



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-00872
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Andrea M. Corrales, Esq., Department Counsel  
For Applicant: *Pro se*

10/26/2022

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**Decision**

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COACHER, Robert E., Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

**Statement of the Case**

On June 6, 2022, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The DOD CAF acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines effective June 8, 2017 (AG).

Applicant answered the SOR on July 7, 2022, and elected to have his case decided on the written record in lieu of a hearing. Department Counsel submitted the Government’s File of Relevant Material (FORM) to Appellant on July 28, 2022. The

evidence included in the FORM is identified as Items 3-7 (Items 1-2 include pleadings and transmittal information). The FORM was mailed to Applicant, who received it on August 19, 2022. Applicant was given an opportunity to file objections and submit material in refutation, extenuation, or mitigation. He submitted exhibit (AE) A (comprised of his one page narrative response and confirmation email, both dated September 16, 2022. Some ancillary correspondence is also contained within). Neither party objected to the other's exhibits and all are admitted. The case was assigned to me on October 3, 2022. Upon my reviewing the case, and before starting my decision, I determined there was a need to reopen the record to allow Applicant to submit additional evidence. He timely submitted AE B-C, which were admitted without objections.

### **Findings of Fact**

Applicant admitted all of the SOR allegations with explanations. His admissions are incorporated into my findings of fact. After a careful review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is 53 years old. He has worked for a government contractor as a munitions technician since January 2013. He received his high school diploma in 1988. He served in the Air Force on active duty from 1989 to 2001. He retired from the Air Force with an honorable discharge. He is married for the second time and has three adult children and three adult stepchildren. He has held a security clearance without incident since 1989. (Item 3)

The SOR alleged 19 delinquent debts totaling approximately \$58,000. The debts are comprised of a past-due mortgage account and various consumer accounts. The debts are supported by credit reports from April 2021, May 2022, and July 2022; his statement to an investigator in May 2020; and his SOR admissions. (Items 2, 4-7)

Applicant stated that his financial problems arose because of a reduction in his work hours in 2019. Additionally, he got behind on his mortgage payments when he was diagnosed with COVID-19 in 2021, which put him out of work for about three months. Since that time, he provided written corroboration of his assertion that he is now current on his mortgage payments (SOR ¶ 1.p). That documentation also shows that he has been current on his payments from at least July 2022. (AE A-B)

Applicant also documented payments toward a non-SOR vehicle debt. He has made consistent payments on this debt from January 2022 through October 2022. (AE C)

Applicant asserted, and provided corroborating documentation, that the remaining unsecured SOR debts were incorporated into a debt relief payment plan (DRP) that he entered into in July 2019, three years before the issuance of his SOR. The DRP documentation verified that he has made monthly payments of approximately \$1,300 since his enrollment in the plan. The DRP has settled or is in the process of settling 28 of Applicant's 39 accounts. Department Counsel's argument that the supporting

documentation cannot specifically trace Applicant's DRP payments to the corresponding SOR debts is a valid concern. Applicant addressed this by explaining that once the debts were entered into the DRP, they were given different account numbers. The DRP documentation lists all the SOR debts by creditor name. I find that a substantial number of the SOR debts are being addressed by Applicant's DRP enrollment. (SOR Answer; AE A, C)

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

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 the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny 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 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 contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion to obtain a favorable security 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 access to classified information. Decisions include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that 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**

### **Guideline F, Financial Considerations**

AG ¶18 expresses the security concern for financial considerations:

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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns. I have considered all of them under AG ¶ 19, and the following potentially apply:

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

The evidence showed Applicant accrued several delinquent collection debts and a past-due mortgage account. I find the above disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

- (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;

(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 overdue creditors or otherwise resolve debts.

Applicant's financial problems arose in 2019 when his work hours were reduced, which impacted his ability to pay his bills. Additionally, in 2021, he was out of work for approximately three months because of COVID-19, which caused him to fall behind on his mortgage payments. These were conditions were beyond his control. He acted responsibly by entering into a payment plan with a DRC in 2019. That plan addressed all his unsecured SOR debts. He has made \$1,300 in monthly payments since 2019 and has settled or is in process of settling 28 of his debts. Additionally, he documented that he is current on his mortgage and car payments. This evidence establishes clear indications that his financial problems are being resolved and shows his good-faith efforts to resolve his debts. AG ¶¶ 20(b), 20(c), and 20(d) all have some applicability.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the 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 eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guideline and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I considered Applicant's military service, his federal contractor service, and the circumstances surrounding his indebtedness. I am convinced that recurrence is unlikely.

Overall, the record evidence leaves me without questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I

conclude Applicant mitigated the security concerns arising under Guideline F, financial considerations.

### **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, Guideline F:	FOR APPLICANT
Subparagraphs 1.a–1.s:	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 Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Robert E. Coacher  
Administrative Judge