



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



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 21-01683

**Appearances**

For Government:  
Jeff Nagel, Esquire, Department Counsel

For Applicant:  
*Pro se*

January 31, 2022

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**Decision**

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ROSS, Wilford H., Administrative Judge:

**Statement of the Case**

Applicant submitted his most recent Electronic Questionnaire for Investigations Processing (e-QIP) on September 9, 2019. (Government Exhibit 1.) On July 26, 2021, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline F (Financial Considerations). The action was taken under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines effective within the Department of Defense after June 8, 2017.

Applicant answered the SOR in writing (Answer) on July 29, 2021, and requested a hearing before an administrative judge. Department Counsel was prepared to proceed on September 9, 2021. The case was assigned to me on September 21, 2021. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on September 23, 2021. The case was heard on October 25, 2021. DOHA received the transcript of the hearing on November 2, 2021.

The Government offered Government Exhibits 1 through 6, which were admitted without objection. Applicant testified on his own behalf. He asked that the record remain open for the receipt of additional documentation. Applicant timely submitted Applicant Exhibits A through D, which were also admitted without objection, and the record closed on November 2, 2021.

### **Findings of Fact**

Applicant is 26 years old and married with two children. He has a high school education, and is currently attending college. Applicant is employed by a defense contractor as a Machinist and is trying to obtain a security clearance in relation to his employment. Applicant has not previously held a security clearance. (Tr. 5-8, 17-19; Government Exhibit 1 at Sections 12, 13A, 17, and 25.)

#### **Paragraph 1 (Guideline F, Financial Considerations)**

The Government alleges in this paragraph that Applicant is ineligible for clearance because he is financially overextended and therefore potentially unreliable, untrustworthy, or at risk of having to engage in illegal acts to generate funds.

The SOR alleged that Applicant had three past-due debts, including an automobile repossession, totaling \$21,545 (SOR 1.a through 1.c). Applicant admitted all the allegations in the SOR. The existence and amounts of these debts is supported by credit reports dated September 7, 2019; February 4, 2020; April 28, 2021; and September 9, 2021. (Government Exhibits 3, 4, 5, and 6.)

Applicant stated that these debts all arose in the 2017 time-frame. He was fired from a job and found himself unable to keep up with those particular debts at that time. (Government Exhibit 1 at Section 26; Government Exhibit 2; Tr. 23-28.)

The current status of the allegations in the SOR is as follows:

1.a. Applicant admitted having an automobile repossessed in approximately 2017. He stated that he could afford the car when he bought it, but after he was fired, it was impossible to keep up payments. Eventually he let the car go to repossession. After the automobile was sold at auction Applicant owed \$18,000. Subsequent to the hearing

Applicant reached a payment arrangement with the original creditor. He paid the reduced amount on October 26, 2021, as confirmed by documentation from the creditor. This debt is resolved. (Government Exhibit 1 at Section 26; Applicant Exhibit B; Tr. 29-33, 36-38.)

1.b. Applicant admitted owing a past-due credit card debt in the amount of approximately \$3,775. This debt also arose in the 2017 time-frame. Subsequent to the hearing Applicant paid this creditor the full amount owed on October 26, 2021, as confirmed by documentation from the creditor. This debt is resolved. (Applicant Exhibit D; Tr. 36-38.)

1.c. Applicant admitted owing a creditor \$643 for a charged-off debt. This debt also arose in the 2017 time-frame. Subsequent to the hearing Applicant paid this creditor the full amount owed on October 26, 2021, as confirmed by documentation from the creditor. This debt is resolved. (Applicant Exhibit C; Tr. 36-38.)

Applicant stated that his current financial situation is stable. He is able to pay his current debts and also has a rainy-day fund. He stated, "I strongly believe that I have learned from my mistakes and believe that allowing accounts to become neglected & delinquent is a thing of the past." The credit reports in the record confirm that fact. Applicant also pointed to the fact that the period of delinquency was limited, and he has had no past-due debts since that time. Finally, Applicant stated that his failure to resolve these debts earlier "was pure immaturity and misguidance from people that are close to me." (Government Exhibits 3, 4, 5, and 6; Applicant Exhibit A; Tr. 33-34.)

## **Policies**

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines. 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 Executive Order 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* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

## **Analysis**

### **Paragraph 1 (Guideline F, Financial Considerations)**

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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 personal 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.

AG ¶ 19 describes two conditions that could raise security concerns and may be disqualifying in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant owed approximately \$21,000 for two past-due debts and one automobile repossession as of the date the SOR was issued. These facts establish prima facie support for the foregoing disqualifying conditions, and shift the burden to Applicant to mitigate those concerns.

The guideline includes three conditions in AG ¶ 20 that could mitigate the security concerns arising from Applicant's alleged financial difficulties:

- (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;
- (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, or a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant's current financial situation is stable. He is paying everyday debts. The debts in the SOR arose in 2017 after Applicant lost his job. Applicant indicated some initial reluctance to resolve those three debts. However, as shown, he has resolved the three debts set forth in the SOR to the satisfaction of the creditors. Applicant has behaved responsibly in resolving his debts. He has the knowledge and ability that will allow him to stay on a proper financial footing. He has fully mitigated all the financial concern allegations in the SOR. Paragraph 1 is found for Applicant.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for national security eligibility by considering the totality of the applicant's conduct and all relevant circumstances. The 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.

Under AG ¶ 2(c), the ultimate determination of whether to grant national security eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. Applicant has mitigated the concerns regarding his financial situation by resolving his debts in a responsible manner, which does not evince poor judgment or unreliability. He has minimized the potential for pressure, coercion, or duress, as well as the likelihood of recurrence. Overall, the record evidence does not create substantial doubt as to Applicant's present suitability for national security eligibility and a security clearance.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a through 1.c:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is granted.

WILFORD H. ROSS  
Administrative Judge