



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



In the matter of:	)	
	)	
XXXX, Xxxxx Xxxxx	)	ISCR Case No. 12-08738
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Julie R. Mendez, Esquire, Department Counsel  
For Applicant: *Pro se*

04/23/2015

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> I deny Applicant's clearance.

On 17 November 2014, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.<sup>2</sup> 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 26 March 2015, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 13 April 2015.

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<sup>1</sup>Consisting of the File of Relevant Material (FORM), Items 1-7,

<sup>2</sup>DoD 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) effective within the DoD on 1 September 2006.

## Findings of Fact

Applicant admitted the SOR financial allegations, except for SOR 1.a. He is a 39-year-old shipfitter employed by a U.S. defense contractor since May 2012. He has not previously held a clearance. Applicant was laid off from his job in May 2009, and remained unemployed until June 2010, when he obtained a job as a maintenance worker, a job he held until he obtained his most recent employment. Before his May 2009 layoff, Applicant had been continuously employed since at least May 2002 (Item 3).

The SOR alleges, and Government exhibits (Items 4-6) substantiate, eight delinquent debts totaling over \$62,000. Applicant admits seven debts totaling nearly \$32,000.<sup>3</sup>

Applicant's May 2012 clearance application (Item 3) reported six of the eight delinquent accounts alleged in the SOR (SOR 1.a-1e, and 1.h). He implied that he was getting this job to pay these debts. Moreover, during a June 2012 subject interview, he acknowledged the six debts he listed on his clearance application, acknowledged the two remaining SOR debts (SOR 1.f-1.g), and stated his intent to get caught up on his debts and stay caught up on his debts (Item 6). However, Applicant admitted that he lacked the means to address his delinquent debts at the time and was living paycheck to paycheck.

Applicant apparently has had no contact with his creditors since the accounts fell delinquent when he became unemployed. He has stated no further plan for addressing his delinquent debts. He provided no budget or financial statement. Applicant has not received any financial or credit counseling. He provided no work or character references.

## 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

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<sup>3</sup>Applicant denied the debt in SOR 1.a and the amount owed. However, he listed a \$19,891 debt to the same creditor on his clearance application, and provided additional documentation of the \$19,981 figure in his answer to the SOR. Nevertheless, during a June 2012 subject interview (Item 6), Applicant discussed his May 2012 credit report (Item 5). He acknowledged a collection account to the successor in interest—a creditor who purchased a \$19,981 debt which had grown to \$27,960. The new creditor applied a new account number to the account, but it is clearly the same account. The balance had grown to \$30,557 by October 2014 (Item 4).

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.<sup>4</sup>

### Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has an extensive history of financial difficulties, which are ongoing, and seem unlikely to be resolved any time soon.<sup>5</sup> Applicant's financial problems date to May 2009, when he experienced a year of unemployment. However, Applicant has been re-employed since June 2010 and in this apparently better job since May 2012. There is no evidence of any efforts by Applicant to resolve the debts.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; although the immediate cause of his problems may be unlikely to recur if he remains employed.<sup>6</sup> Applicant's 2009-2010 unemployment was certainly beyond his control, but he has not been responsible in addressing his debt.<sup>7</sup> Applicant has had no credit or financial counseling, and his debts are clearly not being resolved.<sup>8</sup> There are no signs that Applicant has been in contact with any of his creditors, and thus he cannot establish that he has made a good-faith

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<sup>4</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>5</sup>¶19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

<sup>6</sup>¶20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

<sup>7</sup>¶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;

<sup>8</sup>¶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;

effort to address his debts.<sup>9</sup> Moreover, Applicant has mostly disregarded these financial obligations since becoming re-employed in June 2010. His documented inaction for nearly five years raises significant security concerns that Applicant has not begun to address. Accordingly, I conclude Guideline F against Applicant.

**Formal Findings**

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-h:	Against Applicant

**Conclusion**

Under the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

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JOHN GRATTAN METZ, JR  
Administrative Judge

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<sup>9</sup> 120 (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.