



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



In the matter of:	)	
	)	
	)	ISCR Case No. 20-02532
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government:  
Kelly M. Folks, Esquire, Department Counsel

For Applicant:  
*Pro se*

July 8, 2022

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**Decision**

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GLENDON, John Bayard, Administrative Judge:

**Statement of the Case**

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) on January 14, 2019. On July 23, 2021, the Defense Counterintelligence and Security Agency, Consolidated Adjudications Facility (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 30, 2021, and requested his case be decided on the written record in lieu of a hearing. In his Answer he admitted all the allegations in the SOR, but also stated that the alleged debts have been fully paid with the exception of one debt (SOR 1.a) that was being paid through an involuntary garnishment. On December 20, 2021, Department Counsel submitted the Government's written case. A complete copy of the file of relevant material (FORM), with five documents attached thereto and identified as Items 1 through 5, was provided to Applicant, who received the file on February 25, 2022.

Applicant was given 30 days from receipt of the FORM to raise objections to the Government's evidence and submit material in refutation, extenuation, or mitigation. On March 27, 2022, Applicant submitted his response with five documents attached. The case was assigned to me on April 12, 2022. I marked Applicant's documents as Applicant Exhibits (AE) A through E. I note that AE D and E are duplicates of AE B and C. Neither party objected to documents offered by the other, and all exhibits are admitted into the record.

On April 26, 2022, I reopened the record to give both parties the opportunity to provide additional documentation and clarifications due to the state of the record. Department Counsel responded to my email the next day and provided a credit report for Applicant, dated April 27, 2022. Her exhibit is marked as Item 6 and is admitted without objection. Applicant did not provide any additional information or documents. My email to Applicant and Department Counsel and the subsequent correspondence ending with Applicant's email dated April 27, 2022, which evidences his receipt of my earlier email and Department Counsel's submission, are included in the record as Admin Exhibit I. The record closed on May 4, 2022. Based upon a review of the pleadings and exhibits, national security eligibility for access to classified information is denied.

### **Findings of Fact**

Applicant is 27 years old and has never married. He received a certificate of high school equivalency in 2013. He has also taken some college courses, but has not yet earned a degree. He has worked for a defense contractor as a mechanic since January 2018. He also became a Marine Reservist in April 2015. He was previously granted eligibility for access to classified information in connection with his Reservist duties. He seeks to retain his national security eligibility. (Item 3 at Sections 2, 12, 13A, 15, and 17.)

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

The Government alleges in this paragraph that Applicant is ineligible for a security 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 has eight debts that are past due, charged-off, or in collection, in the total amount of approximately \$30,000. The existence and amount of these debts is

supported by his admissions to all of the SOR allegations in his Answer and by the credit reports in the record, dated February 1, 2019 and March 3, 2020. (Item 3 at Section 26, and Items 4 and 5.)

Applicant claimed in his Answer that he enrolled his debts in a debt consolidation plan (the Plan) in November 2019. The only evidence he provided supporting that assertion are two exhibits (AE B and C) listing credits and debits in an account during the period November 27, 2019, to October 30, 2020, and from November 2, 2020, to May 5, 2021. These records reflect the payments to creditors listed in two of the SOR allegations (SOR 1.d and 1.e). Without any explanation, he identified a debt-consolidation company in his Answer that is different than the name of the company listed on AE B and C.

Below is a brief description of each debt and its current status:

1.a. In his Answer, Applicant admitted owing a past-due loan account in collection in the amount of approximately \$7,774. He wrote that the amount was being involuntarily paid through a wage garnishment. As a result of the garnishment, he represented that it could not be included in the Plan. Neither the Government's February 2019 credit report nor its March 2020 credit report reflects that this debt is subject to a wage garnishment. The debt is not listed in Applicant's March 2022 credit report (AE A) or in the Government's April 2022 report (Item 6). Applicant provided no documentation to support his claim that this debt was being paid by the garnishment of his wages. He also provided no information regarding the current status of this debt. This debt is not resolved. (Answer at 1; Item 4 at 1; Item 5 at 5.)

1.b. Applicant admitted owing a charged-off account to an auto finance company in the amount of approximately \$7,404. Item 6 and AE A reflect that this debt has been paid. This debt has been resolved. (Answer at 1; Item 6 at 6; AE A at 7.)

1.c. Applicant admitted owing a past-due, credit-card debt in the amount of approximately \$4,970. Item 6 and AE A reflect that this debt has been paid. This debt has been resolved. (Answer at 1; Item 6 at 5; AE A at 5-6.)

1.d. Applicant admitted owing a past-due account to a collection agency in the amount of approximately \$4,600. Neither the name of the original creditor nor the type of account appears in the record. This debt does not appear in AE A or Item 6. However, monthly payments of \$100 to the collection agency identified in this subparagraph of the SOR are listed in AE B and AE C beginning on April 30, 2020, and continuing for 12 months, with additional payments of \$871 on April 27, 2021, and \$771 and \$100 on May 4, 2021. These payments total \$2,942. Viewing the record evidence as a whole, this debt has been satisfied with the partial payments to the collection agency made pursuant to the Plan. This debt has been resolved. (Answer at 1; Item 4 at 2; AE B at 1-3; AE C at 1-2.)

1.e. Applicant admitted owing a past-due debt to a collection agency in the amount of approximately \$574. This debt does not appear in AE A or Item 6 under either the name of the collection agency or the original creditor. However, AE B reflects five payments to this collection agency in the total amount of \$298, made pursuant to the Plan between January 15, 2020 and April 15, 2020. There is no further information in the record confirming that this debt has been resolved with these payments. Viewing the record evidence as a whole, this debt has been satisfied with payments to the collection agency totaling \$298 made pursuant to the Plan. This debt is resolved. (Item 4 at 2; Item 5 at 5; AE B at 1-2.)

1.f. Applicant admitted owing a past-due debt to a bank, which charged off the debt in the approximate amount of \$4,677. This debt is listed in Item 5 with an account number that identifies the debt as a credit-card account. This debt does not appear in AE A or Item 6, nor is there evidence of any payments listed in AE B or AE C made to this creditor. Although the amount of this debt is similar to the amount of the debt listed in SOR 1.d (\$4,600), there is no information in the record, such as the name of the creditor in AE B or AE C or account numbers, to support a conclusion that the debt is a duplicate of the SOR 1.d. Also Applicant's assertion in his Answer that he has resolved all of the SOR debts owed to collection agencies does not address this debt owed to a credit-card issuer. The record evidence does not support a conclusion that this debt has been paid. This debt is not resolved. (Item 5 at 4.)

1.g. Applicant admitted being indebted to a communication company for a debt placed in collection the amount of approximately \$204. This debt does not appear in AE A or Item 6, nor are any payments listed in AE B or AE C to this creditor. The record evidence does not reflect that this debt has been paid other than Applicant's unsupported claim in his Answer. This debt is not resolved. (Item 5 at 5.)

1.h. This is a debt in collection for \$594. The credit reports in the record reflect that it is owed to the same creditor and the same collection agency as the debt alleged in SOR 1.e (\$574). The only difference between the two debts is a disparity of \$20 in the amount of the debts. Although Applicant has not asserted that this debt is a duplicate of the debt alleged in SOR 1.e, I conclude that it is. This debt is resolved. (Item 4 at 2; Item 5 at 5.)

In his e-QIP, Applicant identified three of the creditors listed in the SOR (SOR 1.b, 1.c, and 1.f). He wrote:

I have no excuses for my actions, I went too long without a job in between career changes. I will use a debt consolidation program as soon as I start working. (Item 3 at 32-34.)

Section 13A of the e-QIP asks Applicant about his employment history. That history shows a gap in his employment between June 2017 and January 2018, when he began working for or was hired by his current employer. (Item 3 at 12-13.)

Applicant provided no documentary evidence with his Answer. He had not begun to pay any of his debts at that time. In the Government's FORM, Department Counsel noted:

With respect to the remaining debts [other than SOR debt 1.a], Applicant avers that he has paid the debts, but has not provided any evidence of his payments. FORM at 2.

Accordingly, Applicant was advised that he needed to provide documents evidencing payments of his debts. As noted, he also did not provide any documents with respect to SOR debt 1.a. In his reply to the FORM he submitted evidence of payments made to the creditors listed in SOR 1.d and 1.e. He also provided AE A, a credit report that contains evidence of the satisfaction of the debts alleged in SOR 1.b and 1.c. AE B also lists four payments totaling \$1,480 to a collection agency that is not identified in the SOR, and Applicant failed to explain if those payments were for any of the SOR debts. Otherwise, the record is silent as to payments and the satisfaction of the debts listed in the SOR.

Applicant chose to waive a hearing at which he could have fully explained his evidence and had the opportunity to fill in the gaps in his evidence. His testimony at a hearing would also have provided a basis for determining that his testimony was sufficiently credible to support his position in his Answer that he has satisfied all of his debts.

Also, Applicant did not provide any documentation concerning his current income or assets, by which he might show his current ability to address his ongoing debts and his financial stability. He also did not provide any additional evidence for consideration under the whole-person concept.

## **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 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.

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.

The documentary evidence in the record establishes that Applicant has incurred about \$30,000 in past-due indebtedness over the last several years. These facts establish *prima facie* support for the foregoing disqualifying conditions, and shift the burden to Applicant to mitigate the security concerns raised by those disqualifying conditions.

Guideline F includes four 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;
- (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
- (d) the individual initiated and is adhering to a good-faith effort to repay creditors or otherwise resolve debts.

All of the above mitigating conditions have partial application, but overall, Applicant did not provide sufficient evidence to mitigate the security concern raised by his delinquent debts. He took actions to resolve two of his debts by establishing the Plan, which was a reasonable partial step, but his actions did not address his other debts. He provided a credit report (AE A) that showed two other debts had been satisfied. He provided minimal evidence about the services he received from the debt-consolidation company and whether the services included financial counseling from a legitimate and credible source. Further, he did not establish sufficient evidence that all of his debts are being resolved or are under control. There is insufficient mitigating evidence in the record, however, to support a conclusion that Applicant is adhering to a good-faith effort to repay creditors and otherwise resolve his debts. Accordingly, he continues to have past-due

debts that are ongoing and unresolved, and his behavior casts doubt on his current reliability, trustworthiness, and judgment.

Applicant claimed in his Answer that he has paid all of the SOR debts. He submitted minimal documentary evidence in mitigation. He did not request a hearing at which his credibility could be assessed and he could provide additional testimony explaining his exhibits. I reopened the record to give Applicant the opportunity to provide additional clarifying explanations or documents. He declined to offer anything further.

Applicant asserted in his Answer that “my credit report right now shows that all accounts are satisfied and non-delinquent.” (Answer at 1) In fact, that credit report (AE A) only reflects that two of the SOR debts have been resolved (SOR 1.b and 1.c). The fact that the other SOR debts do not appear on his recent credit report (AE A) or the Government’s report (Item 6), however, is not sufficient evidence that any of the remaining SOR debts have been resolved. ISCR Case No. 14-03612 at 4 (App. Bd. Aug. 15, 2015) (“The fact that a debt no longer appears on a credit report does not establish any meaningful, independent evidence as to the disposition of the debt”). Debts can be dropped from credit reports for reasons other than the resolution of the debts. There is no basis in the record evidence for me to conclude that Applicant has resolved all of the debts or intends to resolve some debts in the future pursuant to a reasonable plan and has mitigated the security concerns arising from his delinquent debts. Applicant has failed to meet his burden to provide sufficient evidence in mitigation of the security concerns raised in the SOR. ISCR Case No. 14-05074 at 4 (App. Bd. Feb. 5, 2016.) Paragraph 1 is found against Applicant.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant’s potential 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 and the above whole-person factors. Applicant has not mitigated the concerns raised by his past-due indebtedness. When I reopened the record, Applicant was given the opportunity to supplement it and provide additional clarifying evidence. He declined to do so. He presented insufficient documentary evidence to confirm his assertion in his Answer that he had resolved all of his collection debts. Overall, the record evidence leaves me with questions and doubts as to Applicant's 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:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraphs 1.b through 1.e:	For Applicant
Subparagraphs 1.f and 1.g:	Against Applicant
Subparagraph 1.h:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not 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 denied.

JOHN BAYARD GLENDON  
Administrative Judge