



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



In the matter of:	)	
	)	
	)	ISCR Case No. 11-05211
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Philip J. Katauskas, Esquire, Department Counsel  
For Applicant: Christopher Graham, Esquire

04/15/2013

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> Applicant’s clearance is granted.

On 25 September 2012, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, Financial Considerations.<sup>2</sup> Applicant timely answered the SOR, requesting a hearing before the Defense Office of Hearings and Appeals (DOHA). DOHA assigned the case to me 12 December 2012 and I convened a hearing 3 January 2013. DOHA received the transcript 8 January 2013.

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<sup>1</sup>Consisting of the transcript (Tr.), Government exhibits (GE) 1-3, and Applicant exhibits (AE) A-E. AE E was timely received post-hearing.

<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 SOR financial allegations. He is a 42-year-old linguist employed by a U.S. defense contractor since March 2012. He is a native-born Afghani, who immigrated to the U.S. in July 1988, and became a naturalized U.S. citizen in May 1998. He has not previously held a security clearance.

The SOR alleges, Government exhibits substantiate, and Applicant admits, eight delinquent accounts totaling over \$40,000.

Applicant paid SOR debt 1.a in March 2012, before the SOR was issued (Answer). He paid SOR debts 1.b and 1.c (different debts to the same creditor) in November 2012 (Answer; AE D). He settled SOR debt 1.d in November 2012 (Answer). He paid SOR debt 1.e in December 2013 (AE A, E). In January 2013, the creditor for SOR debt 1.f requested that Applicant provide certain documentation in support of his request to settle that debt, which Applicant subsequently provided (AE B, E). He paid SOR debt 1.g in November 2012 (Answer). He paid SOR debt 1.h in November 2012 (Answer). Applicant reported these delinquent debts, among others, on his April 2012 clearance application (GE 1).

Applicant's financial problems were largely business related. He owned a carpet and flooring company. When the housing market collapsed in 2008, so did the demand for flooring. Applicant used available means of credit to try to keep the business going, but was ultimately unsuccessful. He took the linguist position in March 2012 because it provided more regular income, as well as significant increases in pay when he is deployed. With the increased income, he was able to pay off several delinquent debts that he reported on his clearance application—but which were not at issue in the SOR—as well as satisfy seven of the eight debts alleged in the SOR.

## **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.<sup>3</sup>

### Analysis

The Government established a case for disqualification under Guideline F, but Applicant mitigated the security concerns. Applicant has an extensive history of financial difficulties that became unmanageable around 2008.<sup>4</sup> Applicant lost his carpet and flooring business because of the housing market collapse in 2008.

The mitigating factors for financial considerations give Applicant substantial aid. While his financial difficulties are both recent and multiple, Applicant’s employment is now stable so the circumstances that caused them are less likely to recur.<sup>5</sup> Further, his financial problems were largely due to circumstances beyond his control, and he began addressing his delinquent debts once he obtained stable employment in March 2012. He has continued to address his other delinquent debts since then.<sup>6</sup> While there is no evidence that Applicant has had any financial counseling, he has clearly acted to get his finances under control.<sup>7</sup> The only debt not completely resolved is the \$17,000 debt at SOR 1.c, and Applicant is working with the creditor to address that account. Having addressed his other financial obligations, I am confident this final obligation will also be addressed. Overall, substantial progress has been made addressing his delinquent debt.<sup>8</sup> The Appeal Board has stated that an Applicant need not have paid every debt alleged in the SOR, need not pay the SOR debts first, and need not be paying on all debts simultaneously. Applicant need only establish that there is a credible and realistic plan to resolve the financial problems, accompanied by significant actions to implement

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

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

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

<sup>6</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>7</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;

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

the plan.<sup>9</sup> Applicant's efforts to date constitute such a plan, and his consistent payments reflect significant actions. I conclude Guideline F for Applicant.

### **Formal Findings**

Paragraph 1. Guideline F: FOR APPLICANT

Subparagraphs a-h: For Applicant

### **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.

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JOHN GRATTAN METZ, JR.  
Administrative Judge

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<sup>9</sup>ISCR Case No. 07-06482 (App. Bd. 21 May 2008).