



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



In the matter of: )  
 )  
XXXXXXXXXXXXXXXXXXXXXXX ) ISCR Case No. 15-04306  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Andrew H. Henderson, Esquire, Department Counsel  
For Applicant: *Pro se*

01/27/2017  
\_\_\_\_\_

**Decision**  
\_\_\_\_\_

METZ, John Grattan, Jr., Administrative Judge:

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

On 15 January 2016, 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 11 April 2016, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 22 December 2016.

---

<sup>1</sup>Consisting of the File of Relevant Material (FORM), Items 1-5 .

<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. She is a 41-year-old contracts administrator employed by a U.S. defense contractor since September 2014. She was previously employed in similar jobs outside the defense sector from September 1998 to August 2014. She has not previously held a clearance.

The SOR alleges, Government exhibits (Items 2-5) establish, and Applicant admits three delinquent debts totaling over \$266,000. Record evidence shows that SOR debt 1.a has grown to \$59,827, and that SOR debts 1.b and 1.c are the same debt.<sup>3</sup> Based on Applicant's October 2014 (Item 4) and March 2016 (Item 5) credit reports, the balance on the foreclosed first mortgage is \$186,852. Consequently, the amount of debt at issue is \$246,679. Applicant reported the three accounts on her October 2014 clearance application (Item 2) and discussed her October 2014 credit report during a January 2015 subject interview with a Government investigator (Item 3). In her Answer, Applicant stated that she was working on a repayment agreement with the creditor for SOR debt 1.a, but provided no corroboration of that claim.

Applicant attributes her financial problems to her husband's unemployment and their separation in August 2014. However, she did not provide a clear chronology of her husband's unemployment. During her January 2015 interview, she stated that she obtained the loan at SOR 1.a in 2005 as a second mortgage, and used the proceeds to make upgrades to the house and pay other bills while her husband was out of work. She stated that she was able to keep up with the first mortgage payment until about 2008;<sup>4</sup> she was current on her second mortgage until September 2012, when she stopped paying on the advice of her real estate agent, who suggested to her that it would be easier to get a loan modification if the account was past due.

When Applicant fell behind on her first mortgage, she attempted, without success, to get a mortgage modification from the lender. She obtained a temporary modification, but was unable to secure a permanent one. Again, Applicant did not submit much of a time line of these efforts. She then attempted a short sale of the property. She had two offers on the property. The first she lost when her lender could not process the sale in a timely manner and the buyer walked away. She lost the second when the lender would not accept the contract amount, even though it matched the appraisal. Before she could obtain a third offer, the lender foreclosed on the house. While the house was in foreclosure, the lender sold the loan to another lender. The house was sold at public auction in December 2014. Applicant provided no records to document the sale price or any remaining balance after the sale. The holder of the second mortgage had agreed on a figure to resolve the debt if the house was sold in a short sale, but that agreement failed when the house went into foreclosure.

---

<sup>3</sup>Although Applicant admitted these debts as alleged, none of the Government's evidence documents the amounts alleged.

<sup>4</sup>Applicant's March 2016 credit report states the date of first delinquency was August 2011.

Applicant provided no budget or financial statement. She has not documented any financial or credit counseling. She has not documented any efforts to resolve these debts since the short sales fell through and the house was foreclosed upon.

Applicant's former real estate agent confirms Applicant's account of the foreclosure. Applicant's current landlord since March 2013 extols her virtues as a tenant. A former supervisor and a former co-worker consider her honest and trustworthy and recommend her for a clearance. Her former supervisor is aware of her financial problems; it does not appear that her former co-worker is (Answer).

### **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>5</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 dating back to at least 2011.<sup>6</sup>

---

<sup>5</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>6</sup>¶19(a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

Applicant meets none of the mitigating conditions for financial considerations. given that she has taken no action to address them.<sup>7</sup> Applicant's separation from her husband and his unemployment could be considered beyond her control, given more specifics about the time line. Moreover, her efforts to obtain a loan modification and then a short sale could be considered responsible actions initially. However, her inaction since December 2014 has not been responsible.<sup>8</sup> Applicant has had no credit or financial counseling, and there is no evidence any of the debts are being resolved.<sup>9</sup> Her lack of effort does not constitute a good-faith effort to address her debts.<sup>10</sup> In addition, Applicant has not demonstrated a track record of living within her means. Furthermore, Applicant's favorable "whole-person" evidence is insufficient to mitigate the security concerns raised by her inaction on the debts. Accordingly, I conclude Guideline F against Applicant.

### **Formal Findings**

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-b:	Against Applicant
Subparagraph c:	For Applicant (duplicate)

### **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

---

<sup>7</sup>¶20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

<sup>8</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>9</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>10</sup>¶20(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.