



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



In the matter of:)
XXXXXXXXXXXXXXXXXXXXX) ISCR Case No. 15-06343
Applicant for Security Clearance)

Appearances

For Government: Alison P. O'Connell, Esquire, Department Counsel
For Applicant: *Pro Se*

03/08/2017

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 21 March 2016, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, Financial Considerations.² Applicant timely answered the SOR, requesting a hearing before the Defense Office of Hearings and Appeals (DOHA). DOHA assigned the case to me 16 August 2016 and I convened a hearing 5 October 2016. DOHA received the transcript 12 October 2016.

¹Consisting of the transcript (Tr. I), Government exhibits (GE) 1-4, hearing exhibit (HE) I, and Applicant exhibits (AE) A-F. K.

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.

Findings of Fact

Applicant admitted the SOR financial allegations. She is a 36-year-old project analyst employed by a defense contractor since August 2015. She was previously employed on the same contract with a different contractor from February 2014 to August 2015 (Tr. 23-24). She is the single mother of a 16-year-old daughter, who apparently received no child support from the child's father. She claimed to have been granted a clearance in the past, but was unable to state when her background investigation was (Answer).

The SOR alleges, Government exhibits (GE 1-4) substantiate, and Applicant admits, 25 delinquent debts totaling over \$7,500. Applicant also admits failing to file her 2013 Federal income return. The debts comprise \$3,600 in 12 unpaid medical bills (SOR 1.a-1.l), \$2,500 in eight delinquent education loans (SOR 1.m-1.t), and \$1,400 in five unpaid bills (SOR 1.u-1.y). Twenty of the debts are less than \$400 each: Five debts are less than \$100 each; another eight are less than \$200 each; four more less than \$300 and \$400 each, respectively.

Applicant paid SOR debt 1.b (AE F), SOR debt 1.h (AE A), SOR debt 1.l (AE D), and SOR 1.y (AE C) in September 2016. According to Applicant her communication with SOR creditor 1.u revealed that her automobile loan was not delinquent, but she did have an unpaid \$29 fee which she paid (Tr. 41-42; AE E). She is disputing SOR debt 1.x because she cannot find any record of the debt, but has not yet filed a formal dispute.

Applicant claims to have identified all her medical creditors (except for the three she has already paid), but has not contacted them yet because she will not be able to pay them until the middle of the month (Tr. 40-41). She claimed, but did not corroborate, an agreement to settle SOR debt 1.v for \$350 by the middle of the month (Tr. 42-43). She claimed to have settled SOR debt 1.w just before the hearing, but had not yet received any confirmation (Tr. 43). Applicant had started the process to consolidate her education loans, which she had not made payments on since September 2013 (Tr. 31-32; AE B). She was working with a tax firm to address her unfiled 2013 taxes, which now include her 2014 and 2015 taxes as well (Tr. 27-31; AE A).

On her July 2014 clearance application (GE 1), Applicant reported about \$2,200 delinquent Federal income tax for 2012, for which she was seeking an installment plan. She reported \$320 in unpaid property tax for 2013. She estimated that she owed \$10,000 for her unfiled 2013 state and Federal income tax returns. She also reported about \$18,000 in delinquent education loans. She stated her intent to address both her taxes and her education loans soon.

From 2002 to 2014, Applicant made \$40,000-50,000 annually in a lower cost area than where she is now employed. She currently makes \$82,000 annually, albeit in a higher cost area. Nevertheless, she offers no particular reason for failing to file her

2013 taxes³ or for stopping payments on her education loans. She acknowledged that she made no efforts to pay her delinquent debts as her salary increased (Tr. 33), and undertook her current efforts after she received the SOR (Tr. 49).

Applicant has received no financial or credit counseling, and did not submit a budget. She claims to have \$1,500 positive monthly cash flow (Tr. 48), now that she has had a roommate since June 2016 (Tr. 34). 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, 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, and Applicant failed to mitigate the security concerns. Applicant became delinquent on a

³Although she stated that she was afraid to file because she had owed taxes in past years (Tr. 27).

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

variety of debts dating back to 2013, and failed to file her 2013 tax returns as required.⁵ Applicant made no efforts to address her debts when her salary increased in February 2014.

Applicant meets none of the mitigating factors for financial considerations. Her financial difficulties are both recent and multiple, and to the extent that her problems are due to her inability to adjust her expenses to her income the problem is not unlikely to recur.⁶ Further, it is difficult to see how her financial problems were due to circumstances beyond her control. Applicant cites full-time employment since August 2002. Her debts, even including the 2012 Federal income tax debt not alleged in the SOR do not appear overly burdensome, and Applicant has provided no explanation why she was unable to keep up with her bills or work out arrangements with her creditors. Certainly taking no action to address even the debts she listed on her July 2014 clearance application until after she received the SOR was not responsible.⁷ Applicant has received no financial or credit counseling, and her belated efforts do not demonstrate that the debts are being resolved.⁸ Moreover, efforts to resolve her debts undertaken after receiving the SOR do not constitute a good-faith effort to satisfy them.⁹

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.¹⁰ Applicant's efforts to date do not constitute such a plan. Moreover, she did not provide any evidence that would support a "whole-person" assessment arguing for granting her clearance notwithstanding her financial issues. I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F: **AGAINST APPLICANT**

Subparagraphs a-t:	Against Applicant
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¶ 19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations; g) failure to file annual Federal, state, or local income tax returns as required or the fraudulent filing of the same;

¶ 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;

8¶ 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;

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

¹⁰ISCR Case No. 07-06482 (App. Bd. 21 May 2008).

Subparagraph u:
Subparagraphs v-z:

For Applicant
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.

JOHN GRATTAN METZ, JR.
Administrative Judge