



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



In the matter of:)	
)	
)	ISCR Case No. 20-01126
)	
Applicant for Security Clearance)	

Appearances

For Government: Alison O’Connell, Esq., Department Counsel
For Applicant: *Pro se*

06/06/2024

Decision

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance to work in the defense industry. Applicant did not provide evidence that he has addressed his delinquent debt. Clearance is denied.

Statement of the Case

On July 8, 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 *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, implemented on June 8, 2017.

DOD adjudicators were unable to find that it is clearly consistent with the national interest to continue Applicant’s security clearance and recommended that the case be submitted to a Defense Office of Hearings and Appeals (DOHA) administrative judge for

a determination whether to grant his security clearance. Applicant timely answered the SOR and requested a hearing.

At the hearing, convened on July 19, 2023, I appended to the record as Hearing Exhibit (HE) I, the disclosure letter, dated September 27, 2022. I admitted Government's Exhibits (GE) 1 through 6 without objection. Applicant did not submit any documentation. After the hearing, I left the record open until September 1, 2023, to allow Applicant to submit additional documentation. He did not. DOHA received the hearing transcript (Tr.) on July 28, 2023.

Findings of Fact

Applicant, 35, has worked for his current employer, a federal contracting company, as an information technology professional since September 2018. He was initially granted access to classified information in April 2011 in connection with his service in the Army Reserve from March 2011 to April 2016. He submitted his most recent security application in December 3, 2018. He did not disclose any derogatory information. The background investigation revealed that Applicant owed \$28,000 on seven delinquent debts. (GE 1, GE 5)

Applicant blamed his financial problems on being young and immature, as well as a period of unemployment between March 2015 and February 2017. He incurred the debt alleged in SOR ¶ 1.a in 2016. He rented a car for a friend in State 1. He claimed that while his friend had possession of the car, it was stolen and found in State 2 more than 300 miles away. The rental car company considered the vehicle a loss and sued Applicant to recover the value. In April 2019, the debtor was awarded a lien and judgment for \$14,139.68. The debt remains unresolved. (Tr. 19-47; GE 2-6)

The debt alleged in SOR ¶ 1.b is the deficiency balance for a repossessed car. He purchased the car in 2012. He timely paid the car loan for two years before it became delinquent during a period of unemployment between March 2015 and February 2017. After repossessing the car, the creditor sold it at auction. Following his mother's advice, he decided not to pay the debt and allowed the statute of limitations to toll. (Tr. 20, 48-51; GE 2-6)

The debt alleged in SOR ¶ 1.c is for a credit card. He claims to have paid the debt in approximately 2018. He did not provide any proof of payment. (Tr. 20, 52-53; GE 2-6)

The debt alleged in SOR ¶¶ 1.d and 1.e are owed to a cable company and cellular service provider, respectively. Applicant claimed that he tried to pay the debts after discussing them during his interview with a background investigator in 2019. However, both creditors have sold the accounts to collection agencies, which Applicant claimed he could not identify. (Tr. 21, 53-54; GE 2-6)

Applicant incurred the debts in SOR ¶¶ 1.f and 1.g when he transferred his cell phone service from one provider to another with the understanding that the new

provider would pay the cancellation fee and remaining balance with his previous servicer. After multiple attempts to resolve the issue with the new provider, the matter was not resolved. He last attempted to resolve the issue in 2018. (Tr. 54-59; GE 2-6)

Applicant earns \$92,000 annually. He lives with his girlfriend, and they share living expenses. He currently has \$2,000 in savings. He did not present any evidence for his plans to resolve his debt. (Tr. 16, 24)

Policies

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(a), 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.

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

Failure to meet one’s 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. An individual who is financially overextended is at a greater risk of having to engage in illegal or otherwise questionable acts to generate funds. (AG ¶ 18) The record establishes the Government’s *prima facie* case that Applicant owed \$28,000 in delinquent debt. The following financial considerations disqualifying conditions apply:

AG ¶ 19(b) unwillingness to satisfy debts regardless of the ability to do so;
and

AG ¶ 19(c) a history of not meeting financial obligations.

None of the mitigating conditions apply. While Applicant may have incurred the debt during a period of unemployment, he has not taken any steps to resolve the delinquent accounts.

Based on the record, Applicant is not a suitable candidate for access to classified information at this time. 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)) Furthermore, applicants are not held to a standard of perfection. All that is required is that he develop a plan for handling his delinquent accounts and executing that plan. He did not present evidence of his plans or efforts to resolve his delinquent accounts.

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, Financial Considerations:	AGAINST APPLICANT
Subparagraphs 1.a – 1.g:	Against Applicant

Conclusion

In light of all of the circumstances presented, it is not clearly consistent with the national interest to grant Applicant a security clearance. Applicant's eligibility for access to classified information is denied.

Nichole L. Noel
Administrative Judge