



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



In the matter of: )  
)  
) ISCR Case No. 19-01951  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Aubrey M. De Angelis, Esq., Department Counsel  
For Applicant: *Pro se*  
02/07/2020

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**Decision**

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LYNCH, Noreen A., Administrative Judge:

This case invokes security concerns raised under Guideline F (Financial Considerations). Applicant presented insufficient evidence to mitigate the financial security concerns. Eligibility for access to classified information is granted.

**Statement of the Case**

On July 8, 2019, in accordance with DoD Directive 5220.6, as amended (Directive), and the Adjudicative Guidelines (AG), effective June 8, 2017. The Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guideline F. The SOR further informed Applicant that, based on information available to the Government, DoD adjudicators could not make the preliminary affirmative finding that it is clearly consistent with the national interest to grant or continue Applicant's security clearance.

Applicant timely answered the SOR, and requested a review based on the written record in lieu of a hearing. (Answer.) The case was assigned to me on January 15, 2020. Department Counsel submitted a File of Relevant Material (FORM), dated November 6, 2019. The Government submitted seven Items for the record. Applicant did not respond to the FORM to provide additional information.

## Findings of Fact

Applicant, age 32, is separated from his wife and has no children. He graduated from high school in 2006 and attended college classes for several years, but he has not yet obtained his degree. Applicant completed a security clearance application on December 20, 2018. (Item 4) He is currently working for a federal contractor, which he started in 2018. He seeks to obtain a security clearance.

The SOR alleges that Applicant has 19 delinquent debts in the amount of \$28,000 including an additional \$31,000, which is attributable to student loan providers and several private creditors. (Item 1) Applicant denies all of the alleged delinquent debts (SOR paragraphs 1. a through s). He denied the allegations but acknowledges the debts and explains and provides information showing what he has done to resolve the delinquent debts. (Item 3)

Applicant attributes the delinquent debts to his separation from his wife in 2012, several periods of unemployment, including most recently from November 2017 through June 2018. (Item 4) Applicant became ill with a viral infection and was unemployed between October 2013 and February 2014. As a result of the unemployment, he moved home to live with his parents. He was unable to work, go to school, or live on his own due to the infection. (Item 4) He fell behind and was not able to pay his creditors and several accounts were charged off or placed for collection. In addition, he had a vehicle repossessed. For SOR 1.a, he states that the collection account from 2013, in the amount of \$655, was the result of over-withdrawing funds from his bank account during a time he was coping with medical issues. (Item 4) Applicant provided confirmation that he paid the delinquent debt in May 2019. (Items 3, 7)

As to SOR 1.b, Applicant states that he has paid the \$428 medical account that became delinquent in 2013, and the record corroborates that Applicant paid the debt in May 2019. (Item 3, 7)

As to the 2012, delinquent account for \$123 in SOR 1.c, Applicant acknowledged that this was the result of changing cell phone carriers. He claims that he paid the bill in full, when he became aware of it, during his security clearance process. He further claimed that he paid the bill in May 2019. The record as it stands does not contain any evidence supporting payment.

As to SOR accounts, SOR 1.d for \$1,162, Applicant stated that the student loan company and the student loan is in deferment until 2024. As for 1.e, for \$1,756 this is the same student loan company and is also deferred until 2024. He provided a printout from Navient detailing a deferred account until 2024.

As to SOR 1.f, a mobile account in the amount of \$631, this was the result of his illness in 2013 and the account was paid in May 2019. (Item 3)

As to the debt in SOR 1.g, Applicant stated that his cell phone was stolen in 2015, and he paid the account in May 2019, providing documentation. (Item 3)

The SOR debt in 1.h, a medical account in the amount of \$950, according to Applicant is on a payment plan of about \$200 monthly. He presented a receipt of \$200, dated August 2019, but it is not clear from the record if this pertains to the account.

As to SOR 1.i, another medical account in the amount of \$1,762, Applicant claims a payment plan of about \$200 monthly. The receipt from August 2019 was presented as confirmation. It is not clear from the record if this is the same medical account as SOR 1.h.

As to SOR 1.j, a vehicle loan in the amount of \$4,446 from 2013, when Applicant became very sick, and could not work, and he fell behind in his payments. Applicant provided documentation that he paid the delinquent balance in full on June 12, 2019. (Item 3)

As to SORs 1.k-1.q, a series of seven government student loans, for an approximate total of \$31,000, Applicant provided information that the loans were in good standing as of April 2019. The documentation that was submitted from federal loan servicing reflects that seven student loan accounts are deferred through December 8, 2023. The most recent credit report confirms a deferment until October 2019. (Item 7)

As to SOR 1.r, a collection account in the amount of \$10,900, for an automobile loan that he could not make payments when unemployed. He was on a \$200 a month payment plan. However, he did not provide recent information of the existence of a payment plan. Applicant is attempting to negotiate a lower payment on the debt and has requested documentation from the creditor. (Item 3)

As to SOR 1.s, a medical collection account in the amount of \$458 for radiology services, Applicant believed it would be covered by a low-income-based assistance program based on information given to him. He paid the debt in December 2018 and the record confirms his payment. (Item 6)

In Applicant's security clearance application, dated December 20, 2018, and in his answer (Item 3) he detailed his difficulties that were beyond his control and problem with obtaining decent paying full-time jobs. He reached out to his creditors and did not ignore his financial situation. When he was laid off in mid-2015, he did not find work until the end of 2016. He completed an updated-financial budget which shows what he has paid to his delinquent creditors. He earns about \$55,000 a year. Applicant has a savings account. He has allotted money for delinquent debts each month. (Item 3)

He took measures in 2013 to move in with his parents to save money. He has studied so that he could improve his chances of steady employment. He began paying debts in 2017 and 2018. His current job has allowed him to repay his debts. He entered into a student loan rehabilitation program. In 2018, he sought financial counseling from various groups but the fees were quite steep. (Item 3)

## 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 (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied 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 applicable guidelines in the context 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, "Any 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. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to 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, and has the ultimate burden of persuasion as to obtaining 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of EO 10865, "Any determination under this order adverse to an applicant shall be a determination 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 concern under this guideline 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 . . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's acknowledgements, corroborated by his credit reports establish two disqualifying conditions under this guideline: AG ¶ 19(a) ("inability to satisfy debts"), AG ¶ 19(c) ("a history of not meeting financial obligations").

The security concerns raised in the SOR may be mitigated by any of the following potentially applicable factors:

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;

AG ¶ 20(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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

AG ¶ 20(c): the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem

is being resolved or is under control; and

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

Applicant's delinquent debts are the result of a multitude of circumstances beyond his control that began occurring in 2013. He and his wife separated; he lost several jobs; he had several serious medical injuries and infections that did not permit him to work or continue with his school. He took reasonable actions under the circumstances and moved in with his parents. His medical bills and other bills increased. He was unemployed for several long periods of time as recent as June 2018. He continued to act responsibly and find low paying jobs. He did not ignore his creditors. He is using sound judgment and paying his debts. Granted, he has not paid all of them, but he is not required to do so all at once. He has established a track record of payment history.

Applicant presented recent information about his payment history to the various accounts that have been paid, and his student loans in rehabilitation. He started several payment plans. He has a new full-time well-paying job. He developed an updated budget and is dedicated to paying his bills. AG ¶ 20(a), is applicable in this case.

AG ¶ 20(b) is established. He had several circumstances beyond his control of varying degrees occurring almost simultaneously. He painstakingly listed all information on his security clearance application and provided documentation to show exactly what he has paid and what his plans are. He rehabilitated his student loans.

AG ¶ 20(c) is partially established. He sought financial counseling with a number of groups and listened to what they had to say, but the fees were too steep and the plans were seven years long. He devised his own plan. AG 20(d) is established. Applicant is adhering to good-faith efforts now to address his financial accounts. He produced sufficient documentation to fully support this mitigating condition. Applicant has met his burden to mitigate the financial concerns set out in the SOR.

### **Whole-Person Concept**

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall commonsense judgment based upon careful consideration of the applicable guidelines, each of which is to be evaluated in the context of the whole person. An 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.

I have incorporated my comments under Guideline F in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under Guideline F, and evaluating all the evidence in the context of the whole person, including his many challenging conditions beyond his control in recent years, I conclude that Applicant has mitigated the security concerns raised by his financial indebtedness. Accordingly, Applicant has carried his burden of showing that it is clearly consistent with the national interest to grant him eligibility for access to classified information.

### **Formal Findings**

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F: FOR APPLICANT

Subparagraph 1.a-s: For Applicant

### **Conclusion**

I conclude that it is clearly consistent with the national interest to grant Applicant's eligibility for access to classified information. Clearance is granted.

Noreen A. Lynch  
Administrative Judge