



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



In the matter of:	)	
	)	
	)	ISCR Case No. 07-18604
SSN:	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Gina Marine, Esquire, Department Counsel  
For Applicant: Applicant's Husband, Personal Representative

July 3, 2008

**Decision**

HOGAN, Erin C., Administrative Judge:

Applicant submitted her Electronic Questionnaire for Investigations Processing (e-QIP), on May 20, 2008. On February 28, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the security concerns under Guideline F, Financial Considerations. 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 revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

On April 8, 2008, Applicant answered the SOR and requested a hearing before an administrative judge. Department Counsel was ready to be proceed on April 16, 2008. The case was assigned to me on April 21, 2008. On May 5, 2008, a Notice of Hearing was issued, scheduling the hearing for May 28, 2008. The case was heard on that date. The Government offered four exhibits which were admitted as Government Exhibits (Gov) 1 – 4 without objection. The Applicant offered two exhibits which were admitted as Applicant Exhibits (AE) A – B without objection. Applicant and her husband,

who also served as her personal representative testified. The record was held open until June 18, 2008, to allow Applicant to submit additional evidence. Applicant timely submitted a 13-page document which was admitted as AE C without objection. The transcript was received on June 5, 2008. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility for access to classified information is granted.

### **Findings of Fact**

In her Answer to the SOR, Applicant denied all of the SOR allegations.

Applicant is a 38-year-old employee with a Department of Defense contractor seeking a security clearance. She has been employed as a security guard with the defense contractor since May 2007. She has an associates degree in applied science. She is married. She has three children from a prior marriage, a daughter, age nineteen, who has a son, age two; and two sons, ages 17 and 14. Her husband has a son, age 17, and an 11-year-old daughter who lives with her mother. (Tr at 24-25, 47-48, 64; Gov 1.)

On May 20, 2008, Applicant filed an Electronic Questionnaire for Investigations Processing (e-QIP). (Gov 1.) A subsequent background investigation revealed that Applicant had the following delinquent accounts: a \$101 account that was placed for collection in October 2006 (SOR ¶ 1.a; Gov 3 at 1.); a \$4,689 delinquent account placed for collection in May 2007 (SOR ¶ 1.b; Gov 3 at 1; Gov 4 at 8.); a \$144 satellite television account that was placed for collection in October 2006 (SOR ¶ 1.c; Gov 3 at 1.); a \$3,757 department store credit card account that was charged off in July 2006 (SOR ¶ 1.d; Gov 3 at 1-2; Gov 4 at 10.); and a \$3,263 delinquent account that was charged off in July 2006 (SOR ¶ 1.e; Gov 3 at 2; Gov 4 at 9-10.). In September 2005, Applicant defaulted on her mortgage. Her house was foreclosed in October 2006. (SOR ¶ 1.f; Gov 4 at 7.)

On July 5, 2005, Applicant filed for divorce from her previous husband. The divorce was final on November 23, 2005. (AE C at 5-11.) At the time of the divorce, she was supporting three children and her grandson. She had difficulty meeting her financial obligations which resulted in her home foreclosure and several delinquent accounts. (Tr at 24.) She and her ex-husband also struggled financially as a result of periods of unemployment. Her ex-husband was laid off for three months in November 2001. She was laid off in 2002 for about a month. (Tr at 61-63.)

When Applicant discovered that her job required a security clearance she began to pay off her debts. Her current husband holds a clearance and holds a job involving security. He advised her that she needed to resolve her delinquent accounts in order to maintain a security clearance. (Tr at 45, 52-53.) It took a few months for her to actually start resolving her delinquent accounts because they needed to assess the family finances after moving in together. She and her husband keep their finances separate because he has good credit. Her husband has advised her on how to resolve her delinquent debt. (Tr at 53 -56.)

Applicant resolved several accounts that were not alleged in the SOR. The debts include a \$59 medical bill; a \$24 account; a \$683 account. Her student loan was past due \$181. Her student loans are now current. (Tr at 17-18; Gov 2.) They paid off several of the smaller accounts before dealing with the larger accounts.

The current status of the accounts are:

SOR ¶ 1.a, \$101 collection account: Paid off in February 2008. (Tr at 19-20; Gov 2 at 6, 18.)

SOR ¶ 1.b, \$4,689 collection account: Applicant paid \$100 on February 8, 2008 and on March 8, 2008. (Gov 2 at 10; AE C at 13.) Applicant and the company then entered into a settlement agreement. Applicant wrote checks that were provided to the collection agency to cash each month. The monthly payment is approximately \$377.03 and will be paid off in February 25, 2009. (Tr at 34-35; AE A at 10.) The first check in the amount of \$380 was cashed on April 25, 2008. (Tr at 21, 34; AE A at 1, 9-10; AE C at 13.)

SOR ¶ 1.c, \$144 satellite television collection account: Paid on April 10, 2008. (Tr at 21-22, 40-41; AE A at 6.)

SOR ¶ 1.d, \$3,757 charged off department store credit card account: Agreed to pay \$250 per month. Applicant began making monthly payments in March 2008. Timely payments were made in March, April, and May 2008 (Tr at 22-23, 41-43; AE A at 2, 4, 7-8; AE C at 4.)

SOR ¶ 1.e, \$3,623 charged off account: Agreed to pay \$250 per month. Payments have been made for March, April and May 2008. The account was a line of credit that Applicant and her ex-husband took out in order to satisfy their homeowner's association demands to install a backyard fence and grass. Her ex-husband is not paying his half of the account. (Tr at 43-46; AE A at 4; AE C at 4; Gov 2 at 20.)

Applicant's foreclosed home was sold about six months after she moved out (approximately April 2007). She owed \$182,000 on the mortgage. The home sold for approximately \$194,000. She provided her contact information to the mortgage company. So far, she has received no notification of a deficiency judgment related to the mortgage. (Tr at 24, 63-65.)

In March 2008, Applicant paid off a car loan. As a result, she has \$400 in extra income each month to apply towards her debts. Applicant uses her income to pay her debts. Her husband pays the household expenses. (Tr at 56-60.) After expenses, to include the delinquent accounts where she entered into payment agreements, she has approximately \$410 left over each month. (AE C at 2.) Her husband has approximately \$620 left over each month after expenses. He holds a part-time job which brings in an extra \$650 per month, which is included in the above figure. (AE C at 3.)

Applicant pays her daughter's car insurance, cell phone and occasionally gives her money for food. She provides a total of \$200 to \$250 a month to her daughter. Her daughter attends college and is expecting her second child. (Tr at 47-48.)

Applicant is well-regarded at work. The account program manager states that Applicant has been an exemplary performer who has volunteered for additional shifts. She easily grasps difficult tasks and demonstrates good judgment. She is a valued asset to the company and her peers. (AE B at 1.) Her site manager states that she demonstrates amazing initiative and dedication. She displays a high degree of integrity, responsibility, and ambition. (AE B at 2.) Several co-workers comment favorably on her integrity, work ethic, trustworthiness, and willingness to help others. (AE B at 3-5.) In April 2008, she received special mention during an Air Force Inspector General inspection of the company. (AE B at 6.)

### **Policies**

When evaluating an Applicant's suitability for a security clearance, the Administrative Judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful 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 over-arching adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), 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 access to classified information will be resolved in favor of 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 as to 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 protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 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 or sensitive information).

## **Analysis**

### **Guideline F, Financial Considerations**

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

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.

The guideline notes several disqualifying conditions that could raise security concerns. I find Financial Considerations Disqualifying Condition (FC DC) ¶19(a) (an inability or unwillingness to satisfy debts); and FC DC ¶19(c) (a history of not meeting financial obligations) apply to Applicant's case. Applicant accumulated several delinquent debts. The SOR alleges five debts, an approximate total balance of \$12,314. After her divorce, she fell behind in her house payments resulting in her home being foreclosed in October 2006.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Financial Considerations Mitigating Condition (FC MC) ¶ 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) applies. Most of the delinquent debts resulted from Applicant's divorce in 2005. She has demonstrated her reliability and trustworthiness by taking steps to resolve the delinquent accounts. While not all the debts are paid, she entered into repayment plans with the accounts that remain delinquent and is making payments towards those accounts.

FC MC ¶ 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, or a death, divorce or separation), and the individual acted responsibly under the circumstances) applies. Most of the financial problems were the result of Applicant's 2005 divorce. During their marriage, she and her ex-husband occasionally encountered financial difficulties due to periodic lay-offs. Applicant acted responsibly under the circumstances. She paid off the smaller accounts and has entered in to repayment plans for the debts that have larger balances. She is living within her means.

FC MC ¶20(c) (the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control) does not apply. Applicant did not attend financial counseling. However, it is noted that Applicant's current husband has been proactive in helping Applicant resolve her financial problems. If she continues to follow the terms of her repayment plans, her larger debts will be paid off in February 2009. Based on the steps she has taken to resolve her delinquent accounts, it is likely her financial situation will be resolved within a year.

FC MC ¶20(d) (the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts) applies. Applicant resolved four debts prior to the SOR being issued. She paid two of the accounts and has entered into repayment plans with the three remaining debtors. It can take time after a divorce to get one's financial affairs in order. Once Applicant's financial situation improved, she initiated a good-faith effort to resolve her delinquent accounts.

### **Whole Person Concept**

Under the whole person concept, the Administrative Judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The Administrative Judge should consider the nine adjudicative process factors listed at AG ¶ 2(a): "(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) 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 a security clearance 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. I considered the favorable comments of Applicant's superiors and co-workers. I considered the impact that her 2005 divorce had on her financial situation, and her efforts to resolve her delinquent

accounts. She has mitigated the security concerns raised under financial considerations.

### **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:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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ERIN C. HOGAN  
Administrative Judge