



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



In the matter of: )  
 )  
XXXXXXXXXXXXXXXXXXXX ) ISCR Case No. 15-07850  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Tara Karoian, Esquire, Department Counsel  
For Applicant: *Pro se*

07/28/2017

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

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

On 27 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 15 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.

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<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 the SOR financial allegations, except for SOR 1.a. He is a 32-year-old aircraft mechanic employed by a U.S. defense contractor since March 2015. He has been continuously employed since August 2003, when he enlisted in the United States military, from which he was honorably discharged in April 2013, in paygrade E-5. He was underemployed as a construction worker March-May 2013, before obtaining positions more fitting his professional qualifications. He seeks to regain the clearance he obtained in April 2004.

The SOR alleges, and Government exhibits (Items 5-7) substantiate, six delinquent debts totaling nearly \$13,000, all of which were included in a Chapter 13 bankruptcy petition Applicant filed in November 2014, and had voluntarily dismissed in April 2015.<sup>3</sup> Applicant denied the individual debts as having been resolved with his bankruptcy filing, although he acknowledged owing the debts during his July 2015 interview with a Government investigator (Item 7). Applicant admitted filing the bankruptcy petition, and refiling the petition in October 2015. His plan was confirmed in May 2016, requiring him to pay \$350 monthly for 60 months, for a total of \$21,000.<sup>4</sup>

Applicant attributes his delinquent debts to a severe cut in income due to a job change. He has not been more specific, but presumably that job change was when his enlistment ended. He was not allowed to reenlist, and he took a job as a construction worker for three months in 2013. He has provided no details about his May 2013-March 2015 employment.

Applicant provided no budget or financial statement. He has not documented any credit or financial counseling, although that would have been a requirement for filing his bankruptcy petition. 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

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<sup>3</sup>In July 2015, Applicant told a Government investigator that he had the bankruptcy petition dismissed because he was relocating for his defense contracting job, and had decided to resolve his delinquent debts directly with his creditors. He claimed that he had reached repayment agreements with his creditors, and his wife was currently making payments on the agreements (Item 7). However, he documented no payments.

<sup>4</sup>Applicant disclosed this refiling in his July 2016 Answer to the SOR (Item 2), claimed that all the SOR debts were included in the filing, and claimed that he had been making the required plan payments. However, he provided no copy of the bankruptcy petition (only a case number) and no proof that he had been making plan payments. Department Counsel obtained available internet documentation of the petition (Item 4), but that documentation shows only that a plan that included SOR debt 1.e was confirmed in May 2016.

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.<sup>5</sup>

### **Analysis**

The Government established a case for disqualification under Guideline F, and Applicant failed to fully mitigate the security concerns. Applicant has a history of financial difficulties, which are ongoing.<sup>6</sup> He has not documented that his approved wage earner plan will resolve the alleged SOR debts.

Applicant's case is a failure of proof. He has not documented that his financial problems were due to circumstances beyond his control. While I might reasonably infer that his three months' employment as a construction worker was at a lower pay than his military salary, the same inference cannot be drawn for his May 2013-March 2015 employment, and Applicant has provided no documentation that would allow me to conclude that he had an extended period of unemployment after leaving the military. Moreover, he has not documented that his refiled bankruptcy petition includes all the alleged SOR debts. Finally, he has not documented that he has been making the required payments on his approved plan.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; although the circumstance which

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<sup>5</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>6</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;

Applicant submitted no evidence to show that he received credit or financial counseling, and even if I infer that he got financial counseling as part of his bankruptcy process, he has not established that these debts are being resolved.<sup>9</sup> Having not documented that he has been making required plan payments, he cannot establish that he has made a good-faith effort to address those debts.<sup>10</sup> Accordingly, I conclude Guideline F against Applicant.

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-g:	Against Applicant

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.