



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



In the matter of:)
)
XXXXXXXXXXXXXXXXXXXXXXX) ISCR Case No. 15-04523
)
Applicant for Security Clearance)

Appearances

For Government: Daniel .F. Crowley Esquire, Department Counsel
For Applicant: *Pro se*

08/11/2017

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,¹ I grant Applicant's clearance.

On 16 May 2016, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.² Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case

¹Consisting of the File of Relevant Material (FORM), Items 1-6, and Applicant's Response to the FORM (Response).

²DoD 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. On 10 December 2016, the Director of National Intelligence (DNI) signed Security Executive Agent Directive 4, implementing new AG, effective with any decision issued on or after 8 June 2017. This decision is issued under the original AG, but I have examined the new AG to ensure that I would not reach a different result if I issued this decision under the new AG. I would not rule differently under either set of AG.

closed 2 September 2016, when Department Counsel stated no objection to Applicant's response to the FORM. DOHA assigned the case to me 22 May 2017.

Findings of Fact

Applicant admitted the SOR financial allegations, except for SOR 1 f, which she claimed, and proved, had been settled in June 2015. She is a 39-year-old project manager employed by a U.S. defense contractor since May 2012. She took a \$12,000 annual salary pay cut to accept this position, after having been laid off in her previous job. She was unemployed from October 2011 to April 2012. She has never married, and has one child. She has not previously held a clearance (Item 2).

The SOR alleges, and Government exhibits (Items 3-8) substantiate, eight delinquent debts totaling over \$45,000. Applicant admits seven debts also totaling over \$45,000. Applicant's Response shows that Applicant has been making regular monthly payments on SOR debt 1.a since at least August 2014. She entered into a repayment plan on SOR debt 1.b in August 2016, and made the first required payment. She was approved for a trial mortgage modification on SOR debt 1.c in June 2016. SOR debt 1.d was an account Applicant co-signed for her mother, who has been making regular, required monthly payments on a plan since at least July 2015. SOR debt 1.e was a final bill that Applicant was unaware of, but which she paid in August 2016. SOR debt 1.g is for unpaid Federal taxes for which Applicant retained profession help in September 2016.³ SOR debt 1.h is for unpaid state taxes that Applicant has been making regular monthly payments on since at least September 2015. She also paid a delinquent cable bill that was not alleged in the SOR.

Applicant disclosed half the SOR debts on her October 2014 clearance application (Item 3), and discussed all the SOR debts during an interview with a Government investigator in January and February 2015 (Item 5). Applicant attributes her financial problems to being laid off from her job in October 2011.

Applicant provided no budget or financial statement. She has not received any credit or financial counseling. She provided no work or character references, or any evidence of community involvement.

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,

³She had previously requested copies of her tax account statements for multiple years from the Government in March 2015.

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.⁴

Analysis

The Government established a case for disqualification under Guideline F, but Applicant mitigated the security concerns. Applicant experienced a period of financial difficulties in 2011, when she was laid off from her job and took a \$12,000 annual salary pay cut.⁵ However, Applicant began to address her delinquent debts well before the SOR was issued.

Applicant meets most of the mitigating conditions for financial considerations. While her financial difficulties are both recent and multiple, the circumstances which led to her financial situation may be unlikely to recur.⁶ They were certainly due to circumstances beyond her control, and she dealt with them responsibly, having begun to address them even before the SOR was issued.⁷ Four debts were either paid, or in well-established repayment plans by the time the SOR was issued. One unknown debt was paid after the SOR was issued. Applicant received a mortgage modification in June

⁴See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁵¶19(a) inability to satisfy debts; (b) unwillingness to satisfy debts regardless of the ability to do so; (c) a history of not meeting financial obligations;

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

⁷¶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;

2016.⁸ She reached a repayment agreement with one creditor in August 2016 and made the first payment. Finally, she retained professional help to address her Federal tax issues in September 2016.

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 the plan.⁹ Applicant's efforts to date constitute such a plan, and his successful efforts to resolve the SOR debts reflect significant actions

Although Applicant submitted no evidence to show that she received credit or financial counseling, her debts are clearly being resolved.¹⁰ Applicant was in contact with several of her creditors well before the SOR was issued, and she has made a good-faith effort to address these debts.¹¹ Accordingly, 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.

JOHN GRATTAN METZ, JR
Administrative Judge

⁸Which, given the processing times taken by banks to consider the request, must have been pending before the SOR was issued.

⁹ISCR Case No. 07-06482 (App. Bd. 21 May 2008).

¹⁰¶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;

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