



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



In the matter of:)
)
) ADP Case No. 15-07990
)
Applicant for a Public Trust Position)

Appearances

For Government: Andre M. Gregorian, Esq., Department Counsel
For Applicant: *Pro se*

08/31/2017

Decision

NOEL, Nichole L., Administrative Judge:

Applicant contests the Defense Department's intent to deny her eligibility for a public trust position to work in the defense industry. Applicant failed to mitigate concerns raised by her history of financial problems evidenced by approximately \$25,000 in unresolved delinquent debt. Her request for eligibility to occupy a position of trust is denied.

Statement of the Case

On February 28, 2016, the Department of Defense (DOD) issued a Statement of Reasons (SOR) detailing trustworthiness concerns under the financial considerations guideline.¹ DOD adjudicators were unable to find that it is clearly consistent with the interests of national security to grant Applicant's access to sensitive information and

¹ The DOD CAF acted 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 September 1, 2006.

recommended that the case be submitted to an administrative judge for a determination whether to revoke or deny Applicant's eligibility to occupy a public trust position.

Applicant answered the SOR and requested a decision without a hearing.² The Government submitted its written case on April 27, 2016. A complete copy of the file of relevant material (FORM) and the Directive were provided to Applicant. She received the FORM on May 4, 2016, and did not respond. The items appended to the FORM are admitted as Government's Exhibits (GE) 1 through 3. The document identified as GE 4 is excluded as explained below.

Procedural Matters

Inadmissibility of Report of Investigation (ROI)

GE 4 is a ROI summarizing the interview Applicant had with an investigator in September 9, 2015. The interview, which contains adverse information, has not been authenticated as required under ¶ E3.1.20 of the Directive. Footnote 1 of the FORM advises Applicant of that fact and further cautions her that if she fails to object to the admission of the interview summary in her response to the FORM that her failure may be taken as a waiver of the authentication requirement. Applicant's failure to respond to the FORM or, specifically, to Footnote 1 does not demonstrate that she understands the concepts of authentication, waiver, and admissibility. It also does not establish that she understands the implications of waiving an objection to the admissibility of the interview. Accordingly, GE 4 is inadmissible and I have not considered it.

Findings of Fact

Applicant, 29, completed an eligibility application in June 2015. She indicated that she experienced delinquency involving routine accounts, including a car loan, student loans, and a cell phone account. The ensuing investigation revealed that Applicant owes additional delinquent accounts. The SOR alleges that Applicant owes approximately \$25,000 on 14 delinquent accounts. In her answer to the SOR, Applicant admitted each of the delinquent accounts. She indicated that some of the debt is now being paid and that she is making arrangements to pay others. However, she did not provide any documentation to corroborate her claims. The alleged debts remain unresolved.³

Law and Policy

This case is adjudicated under Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Review Program* (Jan. 2, 1992), as amended (Directive); and the National Security Adjudicative Guidelines (AG), effective June 8, 2017.

² GE 1.

³ GE 1-3, 5.

Analysis

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgement, or willingness 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. The record establishes a *prima facie* case that Applicant has a history of not meeting her financial obligations and an inability to pay her bills.⁴ All of the alleged accounts remain unresolved. None of the financial considerations mitigating conditions apply.

Based on the record, doubts remain about Applicant's eligibility to occupy a position of trust. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(d). Applicant failed to meet her burdens of production and persuasion to refute or mitigate the SOR allegations. She did not provide any evidence to show financial rehabilitation or reform. Accordingly, her request is denied.

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.n: Against Applicant

Conclusion

In light of all of the circumstances, it is not clearly consistent with the interests of national security to grant Applicant access to sensitive information. Applicant's eligibility to occupy a position of trust is denied.

Nichole L. Noel
Administrative Judge

⁴ AG ¶¶ 19(a) and (c).