



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



In the matter of:)
)
 XXXXXXX, Xxxxx XXXXXXXXXX) ISCR Case No. 14-03078
)
 Applicant for Security Clearance)

Appearances

For Government: Alison O'Connell, Esquire, Department Counsel
For Applicant: *Pro Se*

04/30/2015

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 12 November 2014, the Department of Defense (DoD) issued an SOR to Applicant detailing security concerns under Guideline F, Financial Considerations.² Applicant timely answered the SOR, requesting a hearing before the Defense Office of Hearings and Appeals (DOHA). DOHA assigned the case to me 4 March 2015, and I convened a hearing 8 April 2015. DOHA received the transcript (Tr.) 16 April 2015.

¹The record consists of the transcript (Tr.), Government exhibits (GE) 1-3, and hearing exhibit (HE) I.

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) effective within the DoD on 1 September 2006.

Findings of Fact

Applicant admitted the SOR allegations. She is a 61-year-old facilities support lead, employed as a defense contractor since June 2002. She seeks to retain the clearance she obtained in December 2003. It appears that she requires a clearance solely for access to the military base where her employment is located.

The SOR alleges, Government exhibits (GE 1-2) establish, and Applicant admits 13 delinquent accounts totaling over \$25,000. The 13 delinquent accounts consist of unpaid medical debts, unpaid credit card debts, a co-signed automobile loan, and two unpaid parking tickets. Overall, seven of the delinquent debts are each less than \$500; two are each less than \$400, two are each less than \$200, and two are each less than \$100. One debt is less than \$1,000. Only four of the debts are more than \$1,000 each, and three of those are less than \$2,000 each. The largest debt (SOR 1.k) is for a repossessed automobile on which she co-signed the note for her son.

Applicant listed one delinquent debt on her March 2014 clearance application (GE 1), corresponding to SOR 1.k—the automobile note she co-signed for her son. Applicant traces her financial problems to about 2009, when her husband saw a decline in his income due to the recession. He later lost his job in 2010 or 2011, and was unemployed or underemployed until April 2014, when he got his old job back. Applicant's financial troubles are such that they live with one of her sons, because she and her husband cannot afford to rent their own place.

In her Answer, Applicant stated her plan to resolve her debts through bankruptcy. However, she had not filed for bankruptcy protection by the hearing date because she had not been able to save the required filing fee. She does not appear to have any reasonable prospect of accumulating those funds for the foreseeable future. She has not otherwise been in contact with any of her creditors to discuss resolution of the debts.

Applicant has not documented any financial or credit counseling. She presented no budget showing her current financial status. She provided no work or character references.

Policies

The adjudicative guidelines (AG) list factors to evaluate 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 show a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). The applicability of a disqualifying or mitigating condition is not, by itself, conclusive. However, specific guidelines should be followed when a case can be measured against them, as they are policy guidance governing the grant or denial of a clearance. 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, disputed 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 required judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels deciding any reasonable doubt about an Applicant's suitability for access in favor of the Government.

Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant's financial problems date back to at least 2009. She not only lacks the means to address her debts, she lacks the means to even address them by filing for bankruptcy protection.³ Applicant appears to not comprehend the seriousness of her financial situation or the means of obtaining no-cost or low-cost financial assistance. Thus, it seems unlikely she can resolve her financial problems in the near future.

The mitigating factors for financial considerations provide little help to Applicant. Her financial difficulties are recent and frequent. The circumstances that lead to her financial problems, while beyond her control, are certainly common and she failed to establish they are unlikely to recur.⁴ Furthermore, Applicant cannot be considered to have acted responsibly in addressing the debts, because the debts have lingered for many years without resolution or good faith efforts toward resolution.⁵ Further, Applicant has not undertaken any effort to address her debts, either by communicating with her creditors or by accumulating the necessary funds to proceed with a bankruptcy petition.⁶ Finally, Applicant has undertaken no financial or credit counseling to insure that her finances do not become a problem in the future.⁷

³¶ 19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

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

⁵¶ 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;

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

⁷¶ 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;

The concern with Applicant is that she currently lacks the funds to either resolve her debts directly with her creditors or through bankruptcy protection. Thus, her delinquent debts seem incapable of resolution in the foreseeable future. Even less likely is Applicant's demonstrating that she is capable of living within her means. Further, she presented no evidence to help establish a "whole-person" analysis supporting a favorable clearance action. I conclude Guideline F against Applicant.

Formal Findings

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

JOHN GRATTAN METZ, JR.
Administrative Judge