



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



In the matter of:)	
)	
XXXXXXXXXXXXXXXXXXXXXXXXXX)	ISCR Case No. 18-02842
)	
Applicant for Security Clearance)	

Appearances

For Government: Liam M. Apostol, Esquire, Department Counsel
For Applicant: *Pro Se*

04/29/2019

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,¹ I grant Applicant’s clearance.

On 10 December 2018, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations,² Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case closed 10 April 2019, when Department Counsel stated no objection to Applicant’s Response. DOHA assigned the case to me 17 April 2019.

¹Consisting of the File of Relevant Material (FORM), Items 1-3, and Applicant’s Response to the FORM (Response).

²DoD acted under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) of Security Executive Agent Directive 4, implementing new AG, effective with any decision issued on or after 8 June 2017.

Findings of Fact

Applicant denied the SOR allegations. He is a 26-year-old recent master's graduate sponsored for a clearance by a U.S. defense contractor since March 2018. He has not previously held a clearance (Item 3).

The SOR alleges, and Item 3 establishes ten delinquent debts totaling over \$32,000. The debts comprise a \$600 delinquent medical bill (SOR 1.a), a \$200 delinquent utility bill (SOR 1.b), and eight delinquent education loans totaling over \$31,000 (SOR 1.c-1.j). The eight delinquent loans reflect the delinquent balances as of the 16 May 2018 credit report (Item 3), on original loan disbursements totaling \$22,000.³ Item 3 reflects the eight delinquent loans have been referred for collection as of May 2018. However, Item 3 also reflects what appears to be a master account held by the SOR creditor, with a \$27,000 credit limit/high credit, being transferred to another lender as being 120 days past due as of November 2011.⁴ In addition, Item three reflects two accounts, with account numbers different from both the master account and the SOR accounts, held by the servicing agent for the SOR creditor, each with a \$10,000 credit limit/high credit and current balances of \$8,511 and \$12,126, respectively, as of May 2018. The accounts are reported as current, although having been 90 days past due. Moreover, although Item 3 reports the master account and the SOR accounts as Applicant's individual responsibility, the servicing agent accounts are reported as joint accounts.

Applicant disclosed no financial issues on his March 2018 clearance application (Item 2). Applicant's Answer stated, and his Response subsequently documented, that Applicant had medical insurance for the SOR 1.a medical debt, and provided the claim number for his dispute of that debt. Similarly, he stated, and later documented that he first became aware of the delinquent SOR 1.b utility bill during a July 2018 interview with a Government investigator, and promptly paid the bill on 12 July 2018 (Response).

Finally, Applicant stated, and subsequently documented, that he attended college full time from September 2011 through May 2015, and upon graduating entered a master's program at the same college in September 2015, graduating from that program in May 2016. Applicant reported his entry into the master's program to his educational loan creditor, which should have gotten his undergraduate loans deferred until he finished that program. Instead, his loans were defaulted and referred for collection to an entirely different creditor than appears on Item 3. Applicant provided an 8 February 2019 letter from that creditor referencing Applicant's 13 January 2018 (sic) request to rehabilitate his defaulted loans, and establishing a \$7.00 monthly payment. Applicant executed the agreement 18 February 2019. Applicant also provided a 3 April 2019 letter from that creditor showing that Applicant paid the required monthly payment for

³However, the account entries reflect that two loans each were assigned in September 2011, 2012, 2013, and 2014, all years in which Applicant attended college full-time.

⁴This account has a different account number than the loans alleged in the SOR.

February, March, and April 2019, as well as reflecting that larger payments had been made for August and September 2017.⁵

Applicant also provided a 4 April 2019 letter from his mother stating that she and her husband have undertaken to pay Applicant's education loans. She also stated that she and her husband were required to make payments to the collection agent to rehabilitate the loan while resolving the deferment issue.

Applicant documented no credit or financial counseling, and did not submit a budget. He provided no work or character references, or evidence of community involvement.

Policies

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.⁶

⁵Applicant's Answer stated that his parents first had contact with the collection agent in August 2017 and provided a reference number for their contact with the creditor.

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

Analysis

The Government established a case for disqualification under Guideline F, but Applicant mitigated the security concerns. Applicant's education loans fell into default when the servicing agent failed to note Applicant's continued full-time college attendance. The proliferation of account holders and account numbers highlights the difficulty in resolving defaulted loans once they fall into default. Nevertheless, the loans were delinquent in significant amounts.⁷

However, Applicant meets several of the mitigating conditions for financial considerations. His failure to maintain his education loan payments is recent, but infrequent, and the circumstances are not likely to recur.⁸ Moreover, his failure to pay or make pay arrangements was initially due to circumstances beyond his control, and he has utilized the available means to resolve the defaults.⁹

While Applicant has not had any credit or financial counseling, he has clearly undertaken to rehabilitate the defaulted loans.¹⁰ These efforts and his efforts to resolve his delinquent medical and utility bills constitute a good-faith effort to resolve his debts.¹¹ Moreover, Applicant's evidence documents that he has a reasonable basis for challenging the credit bureau entries which form the basis of the SOR.¹² The major issue is his education loans, and he has done what he can to rehabilitate the loans pending an opportunity to challenge the correct loan balances. I conclude Guideline F for Applicant.

Formal Findings

Paragraph 1. Guideline F:	FOR APPLICANT
Subparagraphs a-j:	For Applicant

⁷¶19(a) inability to satisfy debts; (b) unwillingness to satisfy debts regardless of the ability to do so;(c) a history of not meeting financial obligations;

⁸¶20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

⁹¶20(b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

¹⁰¶20(c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

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

¹²¶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;

Conclusion

Under the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance granted.

JOHN GRATTAN METZ, JR
Administrative Judge