



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



In the matter of:)	
)	
)	ISCR Case No. 22-00589
)	
)	
Applicant for Security Clearance)	

Appearances

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

February 15, 2023

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On October 20, 2020, Applicant submitted a security clearance application (e-QIP). (Item 3.) On June 22, 2022, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order 10865 (EO), *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 for Determining Eligibility for Access to Classified Information*, effective within the DoD after June 8, 2017.

Applicant responded to the SOR (Answer) on June 24, 2022. (Item 2.) He requested that his case be decided by an administrative judge on the written record. Department Counsel submitted the Government’s written case on August 17, 2022. A complete copy of the File of Relevant Material (FORM), containing seven Items was received by Applicant on August 30, 2022. He was afforded an opportunity to file

objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. Applicant submitted no response to the FORM. DOHA assigned the case to me on December 1, 2022. Items 1 through 7 will hereinafter be referred to as Government Exhibits 1 through 7.

Findings of Fact

Applicant is 48 years old and is married with two adult children. He has a high school diploma and some college. He is employed by a defense contractor as a Lead Supervisor Janitorial. He is seeking to obtain a security clearance in connection with his employment.

Guideline F - Financial Considerations

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness and ability to protect classified information.

On October 21, 2013, Applicant was granted a Top Secret security clearance. He is currently working for two defense contractors. He began working for defense contractor A in January 2017, where he works part-time. He began working for defense contractor B in November 2018, who is currently sponsoring him for a security clearance.

The SOR alleges that the Applicant is indebted to three creditors totaling approximately \$21,000, for delinquent accounts that have been charged off. Applicant admits each of the allegations set forth in the SOR. Credit reports of the Applicant dated November 7, 2020; December 27, 2021; and August 15, 2022, confirm the indebtedness.

The following delinquent debts remain owing:

1.a. A delinquent debt is owed to a bank for an account that was charged off in the approximate amount of \$12,199. There is no evidence to show that Applicant has done anything to resolve the debt. The debt remains owing.

1.b. A delinquent debt is owed to a creditor for an account that was charged off in the approximate amount of \$5,521. There is no evidence to show that Applicant has done anything to resolve the debt. The debt remains owing.

1.c. A delinquent debt is owed to a bank for an account that was charged off in the approximate amount of \$3,139. There is no evidence to show that Applicant has done anything to resolve the debt. The debt remains owing.

On November 18, 2020, during Applicant's interview with a Federal investigator, he stated that he incurred medical bills in 2016, and has had past car trouble that have caused financial difficulties. It is not clear whether these conditions caused his current financial indebtedness, since there is nothing else in the record that explains why he is excessively delinquently indebted.

Applicant stated that he intends to work with the creditors in good faith and establish payment arrangements as soon as possible. He failed to submit any evidence in mitigation. There is nothing more in the record to show that he has taken any action toward resolving his debts.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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 clearance 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 as to 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

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

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant has incurred delinquent debts totaling approximately \$21,000. These accounts have been charged off by the creditors. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under the Financial Considerations guideline are potentially applicable under AG ¶ 20;

(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;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g. loss of employment, a business downturn, unexpected medical emergency, or a death, divorce, or separation), and the individual acted responsibly under the circumstances; and

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

Applicant is delinquently indebted to each of the three creditors set forth in the SOR. He has failed to provide any evidence in mitigation. He stated that he intends to work with the creditors in good faith to establish payment arrangements as soon as possible. There is no evidence to show that he has contacted the creditor, set up an agreeable payment arrangement, or otherwise resolved the debts. He gives no reason or excuse for his excessive indebtedness. He has known for some time that his financial delinquencies and numerous unpaid bills pose a threat to his security clearance eligibility, and he has done nothing to resolve the issue. His debts remain delinquent and owing. Applicant's inaction for so long reflects a pattern of unreliability, untrustworthiness, and poor judgment. Applicant fails to meet the eligibility requirements for access to classified information.

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 considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I conclude Applicant has not 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 ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a. through 1.c.	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson
Administrative Judge