



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



In the matter of:)	
)	
XXXXXXXXXXXX, XXXXXXXX XXXXXF)	ISCR Case No. 10-10499
)	
Applicant for Security Clearance)	

Appearances

For Government: Melvin A. Howry, Esquire, Department Counsel
For Applicant: *Pro se*

02/23/2012

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,¹ Applicant's clearance is denied.

On 10 May 2011, the Defense Office of Hearings and Appeals (DOHA) sent Applicant a Statement of Reasons (SOR) listing security concerns under Guideline F, Financial Considerations.² Applicant timely answered the SOR, requesting a decision without hearing. The record in this case closed 6 October 2011, the day Department Counsel noted no objection to Applicant's response to the Government's File of Relevant Material (FORM). DOHA assigned the case to me 29 November 2011.

¹Consisting of the FORM, Items 1-11.

²DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (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.d. He is a 42-year-old interpreter employed by a U.S. defense contractor since July 2010. He has not previously held an industrial clearance. He had been unemployed from May 2008 to July 2010, except for one-month jobs in September 2009 and February 2010.

Applicant owes over \$78,000 on five delinquent debts. Applicant claimed to have settled the \$20,000 judgment at SOR 1.d in 2010, and Item 9 shows the judgment was released in April 2010. Applicant claimed, without documentation, that he had a repayment plan for SOR debt 1.f.

Until May 2008, Applicant earned his living as an independent car buyer for two used car dealerships, one of which was owned by his brother. He had two different credit card accounts that he used to finance his cash flow as a car buyer. He apparently had no financial problems.

When the economy soured in 2008, Applicant lost both jobs and he remained largely unemployed until July 2010. The judgment debt that Applicant settled was for one of the credit cards he used in his business. SOR debt 1.b—now grown to over \$50,000—was a credit account he opened to pay off a number of other credit cards. The credit reports in the record (Items 5-6, 10) show a large number of accounts paid and closed by Applicant, and several others that were settled. Applicant intends to satisfy all his delinquent debts, but currently lacks the income to do so.

Applicant has not sought credit or financial counseling. He presented no personal financial statement or budget. He presented 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 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.³

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.⁴

Applicant meets few of the mitigating factors for financial considerations. His financial difficulties are both recent and multiple, and the immediate causes of his problems can recur.⁵ His unemployment is a circumstance beyond his control, and because he has lacked the means to address his debts, it is hard to say he has not responsibly addressed his debts, except that he has apparently not been in contact with any of his creditors to discuss potential repayment plans.⁶ Applicant has received no financial or credit counseling, and has presented no budget.⁷ None of the debts are likely to be paid any time soon, much less in a timely, good-faith effort.⁸ I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-c, e-f:	Against Applicant
Subparagraph d:	For Applicant

³See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

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

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

⁶¶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;

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;

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

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