DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD

Date: June 26, 2026

In the matter of:

Applicant for Security Clearance

ISCR Case No. 25-00197

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT
Andrea M. Corrales, Esq., Deputy Chief Department Counsel

FOR APPLICANT
Dan Meyer, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On March 18, 2025, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision—security concerns raised under Guideline F (Financial Considerations) of the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On April 30, 2026, Defense Office of Hearings and Appeals Administrative Judge Eric H. Borgstrom denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Under Guideline F, the SOR alleged three delinquent debts totaling approximately $36,700 and a 2015 Chapter 7 bankruptcy. Applicant admitted the four allegations. The Judge found adversely on the three delinquent debts but favorably on the 2015 bankruptcy, finding it mitigated by the passage of time. The 2015 bankruptcy is discussed below only to the extent that it provides context for the later delinquencies.

Background

Applicant is in his early fifties, twice divorced, and the father of two adult children. After serving in the Coast Guard in the 1990s, he earned a bachelor's degree in 2004 and a master's degree in 2006. Over the past ten years, Applicant has been employed in senior roles by several federal contractors. Since 2022, Applicant has served as Chief Technology Officer with his current employer and holds a 10% equity interest in this $100 million company.

Applicant separated from his second wife in June 2013 and divorced in November 2016, following "complex and contentious divorce proceedings." Decision at 4. During divorce proceedings, Applicant filed for Chapter 7 bankruptcy on the advice of his attorney. He listed approximately $125,000 in debt, and the eligible debts were discharged in August 2015. The debts alleged on the SOR and discussed below were incurred following discharge of his bankruptcy.

SOR ¶ 1.a. Applicant incurred the auto loan at issue with the purchase of a luxury vehicle in 2017. In 2021, he voluntarily returned the vehicle to the dealer, and it was sold at auction, leaving Applicant with a deficiency balance in the approximate amount of $25,314. During his October 2024 interview with a background investigator, Applicant asserted that he allowed the vehicle to be repossessed so that he could provide financial assistance to some of his family members during the COVID era and that he was "making arrangements" to resolve the account. Government Exhibit 5 at 23.

At hearing, Applicant was asked about the "arrangements" to which he referred during his October 2024 interview. Applicant clarified that the creditor contacted him in about 2021 regarding a court filing or judgment, that a court date was later canceled, and that he had no communication with the creditor between 2021 and 2025, when he sent a post-SOR letter to the creditor. He testified to fruitless efforts to contact the creditor since that time and expressed a willingness to pay the debt, but he submitted no evidence of payments or payment agreements prior to close of the record.

SOR ¶¶ 1.b and 1.c. Applicant opened these two credit-card accounts with the same creditor in 2015. Both became delinquent in about August 2021 and were charged off in the approximate amounts of $8,550 and $2,910, respectively. During his October 2024 OPM interview, Applicant explained that these two accounts became delinquent when he chose to financially assist his family members during the COVID pandemic. At his January 2026 hearing, Applicant testified that he had reached an agreement with the creditor a few days prior. He submitted proof that he paid about $10,929 to this creditor in December 2025, an amount slightly less than the aggregate balance of SOR ¶¶ 1.b. and 1.c. The Judge noted that it was unclear which account the payment was applied to and whether there was an agreed-upon settlement or other payments scheduled.

With his June 2025 answer to the SOR (Answer), Applicant attached a declaration in which he asserted that he had a 10% equity interest in his company and that his three debts are "scheduled to clear and drop off [his] credit report" in June and September 2027." Answer at Tab C. Additionally, he included: a certificate of completion for a financial education course; letters to his creditors, dated March and May 2025, offering settlement of his three delinquent accounts; and a monthly budget reflecting a total income of $28,176, total expenses of $15,522, and a net monthly remainder of $12,654. Applicant's gross annual income was approximately $225,000 when he started with his current employer in January 2022, and it is currently about $360,000.

At hearing, Applicant testified that he no longer uses credit cards and instead pays cash for all purchases, to include vehicles. He provided documentary evidence of his checking account balance (approximately $68,000) and testified that he continues to provide financial support to his parents.

In his analysis, the Judge found that three disqualifying conditions applied: AG ¶¶ 19(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. Turning to mitigation, the Judge concluded that none of the applicable mitigating conditions fully applied. He acknowledged that some circumstances were beyond Applicant's control, including his costly divorce proceedings and the financial difficulties of the COVID era. The Judge noted, however, that Applicant was gainfully employed and earning more than $225,000 annually by January 2022; that there was no evidence of any attempts to contact the creditors between 2021 and March 2025, when the SOR was issued; and that, although Applicant completed a financial education course, "he did not make any payment arrangements or payments until on the eve of the DOHA hearing." Decision at 7. Moreover, the Judge concluded, the late timing of his payment to resolve the debts alleged in SOR ¶¶ 1.b and 1.c belied the good faith of his efforts. In conclusion, the Judge wrote:

> Applicant has been aware of these financial delinquencies since mid-2021. He reported them on his May 2024 SCA and discussed them during his October 2024 OPM interview. However, he did not take any steps to address these three delinquent accounts until after the issuance of the SOR. In his Answer, he noted that these accounts would be cleared from his credit report by September 2027. His inaction is incongruent with the expectations and obligations of individuals entrusted to safeguard classified information.

Id.

Discussion

Through counsel, Applicant asserts that the Judge failed to consider significant evidence and that the Government failed to carry its burden of proof. For the reasons detailed below, we affirm the Judge's decision.

<u>Failure to Consider Evidence</u>

Applicant contends that the Judge "incompletely analyzed" the following mitigation evidence: that Applicant resolved two the of three alleged debts; that he provided "largesse to family members" during the COVID era and continues to support his parents; that he attempted to contact "inattentive creditors"; that he completed financial training and counseling; that Applicant testified that he no longer uses credit cards; and that Applicant provided evidence of a checking account balance of approximately $68,000. Appeal Brief at 10–11. Our review of the decision confirms that the Judge explicitly considered all these matters and weighed them in his analysis.

Counsel is fundamentally arguing for a different weighing of that evidence. Applicant's ability to argue for a more favorable weighing of the record evidence is not sufficient to demonstrate that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See* ISCR Case No. 96-0376 at 2-3 (App. Bd. Mar. 6, 1997) (citing *Am. Textile Mfrs. Inst. v. Donovan*, 452 U.S. 490, 523 (1981)).

Burden of Proof on Guideline F Allegations

Applicant's counsel challenges whether the Government met its burden of proof on the allegations, as Government counsel did "not offer proof of the lack of 'good faith' in addressing those financial [debts] over a number of years." Appeal Brief at 9. Applicant admitted the allegations, obviating the need for the Government to produce any evidence and shifting the burden to Applicant to prove mitigation. It did not fall on the Government to disprove mitigation, as counsel is apparently arguing. This assignment of error is wholly without merit.

Hearing-Level Decisions

In his brief, Applicant's counsel cites to and summarizes 73 hearing-level decisions in prior Guideline F cases. *Id*. at 21–57. Counsel's reliance on hearing-level decisions is misplaced because each case must be judged on its own merits. AG ¶ 2(b). As the Board has frequently stated, how particular facts scenarios were decided at the hearing level in other cases is generally not a relevant consideration in our review of a case. Only in rare situations—such as separate cases involving spouses, cohabitants, or partners in which the debts and the financial circumstances surrounding them are the same—would the adjudication outcome in another case have any meaningful relevance in our review of a case. The 73 hearing-level decisions that Applicant's counsel recites have no direct relationship or unique link to Applicant's case that would make them relevant here.

Conclusion

Applicant's arguments on appeal fail to demonstrate error in the Judge's application of the mitigating conditions or Whole-Person Concept and have not established that the Judge's conclusions were arbitrary, capricious, or contrary to law. The Judge acted properly by weighing the record evidence and articulated a satisfactory explanation for the decision, which is sustainable on the record. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Dept. of Navy v. Egan*, 484 U.S. 518, 528 (1988). "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." AG ¶ 2(b).

Order

The decision in ISCR Case No. 25-00197 is **AFFIRMED**.

Signed: Moira Modzelewski
Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Jennifer Goldstein
Jennifer Goldstein
Administrative Judge
Member, Appeal Board

Signed: Allison Marie
Allison Marie
Administrative Judge
Member, Appeal Board