



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



In the matter of:	)	
	)	
	)	ISCR Case No. 12-02590
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Alison O’Connell, Esquire, Department Counsel  
For Applicant: *Pro se*

01/31/2014

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

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

On 11 September 2013, 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 25 December 2013, the day Applicant’s response to the FORM was due. Applicant submitted no materials for review. DOHA assigned the case to me 14 January 2014.

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<sup>1</sup>Consisting of the File of Relevant Material (FORM), Items 1-9.

<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. He is a 34-year-old contractor employed by a U.S. defense contractor since June 2011. He has not previously held a clearance.

The SOR alleges, Government exhibits (Items 6-9) substantiate, and Applicant admits four delinquent accounts totaling over \$47,000. Nearly \$35,000 of the debt is for building materials he obtained, through his company, to build his custom-built house in November 2008. The mortgage he obtained on the house was not enough to cover all his building costs. The remaining debts consist of unpaid state and Federal employment taxes incurred when Applicant ran his own roofing business from April 2006 to September 2008, and a delinquent second mortgage on his house. Applicant claims to be paying \$300 per month on his building debt, but documented only one June 2013 payment on that account. He has made no payments on any of the other debts. His personal financial statement shows that—except for the claimed-but-undocumented \$300 monthly payment on his building debt—he lacks the means to address any of the remaining debt.

Applicant attributes his indebtedness to the failure of his business in September 2008 and a brief period of unemployment from March to August 2010. He received unemployment compensation during his period of unemployment and has been continuously employed since August 2010. Applicant claims, without corroboration, to have been injured on the job six months after starting his company. By the time he was able to return to work, the economic downturn in the housing market had begun, cutting into his business.

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 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, 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>4</sup> Applicant’s financial problems date to 2008, when he shuttered his roofing business.

Applicant meets none of the mitigating factors for financial considerations. His financial difficulties are both recent and multiple, although the immediate causes of his problems are unlikely to recur.<sup>5</sup> Applicant has not demonstrated that his financial problems are due to circumstances beyond his control. The delinquent payroll taxes would be based on income he received while he was operating his business, and payable on a regular basis during the operation of the company. Applicant has not demonstrated that his inability to obtain an adequate mortgage in November 2008 or to keep his second mortgage current was due to closing his company in September 2008. By November 2008, Applicant had new employment. However, even if I concluded that the original debt was due to circumstances beyond Applicant’s control, Applicant has not been responsible in addressing his debt.<sup>6</sup> He has documented only one payment to one creditor, in June 2013. He acknowledges not making any payments on the remaining debts. While he appears to have made some payments in the past on the state payroll tax debt (SOR 1.d), he stopped making payments on that debt and has been unable to satisfy the remaining balance of less than \$500. Applicant has received no financial or credit counseling, and has presented no budget or plan for addressing

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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;

his remaining debt.<sup>7</sup> Under the circumstances, Applicant's efforts cannot be considered a good-faith effort to address his debts.<sup>8</sup> Moreover, Applicant has apparently disregarded his financial obligations for many years. Further progress on his current debt is required before I can confidently conclude that he has demonstrated that his finances no longer pose a security concern. Accordingly, I conclude Guideline F against Applicant.

**Formal Findings**

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-d:	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>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.