



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



In the matter of:)	
)	
)	ISCR Case No. 23-02924
)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Brittany C. M. White, Esq., Department Counsel
For Applicant: *Pro se*

09/30/2024

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On February 27, 2023, Applicant submitted a security clearance application (e-QIP). (Item 3.) On January 25, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) 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 February 26, 2024. (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 April 29, 2024. A complete copy of the File of Relevant Material (FORM), containing eight Items was

received by Applicant on June 12, 2024. 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 September 16, 2024. Items 1 through 8 will hereinafter be referred to as Government Exhibits 1 through 8.

Findings of Fact

Applicant is 35 years old and is married with a stepson. He has a high school diploma, and he has completed a three-year program at an Aviation Institute where he received a license in airframe and powerplant aviation. He is employed by a defense contractor as an Aviation Mechanic. 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.

The SOR alleges that the Applicant is indebted to five creditors totaling approximately \$28,345 for delinquent consumer accounts that have either been placed for collection or were charged off. Applicant admits each of the allegations set forth in the SOR. Credit reports of the Applicant dated March 15, 2023; November 8, 2023; and April 15, 2024, confirm the indebtedness. (Government Exhibits 5, 6, and 7.)

Applicant began working for his current employer in January 2023. He was previously employed with another defense contractor from April 2018 through January 2023, but he was fired for tool accountability. He was given a verbal and written warning before his termination. Applicant explained that he never lost any tools, and all tools were always accounted for in the toolbox. He claims that their tool accountability system is flawed and not accurate. He is subject to rehire 6 months from his termination.

Applicant claims that due to the COVID pandemic and a medical emergency that resulted in a three-month hospital stay, he fell behind on his financial obligations. His wife is currently not working due to car issues. He states that he has recently made some efforts towards resolving his debts.

The following delinquent debts set forth in the SOR are of security concern:

1.a. A delinquent debt is owed to a creditor for an account placed for collection in the approximate amount of \$24,620. This is a student loan debt that was on hold. Applicant recently set up a payment plan to pay \$25 per week to the creditor. His credit report shows that since April 2024, he has made four payments, of \$25, for four weeks,

totaling \$100 which has been deducted from the total. He continues to owe \$24,520. The debt remains owing.

1.b. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$2,593. This was for Applicant's apartment. He claims that he is currently in negotiations for a settlement plan and scheduled payments. No agreement has yet been reached. 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 creditor for an account that was charged off in the approximate amount of \$632. It is unclear why this debt was incurred. Applicant recently set up automatic payments scheduled to pay the creditor \$21.08 per week beginning on February 14, 2024, to continue until February 12, 2025, with the final payment of \$21.21. There is documentary evidence to show that Applicant has scheduled the payments with his bank. The debt is in the process of being paid. (See Applicant's Answer to SOR attachment.)

1.d. A delinquent debt is owed to a creditor for an account that was charged off in the approximate amount of \$380. It is unclear why this debt was incurred. Applicant claims that he has settled the debt for \$266, less than what was owed, and is waiting for a receipt. There is documentary evidence showing that the debt was scheduled for automatic payment withdrawal. The debt is in the process of being paid. (See Applicant's Answer to SOR attachment.)

1.e. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$120. It is unclear why this debt was incurred. Applicant claims that he has paid the debt in full, and he is waiting for a receipt. There is no documentary evidence to show that the debt has been resolved. The debt remains owing.

In his answer to the SOR, Applicant stated that he had either paid off, is currently paying, or is in negotiations to set up a payment plan to settle his delinquent debts. There is no documentary evidence to show that he has paid off 1.d and 1.e, the debt he states are no longer owing. Assuming that they have been resolved, he continues to remain excessively indebted since he still owes in excess of \$23,000 toward the debt set forth in allegation 1.a.

As part of his interrogatories dated October 23, 2024, Applicant provided a financial statement but did not completely fill it out. It does not show that he has any delinquent debts, or what he has in discretionary funds left over after making his regular monthly payments each month. (Government Exhibit 4.)

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 \$28,345. These accounts have either been charged off or placed for collection. 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 recently started to address the delinquent debts set forth in the SOR totaling approximately \$28,345. He stated that he has paid off one of the smaller debts, in allegation 1.d., and is making payments towards another small debt in allegation 1.c. He has provided some documentation to substantiate this. (See Applicant's Answer to SOR attachment.) Concerning a third small debt in 1.e., he claims that he paid it off, but provides no documentary evidence to support this. Concerning the two larger debts, he stated that he has recently started to address allegation 1.a., and has made four small payments of \$25 towards the debt. This means he still owes at least \$24,500 or more to the creditor. He stated that he has not addressed the debt in allegation 1.b., a debt he owes \$2,596. He currently remains excessively indebted, owing a total of at least \$27,000 in delinquent debt.

Applicant gives no reasonable excuse for his excessive indebtedness, or why it still exists when he has been employed full time since April 2018. He has failed to submit any documentation to substantiate any settlement agreements or payment arrangements he may have made with the creditors concerning his two larger debts. Applicant 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 too little, too late, to resolve the issue. He is making some effort to resolve his debts, but not enough under the circumstances. Applicant has not demonstrated a strong commitment to resolving them. His efforts have been just too little, too late. Applicant's inaction for so long reflects a pattern of unreliability, untrustworthiness, and poor judgment. Accordingly, Applicant does not meet the requirements to access 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., and 1.b.	Against Applicant
Supparagraphs 1.c., 1.d., and 1.e	For 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