



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



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 14-03946

**Appearances**

For Government: Allison O'Connell, Esquire  
For Applicant: *Pro se*

04/24/2015

**Decision**

MARSHALL, Jr., Arthur E., Administrative Judge:

Applicant failed to demonstrate any notable progress on her delinquent debts. Security concerns under Guideline F remain unmitigated. Applicant's eligibility for a security clearance is denied.

**Statement of the Case**

On October 1, 2014, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing 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 adjudicative guidelines (AG) effective within the DOD on September 1, 2006.

In a letter notarized on October 24, 2014, 2014, Applicant admitted 26 of the 27 allegations set forth in the SOR. She also requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). I was assigned the case on January 29, 2015. DOHA issued a notice of hearing on March 2, 2015, setting the hearing for March 12, 2015. With an affirmative waiver of the 15-day notice requirement obtained, the hearing was convened as scheduled.

The Government offered six documents, which were accepted without objection as exhibits (Exs.) 1-6. The Government's motion to strike allegations ¶¶ 1.b-1.c was granted without objection. Applicant gave testimony and offered six documents, which were accepted as Exs. A-F. On March 20, 2015, the transcript of the proceeding (Tr.) was received and entered into evidence. The record was then closed.

### **Findings of Fact**

Applicant is a 48-year-old group administrator who has worked for the same Defense contractor since the end of 2013. She has completed some collegiate coursework. She is presently single and has no children. Multiple supporting documents speak positively of Applicant's character and capabilities. (Exs. A-F)

In 2003, Applicant moved home to be with her mother and father, where she paid no rent but contributed to the household in other ways. The following year, her pensioner father became ill due to heart disease. He ultimately passed away of cancer in 2006, adversely impacting the household finances of Applicant and her retired mother. The mother received a reduced share of her late husband's pension, amounting to about \$2,600 a month gross, when Social Security was added. In response, Applicant moved from a job paying \$12 an hour to one offering \$16 an hour. Meanwhile, Applicant's sister moved closer to her sibling to help with their mother and to see what could be done with the family home, which was in serious disrepair. In 2008, Applicant quit her job, desperately unhappy that she had not been provided the necessary training to properly execute her duties. Although without work, she received unemployment compensation during this time. Also in 2008, her mother was diagnosed with cancer while her sister took a part-time position. Applicant tried to manage the household coffers while her sister looked after their mother's well-being.

In 2009, Applicant returned to the workforce, making \$20.28 an hour. In 2010, the mother was killed in an automobile accident, and the sister lost her job shortly thereafter. The mother had no insurance, savings, or investments, and Applicant struggled to manage household finances on her salary alone. For the next three years, the sisters suffered from multiple medical issues. In particular, Applicant battled cancer and endured two surgeries while lacking major medical health coverage. (Tr. 35) Lack of that coverage, of which Applicant was initially unaware, resulted in about \$17,000 in related bills. During that time, in May 2013, Applicant lost her job. Despite these challenges, she was able to stretch her salary and meet most of their expenses. Only recently has health and normalcy returned to their lives. Applicant began her present position in December 2013. She now earns about \$31,200 a year after taxes. Her sister returned to work full-time in 2014. She earns a gross salary of about \$80,000 a year.

The Government stipulated that the two debts noted at ¶¶ 1.b-1.c have been satisfied, leaving 25 delinquent debts at issue. Those debts amount to about \$31,700 in outstanding obligations. They range from \$9,889 to \$33, with five showing balances between \$33 and \$72. Her approach to these delinquencies has been piecemeal. She thought she had satisfied the debt at ¶ 1.a, but an unknown balance later resulted in an

adverse judgment that has yet to be satisfied. (Tr. 37-39) She approached the hospital at ¶1.d to see whether she qualified for compassion funds in 2011, but she was turned down for them in 2012 or 2013. (Tr. 39-40) The account at ¶ 1.e has not been addressed. With the exception of the debt noted at ¶ 1.w for a car loan, the balances noted at ¶¶ 1.f-1.x are medically related to her surgeries. (Tr. 40-44) She is currently writing to these creditors to learn who the creditors are and how she can resolve the debts. (Tr. 43)

Applicant has not yet been able to reach out to the creditors noted at ¶¶ 1.y-1.z, or resolve the related debts. (Tr. 44) Applicant denies responsibility for the debt noted at ¶ 1.aa, noting it is for a medical test she never authorized and that, if performed, should have been paid by a third-party. (Tr. 45; SOR Response at 3) She wrote the creditor to register her dispute of this balance. (Tr. 46)

At present, Applicant is earning about \$2,600 a month. She does not have a car payment. Her monthly utilities and telecommunications monthly charges are about \$580. (Tr. 47-48) She has a monthly credit card payment of about \$250. (Tr. 48) Medications and co-pays can go upward from \$200 a month. (Tr. 49). Water costs about \$50 a month, while yard care runs upward from \$30 a month. (Tr. 50) Automobile maintenance can run a few hundred a year. (Tr. 51) Odd household jobs run to about \$30 a month. Applicant lends up to \$500 a month to her cousin. (Tr. 53)

Applicant is hoping to receive financial counseling. (Tr. 54) She hopes a professional service might help her reduce the sums claimed. (Tr. 55) Applicant has tried to go through her county to see if any services are available that might help her save money or reduce expenses. She has used a local food bank to supplement her grocery shopping needs. (Tr. 55) Until her sister returned to work, Applicant was paying her sister's medical and car insurance to assure no accidents or illness proved to be financially catastrophic to their household. (Tr. 55-56) She has checked with her credit union and creditors to see if any offered credit counseling. (Tr. 56-57) She recently enrolled in a service offered as a benefit at work that touts legal services, which she hopes will assist her in devising a plan to address her delinquent debts. (Tr. 57-58)

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used 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(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, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain 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.

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**

Under Guideline F, AG ¶ 18 sets forth that the security concern under this guideline is that 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 engaging in illegal acts to generate funds.

Here, the Government introduced credible evidence showing Applicant had over \$30,000 in delinquent debt. This is sufficient to invoke two of the financial considerations disqualifying conditions:

AG ¶ 19(a) inability or unwillingness to satisfy debts, and

AG ¶ 19(c) a history of not meeting financial obligations.

Five conditions could mitigate these finance related security concerns:

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;

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, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

AG ¶ 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;

AG ¶ 20(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and

AG ¶ 20(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant suffered a series of unanticipated setbacks and misfortunes between 2006 and December 2013 that adversely affected her income. For example, the passing of both parents in 2006 and 2010, followed by her battle with cancer and subsequent surgeries while lacking major medical insurance, and a notable period of unemployment in 2013 all contributed toward her financial distress. Various unexpected circumstances impacting her mother and sister's income also added strain to Applicant to the extent they further stretched Applicant's management of household finances. The record shows, however, that she persisted in finding higher paying jobs to meet her on-going challenges. Given her limited income and the familial obligations for which she took responsibilities when family coffers were strained, her finance management must be credited for limiting her debt to under \$35,000, especially since half of the debts at issue are medically related due to her lack of major medical insurance at a time of health crisis. With regard to the creation of the delinquent debt at issue, AG ¶ 20(b) applies.

While Applicant may have mitigated security concerns regarding the creation of her debts, little evidence has been presented that mitigates their continued delinquency. Applicant has yet to receive financial counseling, and she has not investigated whether her new legal services subscription offers such counseling or provides any related guidance. The payments she has made on the debts at issue were less than persistent or consistent, never satisfying the total balance on any of the delinquent debts at issue. This includes multiple debts with balances between \$33 and \$75. While Applicant stated

she disputed the debt noted at ¶ 1.aa, there is no documentary evidence substantiating that assertion. Under these facts, and with no evidence that her debts are being addressed in a responsible, meaningful, and consistent manner, none of the other financial considerations mitigating conditions apply.

### **Whole-Person Concept**

Under the whole-person concept, an applicant's eligibility for a security clearance must be evaluated 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(a). Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon 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 incorporated my comments under the guideline at issue in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

Applicant is a mature woman with a high school education who attended some college. She has advanced herself professionally over the years despite multiple personal and work-related set-backs. She is to be commended for her efforts to manage her family's finances during a decade of challenges. The facts tend to explain how her debt was initially acquired and became delinquent. They are less persuasive, however, with regard to the fact their balances remain virtually untouched. This situation is highlighted by the fact that Applicant appreciates her need for professional financial counseling or guidance, has been back in the work force with a higher paying job for approximately 16 months, and even the five balances ranging between \$33 and \$72 remain unpaid. While her situation appears to be the type readily remediated with proper counseling, a guaranty to seek such support in the future is insufficient to mitigate current security concerns. Consequently, financial considerations security concerns remain unmitigated.

### **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
Subparagraph 1.a:	Against Applicant
Subparagraphs 1.b-1.c:	Withdrawn
Subparagraphs 1.d-1.aa:	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 a security clearance. Eligibility for access to classified information is denied.

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Arthur E. Marshall, Jr.  
Administrative Judge