



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



In the matter of:	)	
	)	
XXXXXXXX, Xxxxx Xxxxxxxx	)	ISCR Case No. 08-07296
SSN: XXX-XX-XXXX	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: John Bayard Glendon, Esquire, Department Counsel  
For Applicant: *Pro se*

August 12, 2009

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

On 18 February 2009, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F.<sup>1</sup> Applicant answered the SOR 4 March 2009, and requested a decision without hearing. DOHA assigned the case to me 6 August 2009. The record in this case closed 13 May 2009, the day Applicant’s response to the government’s File of Relevant Material (FORM) was due. Applicant provided no additional information for evaluation.

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<sup>1</sup>DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), 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 (RAG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

## Findings of Fact

Applicant admitted the SOR financial allegations except SOR 1.b., d., e., l., s., hh., kk., and pp. He is a 42-year-old supply technician employed by a U.S. defense contractor since February 2006. He appears to have not previously held a clearance. He retired from the U.S. Navy in December 2004, with a partial medical disability, after 20 years service.

The SOR alleges and government exhibits substantiate, 43 delinquent debts totaling over \$57,000. Applicant admits 35 debts over \$53,000; he denies eight debts of \$4,000, seven as paid, one as not being his debt. He corroborates none of his claims, including claimed regular payments on the debt at SOR 1.c. The record is devoid of explanations for the debt or efforts to resolve them. His personal financial statement (PFS)(Item 6) shows \$1,500 positive monthly cash flow.

## Policies

The Revised Adjudicative Guidelines (RAG) list factors to be considered in evaluating an Applicant's suitability for access to classified information. Administrative Judges must assess both disqualifying and mitigating conditions under each issue fairly raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in RAG ¶ 2(a). The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant, applicable, 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 something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then 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>2</sup>

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<sup>2</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

## **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.<sup>3</sup> The record contains no evidence in extenuation, mitigation, or rehabilitation. Consequently, none of the mitigating factors for financial considerations apply. The record lacks any information upon which to base a “whole person” analysis. I conclude Guideline F against Applicant.

## **Formal Findings**

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraph a-qq:	Against Applicant

## **Conclusion**

In light of all 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>3</sup>¶19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;