



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



In the matter of:)	
)	
XXXXXXXXXXXXXXXXXXXXX)	ISCR Case No. 15-08264
)	
Applicant for Security Clearance)	

Appearances

For Government: Nicole A. Smith, Esquire, Department Counsel
For Applicant: *Pro se*

07/28/2017

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 22 April 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 25 August 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 1-6 .

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 44-year-old material support worker, employed by a U.S. defense contractor since June 2014. She has been continuously employed since March 2003. She has not previously held a clearance.

The SOR alleges, Government exhibits (Items 3-6) establish, and Applicant admits 19 delinquent debts totaling nearly \$17,000. Applicant disclosed twelve delinquent debts, including five of the SOR debts, on her January 2015 clearance application (Item 3). At the time, she had undertaken no action to resolve her debts except to consider bankruptcy. She discussed these debts, and others, during a September 2015 interview with a Government investigator (Item 4), based on her February 2015 credit report (Item 6). She told the investigator that she had decided not to pursue bankruptcy, and would soon begin addressing her delinquent debts.

Applicant attributes her financial problems to her August 1999 divorce from her first husband. With the loss of his income, she fell behind on her accounts. However, Applicant remarried in September 2004. She has documented no contacts with her creditors following her January 2015 clearance application, her September 2015 interview, her June 2016 Answer, or her July 2016 FORM.

Applicant 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(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.³

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 August 1999.⁴

Applicant meets none of the mitigating conditions for financial considerations, given that she has taken no action to address them.⁵ Even if I accept her 1999 divorce as a circumstance beyond her control, her inaction since then has not been responsible.⁶ Applicant has had no credit or financial counseling, and there is no evidence any of the debts are being resolved.⁷ Her lack of effort does not constitute a good-faith effort to address her debts.⁸ In addition, Applicant has not demonstrated a track record of living within her means. Accordingly, I conclude Guideline F against Applicant.

Formal Findings

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

³See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁴19(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;

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

⁶¶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;

⁷¶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;

⁸¶20(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

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