



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



In the matter of: )  
 )  
XXXXXXXXXXXXXXXXXXXXXXX ) ISCR Case No. 15-06575  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Charles Hale, Esquire, Department Counsel  
For Applicant: *Pro se*

07/25/2017  
\_\_\_\_\_

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

METZ, John Grattan, Jr., Administrative Judge:

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

On 14 June 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 26 October 2016, when Applicant's response to the FORM was due. Applicant provided no additional information. DOHA assigned the case to me 1 July 2017.

---

<sup>1</sup>Consisting of the File of Relevant Material (FORM), Items 1-7.

<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. 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.

## Findings of Fact

Applicant denied SOR financial allegations 1.a-1.c, and admitted allegations 1.d-1.f. He is a 41-year-old mechanic employed by a U.S. defense contractor since August 2008. He has been continuously employed since February 1998, when he enlisted in the United States military, from which he was honorably discharged in June 2005. Applicant has been married since October 1997, and has two adult daughters and a 10-year-old son. He claims to have had a background investigation in November 2009, but did not list a clearance status (Item 3).

The SOR alleges, and Government exhibits (Items 4-7) substantiate, six delinquent debts totaling over \$14,000. He admits three debts totaling \$6,700. He claimed to have settled SOR debt 1.a in November 2009, and submitted a satisfaction of judgment from a judgment creditor different than the SOR creditor.<sup>3</sup> Applicant's Answer claimed that SOR debt 1.b was a fraudulent account, due to his personal information being compromised in the 2015 Office of Personnel Management hack.<sup>4</sup> Applicant's Answer stated that SOR debt 1.c was not his liability, and provided a July 2016 dispute form.<sup>5</sup>

Applicant admitted SOR debts 1.d and 1.f, but claimed, without corroboration, to have paid them. SOR debt 1.d appears to be a bank overdraft charge, and appears on all three of Applicant's credit reports. His September 2016 credit report (Item 5) also reflects two additional overdraft charges. Applicant also admitted SOR debt 1.e, and stated that he would pay the debt. However, he has documented no contacts with the creditor, or any efforts to arrange a payment schedule.

The Government investigator reported that Applicant provided a personal financial statement (PFS) that showed \$2,722 positive monthly cash flow. Applicant stated at the time that he would look into the debts listed on his credit report. Applicant has not really explained his indebtedness, except to note that his wife handles the household finances since Applicant's job frequently takes him overseas.

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

---

<sup>3</sup>During a December 2014 interview with a Government investigator (Item 4), Applicant stated that SOR debt 1.a was the same debt Applicant listed on his March 2011 clearance application (Item 3) under a named individual. The named individual obtained a judgment against Applicant, which he settled in November 2009. However, Applicant provided no documentation that the two accounts were the same.

<sup>4</sup>However, Applicant told the Government investigator that the account was for an automobile loan, a fact confirmed by his September 2016 (Item 5), July 2015 (Item 6), and November 2014 (Item 7) credit reports.

<sup>5</sup>However, each of Applicant's credit reports already indicate that Applicant disputes the account. Applicant has stated no basis for his dispute. The listed creditor is a collection agent for a retail bank that issues store-branded credit cards.

## 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(d). 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>6</sup>

## Analysis

The Government established a case for disqualification under Guideline F, and Applicant failed to mitigate the security concerns. Applicant has a history of financial difficulties, which are ongoing.<sup>7</sup> With the exception of a satisfaction of judgment form that may or may not resolve SOR debt 1.a, Applicant has not documented any of the claimed payments, established a legitimate basis for contesting any debts, or documented any payment arrangements on the one large debt that he admits.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple, and having not established any clear reason for his financial problems, his financial situation cannot be considered unlikely to recur.<sup>8</sup> Applicant's financial problems have not been shown to be due to

---

<sup>6</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>7</sup>¶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;

<sup>8</sup>¶20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

circumstances beyond his control, nor can he demonstrate that he has taken responsible measures to deal with his delinquent debts.<sup>9</sup>

Applicant submitted no evidence to show that he received credit or financial counseling, and he has not established that these debts are being resolved.<sup>10</sup> He cannot establish that he has made a good-faith effort to address his debts.<sup>11</sup> Accordingly, I resolve Guideline F against Applicant.

### **Formal Findings**

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

Subparagraphs a-f:	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

---

<sup>9</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>10</sup>¶20(c) the individual 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>11</sup>¶20(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.