



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



In the matter of:)
)
XXXXXXXXXXXXXXXXXXXXXXX) ISCR Case No. 15-07091
)
Applicant for Security Clearance)

Appearances

For Government: Chris Morin, Esquire, Department Counsel
For Applicant: *Pro se*

07/25/2017

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 24 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 20 July 2016, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 22 May 2017.

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

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. 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 admitted the SOR financial allegations. She is a 41-year-old customer support analyst employed by a U.S. defense contractor since October 2012. She previously served in the U.S. military from November 2004 to October 2012, from which she was honorably discharged in paygrade E-5. She seeks to retain the clearance she obtained while in the military.

The SOR alleges, Government exhibits (Items 2-4) establish, and Applicant admits seven delinquent debts totaling over \$19,500. The debts consist of a delinquent automobile account (SOR 1.a), two delinquent credit accounts (SOR 1.b-1.c), and four delinquent medical debts (SOR 1.d-1.g). Applicant reported no financial problems on her March 2015 clearance application (Item 3). In her May 2016 Answer (Item 2), Applicant claimed to have made payment arrangements for SOR debts 1.a-1.c, and to have paid the medical debts. However, she provided no documentation of the arrangements, and her proffered evidence of April 2016 payments do not correlate to the SOR debts.³

Applicant provided no explanation for her financial problems. She provided no budget or financial statement. She has not documented any financial or credit counseling. 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(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.

³Applicant's bank records show a \$208 payment to SOR creditor 1.g, but neither the account number nor the amount match the SOR allegation. Moreover, the \$208 payment matches the total owed to SOR creditor 1. and 1.f (the same creditor) but the account number does not match either debt. The bank records show a \$200 payment to a collection agent, but the account number does not match any of the SOR account numbers. The bank records show a \$150 payment to SOR creditor 1.a, but again, the account number does not match the SOR. Finally, the bank records show a bank draft for an illegible amount with an illegible draft number.

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 did not mitigate the security concerns. Applicant has an extensive history of financial difficulties that she has not explained, and for which she did not provide any documentation of claimed payment arrangements, or provide sufficient corroboration of claimed payments.⁵

Applicant meets none of the mitigating conditions for financial considerations. She has not clearly documented any efforts to resolve them.⁶ Applicant did not document that her financial problems were due to circumstances beyond her control, and any efforts to address them were not undertaken until after she received the SOR, which is clearly not responsible.⁷ Applicant has had no credit or financial counseling, and there is no evidence any of the debts are being resolved.⁸ Her lack of effort does not constitute a good-faith effort to address her debts.⁹ In addition, Applicant has not demonstrated a track record of living within her means. Furthermore, Applicant provided no “whole-person” evidence to mitigate the security concerns raised by her inaction on the debts. Accordingly, I conclude Guideline F against Applicant.

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

⁵19(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;

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;

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.

Formal Findings

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraphs a-g: 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