



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



In the matter of:)	
)	
XXXXXXXXXXXXXXXXXXXXX.)	ISCR Case No. 15-06633
)	
Applicant for Security Clearance)	

Appearances

For Government: Tovah A. Minster, Esquire, Department Counsel
For Applicant: *Pro se*

05/26/2017

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 30 March 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 closed 6 July 2016, when Department Counsel stated no objection to Applicant's response to the FORM. DOHA assigned the case to me 7 April 2017.

¹Consisting of the File of Relevant Material (FORM), Items 1-4, 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.

Findings of Fact

Applicant denied the SOR financial allegations, except for SOR 1 b-1.c and 1.e. He is a 48-year-old machinist employed by a U.S. defense contractor since October 2014. He served honorably in the United States military from July 1987 to July 1992. He has not previously held a clearance (Item 2). This was a pre-employment clearance application, without which Applicant was unable to begin work.³

The SOR alleges, and Government exhibits (Items 1-4) substantiate, eight delinquent debts totaling nearly \$28,000. Applicant admits three debts totaling nearly \$8,000. Applicant's evidence shows that SOR debts 1.a and 1.h belonged to his son, who is a junior, and have been removed from Applicant's credit reports. Applicant settled SOR debt 1.b in October 2014, and has made the required monthly payments from October 2014 through June 2016. He paid SOR debt 1.c in April 2016, and the account has been removed from his credit reports. SOR debt 1.d is the same as SOR debt 1.g. Applicant disputed the debt as not being his in May 2012, and the creditor removed the account from his credit reports. The creditor at SOR 1.e sold the account (Item 2), but a successor-in-interest does not appear on Applicant's February 2016 credit report (Item 3). Applicant tried to locate the creditor, but was unable to. Applicant reached a compromise settlement agreement with the SOR debt 1.f creditor in November 2012, and made the required monthly payments between December 2012 and May 2013, ahead of schedule. Applicant's February 2016 credit report shows the account paid, and the creditor provided Applicant a letter showing that the account was settled in full in April 2013.

Applicant disclosed SOR debt 1.b and 1.f on his October 2014 clearance application (Item 2). There does not appear to have been an interview with a Government investigator. Applicant attributes his financial problems to his son's medical issues, and to being laid off from his job in October 2012.

Applicant provided no budget or financial statement. He has not received any credit or financial counseling. He 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

³Applicant had been working at a retail building supply store since December 2013. He had been unemployed from October 2012 to December 2013. From September 1996 to October 2012, he was employed as a gaming supervisor at a local casino.

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 2012, when he was laid off from his job and his son experienced medical issues.⁵ However, Applicant began to address his delinquent debts even before he obtained employment in December 2013.

Applicant meets most of the mitigating conditions for financial considerations. While his financial difficulties are both recent and multiple, the circumstances which led to his financial situation may be unlikely to recur.⁶ They were certainly due to circumstances beyond his control, and he dealt with them responsibly, having begun to address them even before he regained employment in December 2013.⁷ Indeed, the only debts not resolved at the time of the SOR were a \$106 medical bill, and a credit card account he was unable to obtain a payment address for.

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

⁵¶19(a) inability or unwillingness to satisfy debts; (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;

Although Applicant submitted no evidence to show that he received credit or financial counseling, his debts have clearly been resolved.⁸ Applicant was in contact with his creditors well before the SOR was issued, and he made a good-faith effort to address these debts.⁹ 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

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.