



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



In the matter of:	)	
	)	
XXXXXXXXXXXXXXXXXXXXXXX	)	ADP Case No. 15-07346
	)	
Applicant for Public Trust Position	)	

**Appearances**

For Government: Benjamin R. Dorsey, Esquire, Department Counsel  
For Applicant: *Pro se*

08/01/2017

---

**Decision**

---

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> I deny Applicant's eligibility for a public trust position.

On 21 August 2015, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising trustworthiness 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 17 August 2016, when Applicant's Response to the FORM was due.

---

<sup>1</sup>Consisting of the File of Relevant Material (FORM), Items 1-6.

<sup>2</sup>DoD conducts trustworthiness determinations for contractor personnel employed in Information Systems Positions pursuant to 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 for SORs issued after September 1, 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.

Applicant provided no additional evidence. DOHA assigned the case to me 22 May 2017.

### **Findings of Fact**

Applicant admitted the SOR financial allegations, except for SOR 1.c. She is a 27-year-old customer service representative sponsored for a public trust position by a defense contractor, for whom she has worked since January 2015. She has not previously had a trustworthiness determination. She has never married, and lives with her parents.

Applicant was unemployed from October 2011 to March 2012, from May 2012 to September 2012, and from August 2014 to January 2015. However, it appears that she left her last employment voluntarily in August 2014 to look for a better job.

The SOR alleges, and Government exhibits (Items 3-6) establish, 10 delinquent debts totaling about \$15,000. Applicant admits all but the \$1,500 past-due balance on a vehicle loan, which she claims, without corroboration, "has been taken care of." The debts consist of the delinquent vehicle loan, two unpaid parking tickets, three delinquent medical accounts, two delinquent education accounts, and two unpaid consumer accounts. Applicant disclosed five debts, four of which are SOR debts, on her January 2015 clearance application (Item 3). She discussed these debts, along with the remaining SOR debts during a July 2015 interview with a Government investigator (Item 4), based on her February 2015 credit report (Item 5). She told the investigator that she would research the delinquent debts and resolve them.

Applicant's Answer states that she will pay SOR debts 1.a and 1.g-1.j by the end of June 2016;<sup>3</sup> that she has repayment plans for SOR debts 1.d-1.f, that she will make a repayment plan for SOR debt 1.b, and that SOR debt 1.c has been resolved. She provided no corroborating evidence for these claims.

Applicant attributes her financial problems to her unemployment periods, and her father's unemployment. However, she has not provided the details that would establish the impact those unemployments had on her finances. Moreover, she has documented no contacts with her creditors since her September 2014 clearance application, her January 2015 interview, her May 2016 Answer, or her June 2016 FORM.

Applicant provided no budget or personal financial statement indicating her financial situation. She has not documented any credit or financial counseling. She provided no work or character references, or evidence of civic or community involvement.

---

<sup>3</sup>Applicant previously told the investigator that she would pay the parking tickets (SOR 1.i-1.j) by August 2015; that she would pay the medical bill at SOR 1.a by September 2015; and that she would pay the other medical bills (SOR 1.f-1.g) by October 2015.

## Policies

The adjudicative guidelines (AG) list factors to evaluate a person's suitability for access to sensitive information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also show a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(d). The applicability of a disqualifying or mitigating condition is not, by itself, conclusive. However, specific guidelines should be followed when a case can be measured against them, as they are policy guidance governing the grant or denial of eligibility for a public trust position. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).

Trustworthiness decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's public trust position. 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 public trust position, the applicant bears a heavy burden of persuasion.

Persons with access to sensitive 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 required judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels deciding any reasonable doubt about an Applicant's suitability for access in favor of the Government.<sup>4</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 that have remained unaddressed since at least January 2015.<sup>5</sup>

Applicant meets none of the mitigating conditions for financial considerations. given that she has documented no action to address them.<sup>6</sup> Although two of her unemployments were due to circumstances beyond her control, she has not documented that she took responsible action to address her debts before the SOR was

---

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

<sup>5</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>6</sup>¶20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

issued.<sup>7</sup> Applicant has had no credit or financial counseling, and there is no documentation any of the debts are being resolved.<sup>8</sup> Her lack of documentation does not constitute a good-faith effort to address her debts.<sup>9</sup> Accordingly, I conclude Guideline F against Applicant.

## Formal Findings

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraphs a-j:	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 eligibility for a public trust position for Applicant. Eligibility for a public trust position denied.

JOHN GRATTAN METZ, JR  
Administrative Judge

<sup>7</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;

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 and is adhering to a good-faith effort to repay overdue creditors or otherwise  
 resolve debts.