



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
)  
[NAME REDACTED] ) ISCR Case No. 21-02933  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Adrienne M. Driskill, Esq., Department Counsel  
For Applicant: *Pro se*

11/14/2022

---

**Decision**

---

MALONE, Matthew E., Administrative Judge:

Applicant failed to mitigate the security concerns raised by his financial problems. His request for eligibility for access to classified information is denied.

**Statement of the Case**

On August 27, 2020, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain eligibility for access to classified information required as part of his employment with a federal contractor. Based on the results of the ensuing background investigation, adjudicators for the Department of Defense Consolidated Adjudications Facility (CAF) could not make an affirmative determination that it is clearly consistent with the interests of national security for Applicant to continue to have access to classified information. Such a determination is required by Security Executive Agent Directive (SEAD) 4, Section E.4, and by DOD Directive 5220.6, as amended (Directive), Section 4.2,

On April 1, 2022, the CAF issued a Statement of Reasons (SOR) alleging facts that raise security concerns about Applicant’s personal conduct and about his finances.

CAF adjudicators applied the adjudicative guidelines (AG) issued by the Director of National Intelligence (DNI) on December 10, 2016, and effective for all adjudications on or after June 8, 2017.

Applicant timely responded to the SOR (Answer) and requested a decision without a hearing. On June 8, 2022, as provided for by paragraph E3.1.7 of the Directive, Department Counsel for the Defense Office of Hearings and Appeals (DOHA) issued a File of Relevant Material (FORM) containing seven exhibits (Items 1 – 7) on which the Government relies to support the SOR allegations.

Applicant received the FORM on June 29, 2022, and he had 30 days from receipt of the FORM to submit additional information. He did not object to the Government's information or submit anything further in response. The record closed on July 29, 2022, and I received the case for decision on October 3, 2022.

### **Findings of Fact**

Under Guideline E (personal conduct), the SOR alleged that in May 2019, Applicant was disciplined for violating the terms of agreement for the travel credit card issued to him by his former employer (SOR 1.a). Under Guideline F (financial considerations), the SOR alleged that Applicant owes \$23,774 for 14 past-due or delinquent debts (SOR 2.a – 2.n). In response to the SOR, he admitted with explanation all of the allegations except for SOR 2.j. (FORM, Items 1 and 2) In addition to the facts established by Applicant's admissions, I make the following relevant findings of fact.

Applicant is 51 years old and requires a security clearance in connection with his employment with a federal contractor, for whom he has worked since June 2020. He served in the U.S. Navy on active duty and as a reservist between August 1993 and May 2001, when he received an honorable discharge. He was married from June 1996 until divorcing in August 2019. With his ex-wife, he raised two children and one stepchild. In March 1993, he earned an associate's degree from a technical school, and he has worked in information technology (IT) and related jobs since then. He first received a security clearance in 1994. (FORM, Item 2)

Between 1995 and 2017, Applicant worked as a project manager for a federal contractor. In February 2017, his company lost the contract to which he was assigned and laid him off as part of a reduction in force. Thereafter, he worked a series of full and part-time IT jobs until he started working for his current employer in 2020. One of those jobs was a part-time, on-call position with a federal agency. In that position, he deployed in 2018 and 2019 to areas of the United States in response to natural disasters. To pay for lodging, meals, and other costs incurred while traveling for that work, the agency provided him with a government travel credit card (GTC). The card was in his name and he was responsible for paying any balances using reimbursements from the sponsoring agency.

When Applicant submitted his e-QIP in August 2020, he disclosed in Section 26 (Financial Record) that he had been disciplined for failing to pay about \$6,000 that was

past due on his GTC. He explained that his failure to pay was due to a combination of excessive and disputed charges on the card, financial problems related to his divorce, and his inability to find full-time employment that would pay him enough to meet his financial obligations. (Answer; GX 1)

SOR 2.e alleged the GTC debt as a \$2,599 charged-off account. Additionally, available information in the form of credit bureau reports and Applicant's statements about his finances he made in a personal subject interview on September 30, 2020, supports all of the SOR allegations. The credit reports produced by the Government show that he accrued delinquencies between October 2015 and October 2020. (Answer; FORM, Items 1 – 7)

In response to the SOR, Applicant provided copies of emails between him and a financial management specialist at the federal agency for whom he worked regarding the GTC debt. That person helped administer the agency's travel card program. According to those emails, the agency suspended his GTC for non-payment in May 2019 after the agency had warned him about his failure to pay off the card. It also advised him that the card would remain suspended until he satisfied the debt and that he risked termination if he did not do so. Applicant explained that he was having trouble finding work that paid a sufficient salary for him to pay the card and the expenses of his divorce, which had been going on for about a year at that point. He also wanted to have his pay garnished to satisfy the debt, but was told he would have to arrange that directly with the credit card company. During his PSI, he alluded to those same circumstances as the cause of his financial problems. He also stated his belief that his ex-wife was spending too much money towards the end of their marriage. (Answer; FORM, Item 2)

With his Answer, Applicant also provided a copy of a repayment plan, dated April 14, 2022, with the SOR 2.d creditor. According to that agreement, he would pay \$200 each month for 12 months between May 2022 and April 2023 to satisfy that debt. Applicant averred he has started making those payments but he did not provide any corroborating information. (Answer)

Applicant did not provide any information showing he has acted to resolve any of the other debts alleged in the SOR. He also did not provide any information about his current monthly finances, or about any efforts to dispute the debts alleged. Finally, he has not sought or obtained any professional financial counseling or assistance to resolve his debts or to improve the way he manages his personal finances.

### **Policies**

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information, and consideration of the pertinent criteria and adjudication policy in the adjudicative guidelines (AG). (See Directive, 6.3) Decisions must also reflect consideration of the factors listed in AG ¶ 2(d). Commonly referred to as the "whole-person" concept, those factors are:

(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.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest for an applicant to either receive or continue to have access to classified information. (Department of the Navy v. Egan, 484 U.S. 518 (1988))

The Government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the Government must be able to prove controverted facts alleged in the SOR. If the Government meets its burden, it then falls to the applicant to refute, extenuate or mitigate the Government's case. Because no one has a "right" to a security clearance, an applicant bears a heavy burden of persuasion. (See Egan, 484 U.S. at 528, 531) A person who has access to classified information enters into a fiduciary relationship with the Government based on trust and confidence. Thus, the Government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability and trustworthiness of one who will protect the national interests as his or her own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government. (See Egan; AG ¶ 2(b))

## **Analysis**

### **Financial Considerations**

Available information supports the allegations that Applicant accumulated significant personal debt that has been past-due or delinquent since at least 2016. This information reasonably raises the security concerns articulated, in relevant part, at 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. . . . An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

Specifically, the Government's information requires application of the following AG ¶ 19 disqualifying conditions:

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

Applicant's debts became delinquent between 2015 and 2020. They are recent and ongoing because they have not been paid or otherwise resolved. By contrast, I also have considered the following pertinent AG ¶ 20 mitigating conditions:

- (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, 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;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

The record does not support any of these mitigating conditions. Although Applicant's divorce and employment problems may constitute unforeseeable or uncontrollable circumstances, it was incumbent upon Applicant to present information showing that he acted responsibly in the wake of those circumstances and that his financial problems are unlikely to recur. He has not met that burden. He also has not sought any assistance in resolving his financial problems and he has not supported any disputes he may have concerning the accuracy of the debts alleged. On balance, Applicant did not mitigate the security concerns raised by the Government's information about his finances.

## Personal Conduct

The security concern raised through SOR 1.a, the lone allegation under Guideline E, is subsumed by the Guideline F allegation at SOR 2.e, in that, SOR 1.a alleges the underlying cause of the GTC debt. Accrual of unresolved delinquent debts and other financial problems, such as those established in this case, may indicate poor judgment and reliability under both Guideline F and Guideline E. The SOR 1.a allegation of disqualifying personal conduct is addressed under another adjudicative guideline as SOR 2.e; thus, it does not fall within the ambit of the only potentially applicable Guideline E disqualifying condition, namely, AG ¶ 16(d):

credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information.

I conclude that SOR 1.a duplicates the security concern raised by SOR 2.e. It is resolved for Applicant.

Applicant did not meet his burden of persuasion to overcome the Government's case for disqualification from access to classified information under Guideline F. I also have reviewed the record before me in the context of the whole-person factors listed in AG ¶ 2(d). Applicant's financial problems, and his lack of any action to resolve any of them until after he received the SOR, sustain doubts about his judgment, reliability, and trustworthiness. Because protection of the national interest is the principal focus in these adjudications, any remaining doubts must be resolved against allowing access to sensitive information.

## Formal Findings

Formal findings 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 E:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline F:	AGAINST APPLICANT
Subparagraph 2.a – 2.n:	Against Applicant

## **Conclusion**

In light of all available information, it is not clearly consistent with the interests of national security for Applicant to have access to classified information. Applicant's request for security clearance eligibility is denied.

MATTHEW E. MALONE  
Administrative Judge