



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



In the matter of:)
)
) ISCR Case No. 20-03539
)
Applicant for Security Clearance)

Appearances

For Government: Tara R. Karoian, Esq., Department Counsel
For Applicant: *Pro se*

06/01/2022

Decision

LOUGHRAN, Edward W., Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On January 17, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). Applicant responded to the SOR on January 25, 2021, and requested a hearing before an administrative judge. The case was assigned to me on April 1, 2022.

The hearing was convened as scheduled on May 12, 2022. Government Exhibits (GE) 1 through 4 were admitted in evidence without objection. The objection to GE 5 was sustained. Applicant testified and submitted Applicant's Exhibits (AE) A and B, which were admitted without objection.

Findings of Fact

Applicant is a 45-year-old employee of a defense contractor, where he has worked since August 2017. He served on active duty in the U.S. military from 2002 until he was honorably discharged in 2006, and he was honorably discharged from the military reserve in 2010. He seeks to retain a security clearance. He has a bachelor's degree that he earned in 2012. He is married with an 11-year-old child. (Tr. at 39-40; Applicant's response to SOR; GE 1)

Applicant worked for a defense contractor from 2015 to 2017. The job paid well, but it required extensive travel. Applicant sought a better work-life balance and left the position for his current job that paid less. (Tr. at 14, 16-20; Applicant's response to SOR; GE 1; AE B)

In about November 2018, Applicant took out a personal loan to pay off other credit cards. He did not maintain the payments, and the creditor charged off \$37,425. The creditor filed a lawsuit and obtained a judgment against him in March 2020. (Tr. at 15, 24-25; Applicant's response to SOR; GE 2-4; AE B)

Applicant took out a loan of about \$40,000 from his 401(k) retirement account. He settled the judgment for about \$21,000. The creditor acknowledged the judgment was satisfied, and the judgment was released in July 2021. (Tr. at 14-15, 20-21, 25-27; AE B)

Applicant used some of the remaining 401(k) loan to pay down a credit card and as a down payment on a purchase of a vehicle. His normal 401(k) contributions are going to the loan until it is paid off. His finances are now stabilized. He recently received a \$25,000 pay raise, and his wife returned to the workforce. He is able to pay all his current bills without accruing any additional delinquent debts. (Tr. at 15, 20, 27-38)

Policies

This case is adjudicated under Executive Order (EO) 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), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's

overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security concern for financial considerations is set out in AG ¶ 18:

Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following is potentially applicable in this case:

(a) inability to satisfy debts.

Applicant incurred a \$37,425 debt that he was unable to pay. AG ¶ 19(a) is applicable.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment; and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant settled and paid the only debt at issue. His finances are stable again. He recently received a \$25,000 pay raise, and his wife returned to the workforce. He is able to pay all his current bills without accruing any additional delinquent debts.

Applicant had a plan to resolve his financial problems, and he took significant action to implement that plan. His finances do not cast doubt on his current judgment, reliability, trustworthiness, and ability to protect classified information. Security concerns about Applicant's finances are mitigated.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my

comments under Guideline F in my whole-person analysis. I also considered Applicant's honorable military service.

Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the financial considerations security concerns.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	For Applicant
Subparagraph 1.a:	For Applicant

Conclusion

It is clearly consistent with the national interest to continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

Edward W. Loughran
Administrative Judge