



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



In the matter of:)	
)	
)	ISCR Case No. 14-01569
)	
Applicant for Security Clearance)	

Appearances

For Government: Caroline E. Heintzelman, Esq., Department Counsel
For Applicant: *Pro se*

12/23/2014

Decision

NOEL, Nichole L., Administrative Judge:

Applicant contests Department of Defense’s (DOD) intent to deny his eligibility for a security clearance to work in the defense industry. Applicant has made a good-faith effort to resolve the accounts alleged in the SOR. To date, he has resolved seven accounts and is participating in a payment plan for the remaining account. Clearance is granted.

Statement of the Case

On June 16, 2014, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline.¹ DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant or continue Applicant’s security clearance and recommended that the case be submitted to an

¹ This case is adjudicated 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). In addition, the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the Defense Department on September 1, 2006, apply to this case. The AG were published in the Federal Register and codified in 32 C.F.R. § 154, Appendix H (2006). The AG replace the guidelines in Enclosure 2 to the Directive.

administrative judge for a determination whether to revoke or deny Applicant's security clearance.

Applicant timely answered the SOR and requested a hearing. At the hearing, convened on November 20, 2014, I admitted Government's Exhibits (GE) 1 through 3 and Applicant's Exhibits (AE) A through H, without objection. After the hearing, Applicant submitted AE I, which I admitted without objection.² I received the transcript (Tr.) on December 4, 2014.

Findings of Fact

Applicant, 75, has worked for a federal contractor since 1988. He is a retired Air Force Chief Master Sergeant, and has spent the last 26 years working on classified projects in the aerospace industry. He has held a security clearance, without incident, since at least 1989. Currently, Applicant works as a project manager on the production of a U.S. Army aircraft. His current position requires him to travel at least 300 days of the year.³

The SOR alleges that Applicant owes the IRS approximately \$7,400 in past-due taxes for the 2010 tax year. Applicant denies this allegation. Between 2010 and 2011, Applicant was working on a project that required him to spend the majority of his time living and working in another country. Applicant timely filed his federal tax returns, but a miscommunication between Applicant and his employer resulted in Applicant being erroneously assessed federal taxes by the IRS. He made payments toward the balance until his employer was able to resolve the issue on his behalf. A June 2014 notice from the IRS indicates that Applicant does not have any outstanding taxes for 2010, and that he is due a small refund.⁴

In addition to the outstanding tax debt, the SOR alleges that Applicant is indebted to six creditors on seven delinquent accounts, totaling approximately \$41,600. These debts were also incurred between 2010 and 2011. While he was working abroad, Applicant relied on his wife of 53 years to handle their finances, a task she had handled many times, without incident, during their marriage. However, during that year, Applicant's wife lost both her mother and sister. In addition to dealing with her grief from these losses, Applicant's wife also had the additional stress of assuming financial responsibility for one of the couple's adult children who had lost her job and moved back home with her family. Soon, Applicant's wife became overwhelmed and allowed some bills to become delinquent. Upon learning about the delinquent accounts, Applicant accepted responsibility for them and began working with his wife to resolve the accounts. To date, Applicant has resolved the debts alleged in SOR ¶¶ 1.a, 1.c, 1.d, 1.e, 1.f, and 1.g. He is participating in a payment plan, for \$500 monthly, on the debt

² Department Counsel's e-mail regarding the admissibility of the AE I is included in the record as Hearing Exhibit (HE) 1.

³ Tr. 20-23; GE 2.

⁴Tr. 41-44; GE 2; AE C.

alleged in SOR ¶ 1.b, which should be paid off in September 2015. He has paid \$2,500 toward the resolution of this debt.⁵

Applicant and his wife have a household income of approximately \$250,000. Applicant testified that his financial problems are atypical and limited only to the period when his wife was not quite herself after the death of her loved ones. Applicant has enlisted the help of the couple's daughter to assist his wife in handling the finances when he is traveling. Applicant lives within his means and is current on recurring bills. Applicant is financially comfortable with plenty of disposable income to apply toward the continued resolution of his delinquent debt.⁶

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(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 access to classified information will be resolved in favor of 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

⁵ Tr. 20, 23-40, 50; AE A, F-I.

⁶ Tr. 40, 50-55.

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

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 information.”⁷ Similarly, an individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information.

The SOR alleges that Applicant is indebted to seven creditors for approximately \$49,000, including a past-due tax bill. The debts are also substantiated by the record.⁸ Between 2010 and 2011, Applicant had a history of not paying his bills.⁹ However, Applicant has submitted sufficient information to mitigate the security concerns raised by his finances. Applicant’s financial issues do not cast doubt on his current security worthiness. This brief lapse in financial responsibility was an isolated event in Applicant’s 25-year history as a security clearance holder. Although Applicant may not have been as attentive to his family’s finances as he could have been while traveling, he did not have any reason to doubt his wife’s ability to maintain the couple’s finances. Upon learning of the problems, Applicant worked with his wife to resolve them as soon as possible. He has made a good-faith effort to resolve his delinquent debts. He has also taken steps to avoid problems in the future by enlisting the help of his daughter to assist his wife in the payment of their bills. It is unlikely that Applicant will experience such problems in the future. Applicant does not have a history of financial problems. His finances are stable and under control.¹⁰

⁷ AG ¶ 18.

⁸ GE 2-3.

⁹ AG ¶ 19(c).

¹⁰ See AG ¶¶ 20 (a), (c)-(d).

I have no doubts about Applicant's suitability for access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(a). Applicant's brief period of financial problems is not indicative of financial irresponsibility, poor self-control, lack of judgment, or an unwillingness to follow rules and regulations. Clearance is granted.

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, Guideline F:	FOR APPLICANT
Subparagraphs 1.a – 1.j:	For Applicant

Conclusion

In light of all of the circumstances presented, it is clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is granted.

Nichole L. Noel
Administrative Judge