



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



In the matter of:)	
)	
XXXXXXXX, Xxxx Xxxxx, Xx.)	ISCR Case No. 14-05451
)	
Applicant for Security Clearance)	

Appearances

For Government: David F. Hayes, Esquire, Department Counsel
For Applicant: *Pro se*

08/25/2015

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 9 January 2015, 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 17 July 2015, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 4 August 2015.

¹Consisting of the File of Relevant Material (FORM), Items 1-5.,

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 admitted the SOR financial allegations. He is a 42-year-old shipfitter employed by a U.S. defense contractor since March 2014. He has been working a second, part-time job since October 2013. He has not previously held a clearance. He was unemployed from November 2011 to October 2012. Otherwise, he has been continuously employed, full time, since September 2003. He has never married, but has two grown children.

The SOR alleges, Government exhibits (Items 2-5) substantiate, and Applicant admits four delinquent debts totaling over \$9,500. The debts consist of a delinquent automobile loan for \$1,262 (SOR 1.c), a delinquent dirt bike loan for \$4,271 (SOR 1.d), and two consumer debts for over \$4,000 (SOR 1.a and 1.b).

Applicant's March 2014 clearance application (Item 2) reported these delinquent debts. He attributed them to his unemployment, and indeed, the four debts fell delinquent in about June 2012. During a subject interview with a Government investigator in May 2014 (Item 3), Applicant stated that he was catching up on paying his debts and re-building his credit. Unfortunately, he provided no evidence showing that he was dealing with the SOR debts. However, his April 2014 credit report (Item 4) reflects that he paid the automobile loan in March 2014.

Applicant has not documented any contact with his creditors since becoming re-employed in October 2012, nearly 18 months before he obtained the job that requires a clearance. He has not documented what actions, if any, he has taken regarding his overall finances since that time. He has stated no plan for addressing his delinquent debts. He provided no budget or financial statement. Applicant has not received any credit counseling or debt consolidation. He provided no work or character references.

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 failed to submit sufficient evidence to mitigate the security concerns. Applicant has a history of financial difficulties, which are ongoing, and seem unlikely to be resolved any time soon.⁴ Applicant’s financial problems appear to date from at least November 2011, when he was unemployed for nearly a year. However, Applicant has been re-employed since October 2012. Applicant documented no efforts to resolve the debts, although his April 2014 credit report reflects he paid his vehicle loan.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; although the immediate cause of his problems may be unlikely to recur if he remains employed.⁵ Applicant’s 12 months unemployment was certainly beyond his control, but he has not demonstrated that he has been responsible in addressing his debt.⁶ Applicant’s April 2014 credit report (Item 4) shows three other accounts that had been delinquent but are now current. However, Applicant has not explained how those accounts relate, if at all, to the SOR debts.

Applicant submitted no evidence to show that he received credit or financial counseling, and his debts are clearly not being resolved.⁷ Although Applicant paid his vehicle loan, he documented no other contacts with his SOR creditors, and thus he cannot establish that he has made a good-faith effort to address his debts.⁸ I considered that Applicant paid four debts not alleged in the SOR. Nevertheless, the scant favorable

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

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

evidence is insufficient to mitigate the financial considerations security concerns. Moreover, Applicant has mostly disregarded these financial obligations since becoming re-employed in October 2012. His documented inaction for over two years raises significant security concerns that Applicant has not begun to address. Accordingly, I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-b, d:	Against Applicant
Subparagraph c:	For 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