



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



In the matter of:	)	
	)	
	)	ISCR Case No. 23-01168
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Karen A. Moreno-Sayles, Esq., Department Counsel  
For Applicant: *Pro se*

02/01/2024

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**Decision**

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NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance. Applicant claims his financial problems were caused by events beyond his control that resulted in \$25,973 in unresolved delinquent debt. He did not provide sufficient evidence to corroborate his claims of financial hardship. Furthermore, the record supports a finding that he has failed to resolve his delinquent accounts despite having the means to do so. Clearance is denied.

**Statement of the Case**

On June 7, 2023, 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 August 22, 2023. The Government provided Applicant a complete copy of the file of relevant material (FORM) and the Directive. In the FORM, the Government informed Applicant that it was offering the January 24, 2023 summary of his subject interview with a background investigator into evidence. The Government advised Applicant of his ability to object to, correct, add, delete, or update the information in the subject interview summary. The Government further advised him that failure to respond could result in a determination by the administrative judge that he waived any objection to the document's admissibility. He acknowledged receipt of the FORM on September 7, 2023. He did not respond. Accordingly, the attachments to the FORM are admitted to the record as Government's Exhibits (GE) 1 through 5 without objection from either party.

### **Findings of Fact**

Applicant, 43, has worked for his employer, a federal contracting company since January 2021. He has worked in the aviation industry since March 2013, in positions abroad and domestically. He was initially granted access to classified information during his military service from May 2000 to May 2012, when he was medically retired. He completed his most recent security clearance application (SCA) in December 2022. He disclosed eight delinquent accounts, totaling \$28,456. He cited the Covid-19 pandemic and having multiple deaths in the family as the reasons for his financial problems. The ensuing investigation revealed Applicant has payment plans in place for two unalleged debts and has seven unresolved delinquent accounts, totaling \$25,973, which are alleged in the SOR. He admits all the alleged debts. (GE 1-3)

In Applicant's answer to the SOR, he stated that his financial problems were caused by two layoffs during the Covid-19 pandemic, the unexpected deaths of two family members whose funeral expenses he had to pay, and his choice to accept lower paying jobs to meet the demands of his family life. However, he only reported one Covid-related job change on his SCA. He did not report any deceased close relatives on the SCA, nor did he offer any specific information about the deceased relatives or provide detail about the financial burdens caused by their deaths. The record also does not contain any information regarding his underemployment or the resulting financial impact. (GE 1-2)

Applicant provided information about his finances in his April 2023 response to DOD interrogatories. He reported that he had established payment plans for two delinquent accounts, totaling \$65 per month. He also provided a personal financial statement. In addition to his annual salary of \$106,000, he receives approximately \$21,000 annually in disability income from the Department of Veterans Affairs. He reported having more than \$3,341 in disposable income after paying his recurring monthly expenses. At the time he answered the interrogatories, he admitted he had not

made any payment arrangements for the seven debts that were ultimately alleged in the SOR. (GE 4)

### **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**

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). Here, the SOR alleges, and the record supports a finding that Applicant is indebted to seven creditors for \$25,973.

