EQIP) to obtain eligibility for access to classified information as required for her 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 national interest for Applicant to have access to classified information.<sup>1</sup>

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

On October 31, 2014, DOD 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 and requested a decision without a hearing. On April 16, 2015, 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 August 13, 2015. She was advised she had 30 days from the date of receipt to submit additional information in response to the FORM, but she did not respond. The record closed on September 12, 2015, and the case was assigned to me on October 16, 2015.

### **Findings of Fact**

Under Guideline F, the Government alleged that Applicant owes \$27,766 for eight delinquent or past-due accounts (SOR 1.a - 1.h). The debt alleged at SOR 1.g is a delinquent hospital bill for \$20,810, or about 75 percent of the total debt listed. The debts at SOR 1.d, 1.e, 1.g, and 1.h are for unpaid medical bills. Applicant admitted all of the allegations, citing a failed business and a period of unemployment as the circumstances underlying her financial problems. (FORM, Items 1 and 2) In addition to the facts established by her admissions, I make the following findings of fact.

Applicant is a 55-year-old employee of a defense contractor, where she has worked since October 2013. She has four children, ages 17, 19, 28, and 30. The two younger children still live with her. Applicant was unemployed for about two years before she was hired for her current job. During that time, she was studying to earn an associate's degree, which she received in August 2013. (FORM, Item 5)

In her clearance application, Applicant disclosed the debts alleged at SOR 1.a, 1.b, 1.d, 1.e, 1.g, and 1.h. All of the debts alleged in the SOR are documented in two credit reports obtained during her background investigation, and she discussed those debts during a personal subject interview with a Government investigator on January 7, 2014. (FORM, Items 2 - 8)

Applicant's financial problems are the product of multiple periods of unemployment since 2003. She also experienced medical problems while she was without medical insurance. Applicant's largest debt other than the SOR 1.g hospital bill, is the \$4,587 remainder after resale of a car she lost to repossession in 2008. (FORM, Items 5, 6, and 8)

Applicant stated in her EQIP and during her subject interview, that she intended to establish repayment plans for some of her past-due debts. In response to the SOR, she stated that she was working with a credit repair law firm to validate or refute the debts attributed to her in the credit reports. She also averred that she had received a tax

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<sup>2</sup> See Directive, Enclosure 2. See also 32 C.F.R. § 154, Appendix H (2006).

<sup>3</sup> See Directive, Enclosure 3, Section E3.1.7. The FORM included eight exhibits (Items 1 - 8) proffered in support of the Government's case.

refund that she intended to apply toward some of her debts. However, Applicant did not produce any documents to corroborate her claims.

### **Policies**

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information,<sup>4</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(a) 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>5</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>6</sup> If the Government meets its burden, it then falls to the applicant to refute, extenuate, or mitigate the case for disqualification.<sup>7</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>8</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

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<sup>4</sup> Directive. 6.3.

<sup>5</sup> See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>6</sup> Directive, E3.1.14.

<sup>7</sup> Directive, E3.1.15.

<sup>8</sup> See *Egan*, 484 U.S. at 528, 531.

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>9</sup>

## **Analysis**

### **Financial Considerations**

The Government met its burden of production in support of the allegations in the SOR. The facts established herein raise a security concern addressed, in relevant part, at AG ¶ 18 as follows:

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, all of which can raise 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.

More specifically, available information requires application of the disqualifying conditions at AG ¶¶ 19(a) (*inability or unwillingness to satisfy debts*) and 19(c) (*a history of not meeting financial obligations*). By contrast, the record does not support any of the mitigating conditions listed at AG ¶ 20. Applicant’s debts are recent and ongoing. Her indebtedness arose from, or was exacerbated by, unemployment and medical problems. However, mitigation requires a corresponding response that reflects well on Applicant’s judgment and reliability. Applicant did not support her claims that she was resolving her debts through a credit repair law firm, or that she had used her tax refund to make payments. Also, she has not obtained any financial counseling and she did not show that she has made any good-faith efforts to pay or otherwise resolve her debts.

In summary, Applicant did not mitigate the security concerns raised by the Government’s information. In addition to evaluating the facts and applying 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(a). Applicant has been a single mother and has worked hard to provide for her children. Nonetheless, without other information suggesting her financial problems are being addressed, doubts remain about her suitability for access to classified information. Protection of the national interest is the principal focus of these adjudications. Accordingly, those doubts must be resolved against the Applicant.

### **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:

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<sup>9</sup> See *Egan*; Adjudicative Guidelines, ¶ 2(b).

Paragraph 1, Guideline F:           AGAINST APPLICANT

Subparagraphs 1.a - 1.h:           Against Applicant

**Conclusion**

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

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MATTHEW E. MALONE  
Administrative Judge