



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



In the matter of:)
)
) ISCR Case No. 16-03999
)
Applicant for Security Clearance)

Appearances

For Government: Benjamin R. Dorsey, Esq., Department Counsel
For Applicant: *Pro se*

10/31/2017

Decision

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense's (DOD) intent to revoke his eligibility for a security clearance. Applicant has resolved all of the SOR accounts. Clearance is granted.

Statement of the Case

On February 24, 2017, 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 Applicant's security clearance and recommended his case be submitted to an administrative judge for consideration.

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.

Applicant answered the SOR and requested a decision without a hearing.² The Government served Applicant with its written case against him, called a file of relevant material (FORM), and a copy of the Directive on May 27, 2017. He received the FORM and provided a response. The items appended to the FORM and Applicant's response are admitted as Government's Exhibits (GE) 1 through 6 and Applicant's Exhibits (AE) A through C, without objection.

Procedural Matters

While the case was pending decision, the Director of National Intelligence (DNI) issued Security Executive Agent Directive 4, establishing the National Security Adjudicative Guidelines (AG) applicable to all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position. The 2017 AG superseded the AG implemented in September 2006, and they are effective for any adjudication made on or after June 8, 2017. Accordingly, I have applied them in this case.

Findings of Fact

Applicant has worked for federal contracting companies since 2006. He has worked for his current employer since February 2012. He completed his most recent security clearance application in September 2012 and disclosed some delinquent accounts. Applicant's background investigation confirmed his financial problems. The SOR alleges and Applicant admits that he owed \$10,000 in delinquent accounts, of which \$8,800 was for two state tax liens.

Applicant held a security clearance during his service in the U.S. Army between 1977 and 1997. Applicant and his wife married in 1996. After separating from the Army, Applicant worked and lived in the same city as his family. Applicant began living and working overseas for federal contracting companies in 2006. It is unclear if he was granted access to classified information when he began working with a federal contracting company. With the exception of six months of unemployment between 2009 and 2010, Applicant has worked on contracts in the Middle East and South Asia. Applicant's wife maintained responsibility for the household finances and the couple's four children. Applicant claims that he unaware that his wife mismanaged the family finances until January 2010 when he returned home to discover that the family home was lost in foreclosure.

In April 2017, Applicant paid all of the alleged accounts. Although he did not elaborate, Applicant claims that he has a plan in place to prevent similar financial problems in the future. The most recent credit report in the record shows that, aside from the alleged accounts, Applicant has a favorable credit history.

² GE 1.

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 the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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 security 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

Failure to meet financial obligations may indicate poor self-control, lack of judgement, 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.³ The record establishes the Government's *prima facie* case that Applicant demonstrated a history of not meeting his financial obligations.⁴ However, there is sufficient evidence to mitigate the security concerns. Applicant has resolved all of the alleged accounts, showing a good-faith effort to repay his delinquent accounts.⁵

Based on the record, Applicant remains a suitable candidate for continued access to classified information. In reaching this decision, I have also considered the whole-person factors at AG ¶ 2(d), giving weight to Applicant's 20 years of military

³ AG ¶ 18.

⁴ AG ¶19 (c) a history of not meeting financial obligations.

⁵ AG ¶ 20(d) the individual has initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

service and prior history as a clearance holder. Applicant has mitigated the concerns raised by his brief history of financial problems.

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:	FOR APPLICANT
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Subparagraphs 1.a – 1.e:	For Applicant
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Conclusion

Based on the record, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Nichole L. Noel
Administrative Judge