



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



In the matter of:)
)
) ISCR Case No. 21-02498
)
Applicant for Security Clearance)

Appearances

For Government: Raashid Williams, Esq., Department Counsel
For Applicant: *Pro se*

07/05/2023

Decision

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance. He did not engage in any conduct that raised concerns under the adjudicative guidelines. Applicant proactively handled and reported his efforts to address a change in finances with potential to adversely affect his national security eligibility. In response to a \$100,000 loss in household income, he enrolled in and has participated in a debt settlement program since October 2019. Clearance is granted.

Statement of the Case

On January 17, 2022, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline. This action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended, as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive), and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to*

Hold a Sensitive Position, implemented on June 8, 2017. DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant's security clearance.

Applicant answered the SOR and requested a decision without a hearing. The Government submitted its written case on April 28, 2022. The Government provided Applicant a complete copy of the file of relevant material (FORM) and the Directive. He acknowledged receipt of the documents on May 6, 2022 and did not respond. The attachments to the FORM are admitted to the record as Government's Exhibits (GE) 1 through 6, without objection from Applicant.

Findings of Fact

Applicant, 42, has worked for his employer, a federal contracting company, as an information technology professional since May 2016. He has worked for federal contracting companies since 2002, when he was initially granted access to classified information. The record contains a May 2016 security clearance application. He did not have any derogatory financial information to report. The investigation uncovered one delinquent account, a \$35 medical bill. (GE 3 – 4)

In September 2019, Applicant's wife was laid off from her job at which she earned over \$100,000. Although he did not disclose their total household income before the layoff, he described the loss of income as "life-altering." In response, the couple decided to make changes to their finances and enrolled in a debt settlement program (DSP) to address their debt load. The couple enrolled in DSP 1 in October 2019. Applicant reported this information to his facility security officer (FSO). He also submitted an SF-86 certification in October 2019, to update the financial information reported in the May 2016 application, stating: "[w]orking with a consolidation company to get handle on my debts. The process will take some time and during that as things are worked out with the creditors my (and wife's) credit will be in a state of flux. This will change as things progress and will keep form updated as needed." (GE 2)

At the time they enrolled in DSP 1, Applicant and his wife did not have any delinquent debts. They enrolled 15 debts totaling over \$128,000 into the program. The debts alleged in SOR ¶¶ 1.a, 1.b, 1.g, 1.i, and 1.j are easily identifiable from the DSP 1 documents. The program told Applicant to stop paying on his accounts, so that DSP 1 could negotiate settlements on the accounts, which the program believed it could do for approximately \$70,000. Applicant agreed to pay \$1,946 each month to the program to fund the debt settlements. (GE 2)

A year later, Applicant and his wife transferred to DSP 2, which they believed had more favorable terms. They enrolled 10 debts in the program totaling \$117,000. Applicant and his wife agreed to pay \$1,631 each month for 34 months. The debts alleged in SOR ¶¶ 1.a, 1.g, 1.h, and 1.j are easily identifiable from the DSP 2 documentation. DSP 2 indicated that they could settle the debts for \$33,121. As of January 2021, Applicant had paid over \$26,000 into the program, which has resolved the debts alleged in SOR ¶¶ 1.a and 1.h as well as one non-SOR debt. (GE 2)

The credit reports in the record, dated December 2020 and November 2021, respectively, show that Applicant had a favorable credit history until November 2019. The delinquent debts alleged in the SOR were reported as becoming delinquent between November 2019 and October 2021. Neither Applicant nor his wife have any open credit accounts. They are current on all their recurring financial obligations. Applicant explained that through this process, he and his wife have learned a lot about personal finance and their relationship to debt. He states that they will continue to work diligently to keep their debt at a manageable level. (GE 5-6)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. 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. 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence.

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.

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

Financial Considerations

Unresolved delinquent debt is a serious security concern because failure to "satisfy debts [or] 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.” (AG ¶ 18).

In this case, Applicant did not engage in any disqualifying conduct. The debts alleged in the SOR are not the result of an unwillingness or inability to pay his debts. Applicant does not have a history of financial mismanagement or irresponsibility. The reported debts are the result of Applicant’s participation in a debt settlement program – a legitimate way of addressing debt. Instead of making payment directly to the creditors, who have the power to report negative information to the credit reporting agencies, he has been making regular and timely payments to debt settlement programs, engaged to negotiate with his creditors on his behalf since October 2019.

Based on the record, I have no doubts about Applicant’s suitability for continued access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(d). Security clearance adjudications are not debt collection proceedings. Rather, the purpose of the adjudication is to make “an examination of a sufficient period of a person’s life to make an affirmative determination that the person is an acceptable security risk.” (AG ¶ 2(a))

The AGs do not require an applicant to immediately resolve or pay each and every debt alleged in the SOR, to be debt free, or to resolve first the debts alleged in the SOR. An applicant needs only to establish a plan to resolve financial problems and take significant actions to implement the plan. Applicant has done so. As a long-time clearance holder, he proactively handled an issue that could have negatively affected his security clearance eligibility. He made changes to his finances almost immediately after experiencing a significant change in his financial circumstances. He reported the issue to his FSO and completed a written update to his security clearance application. A fair and commonsense assessment of the record evidence as a whole supports a conclusion that Applicant did not engage in any conduct that raises a security concern under the Directive.

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:

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|--|---------------|
| Paragraph 1, Financial Considerations: | FOR APPLICANT |
| Subparagraph 1.a – 1.j | For Applicant |

Conclusion

Based on the record, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. National security eligibility for access to classified information is granted.

Nichole L. Noel
Administrative Judge