



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 22-00374  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Andre M. Gregorian, Esq., Department Counsel  
For Applicant: *Pro se*

10/28/2022

---

**Decision**

---

MASON, Paul J., Administrative Judge:

Applicant’s contradictory evidence in mitigation is insufficient to overcome the security concerns raised under the guidelines for financial considerations and personal conduct. Eligibility for security clearance access is denied.

**Statement of the Case**

On December 7, 2018, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP, Item 2) for security clearance eligibility so that he could work for a defense contractor. On April 11, 2022, the Defense Counterintelligence Security Agency (DCSA) could not make the necessary affirmative finding to grant Applicant’s security clearance and issued an SOR to him detailing security reasons under the guidelines for financial considerations (Guideline F) and personal conduct (Guideline E). The action was taken under Executive Order (E.O.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective in the DOD on June 8, 2017.

On April 28, 2022, Applicant provided an answer to the SOR. He elected to have his case decided on an administrative (written) record instead of a hearing. Department Counsel for the Government sent a copy of the File of Relevant Material (FORM), the Government's evidence in support of the allegations in the SOR, to Applicant on July 20, 2022. He received the FORM on August 1, 2022. The Government advised Applicant that in his response, he could either file objections, furnish explanations, submit additional material, or take advantage of all three options within 30 days of receiving the FORM. On August 19, 2022, Department Counsel indicated he had no objection to Applicant's undated response to the FORM. The Defense Office of Hearings and Appeals (DOHA) assigned this case to me on October 3, 2022.

### **Rulings on Procedure**

In a footnote on the second page of the FORM, Department Counsel informed Applicant that his April 2019 personal subject interview (PSI, Item 6 at 1-4) would be excluded from evidence if he objected to the exhibit. Alternatively, Department Counsel advised him that he could correct, update, or modify the exhibit to improve its clarity or accuracy. Applicant objected to his April 2019 PSI because it was unauthenticated by a government witness. Pursuant to E3.1.20. of DOD Directive 5220.6, page 52, the April 2019 PSI is withdrawn from the record.

### **Findings of Fact**

The SOR contains four delinquent credit-card accounts. The total amount of delinquent debt is \$47,301. Applicant denied the four allegations. He indicated that he found out about all the accounts upon reading the SOR in April 2022. Regarding the collection account at SOR ¶ 1.c, Applicant blamed his daughter for using the credit-card and not making the required payments. He indicated that he took control of the account after the 2018 investigation.

Concerning SOR ¶ 2.a, Applicant stated that he was unaware of the listed debts when he completed the e-QIP on December 7, 2018. The debts came to his attention after he executed the e-QIP.

Applicant is 59 years old and has been married to his second spouse since August 2013. He has two adult-aged children, ages 38 and 35. He earned college credits from July 2011 to January 2015, without receiving a degree. Since October 2018, Applicant has been employed as a contract analyst for a defense contractor, working for a federal agency. From January to October 2018, Applicant was a court reporter for a federal agency. Applicant's previous positions were as a customer service representative, and a training analyst. From September 2008 to February 2009, Applicant was unemployed for four months because of family issues. (Tr. 11-18, 22)

Applicant served in the United States Army Reserve from August 1983 to May 2005, receiving an honorable discharge in July 2005. He also served in a state national

guard from January 2003 to August 2005. He has held a security clearance since July 2001. He provided a “No” answer to all financial questions of his December 2018 e-QIP. He indicated that he had never sought assistance from a credit counseling service. (Tr. 18-20, 38, 39)

SOR ¶ 1.a – This charged off credit-card account was opened in June 2014, with Applicant individually liable in case of default. The last payment activity on the account was in February 2018, with a delinquent balance of \$5,742. (Item 3 at 4; Item 4 and 4) The account is not posted in the Item 5 credit report, dated June 2022. In response to a fraud claim filed by Applicant on April 22, 2022, the creditor notified Applicant on April 26, 2022, that the account was closed and that derogatory information would be removed from his credit report. This account is resolved in Applicant’s favor.

SOR ¶ 1.b – This is a charged-off credit-card account that was opened in January 2013, with Applicant assuming individual liability for default. The last activity on the account was April 2018, with a delinquent balance of \$20,674. Though no supporting documentation was furnished, Applicant indicated that he filed a fraud claim with this creditor on April 22, 2022. (Item 3 at 3; Item 4 at 4; item 5 at 6)

SOR ¶ 1.c – This is a charged off collection account that opened in June 2015, with Applicant individually liable for default. The last activity on the account was in February 2018, with a delinquent balance of \$8,487. Applicant claimed he assumed control of the account after the 2018 investigation. The documentation presented by Applicant is a payment plan schedule that begins in November 2021 and ends in March 2029. Applicant presented similar repayment documentation for the other listed accounts. (Item 3 at 4; Item 4 at 5; Item 5 at 4; Response to FORM at 3-8)

SOR ¶ 1.d – This credit-card account was opened in May 2015, with Applicant individually liable in case of default. The last activity on the account was December 2017, with a delinquent balance of \$12,398. Applicant set up a payment plan that calls for monthly payments of \$209 from August 2022 through July 2023. (Item 3 at 4; Item 4 at 5; item 5 at 6; Response to FORM at 11)

The Government credit bureau reports indicate that Applicant’s former and current resident addresses match those addresses appearing in his December 2018 e-QIP. See, GE 2 at 9-11; GE 3 at 1-3. The credit reports reflect that Applicant has several other accounts in a current status. (GE 3, 4, 5)

At pages 13 and 14 of his response to the FORM, Applicant claimed that the unintentional omission of the listed debts from his December 2018 e-QIP was isolated and not recent. He contended that he acted responsibly with the creation of payment plans once he discovered the delinquent accounts. Applicant averred that he was involved in credit counseling and provided a one-page flyer from a counseling service thanking him for joining. He was contemplating a consolidation loan to show that his financial accounts were resolved or under control. He was evaluating legal action to

dispose of all three accounts. He is working with the SOR ¶¶ 1.b and 1.d creditors to determine how the two accounts were opened. In his response to the FORM, Applicant did not provide any information about his yearly or monthly earnings or his financial practices, such as whether he has a budget.

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines and all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision. These guidelines, which are flexible rules of law, are applied together with common sense and the general factors of the whole-person concept. The protection of the national security is the paramount consideration. AG ¶ 2(d) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

Under Directive ¶ E3.1.14, the Government must 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 applicant or proven by Department Counsel. . ." The applicant has the ultimate burden of persuasion in seeking a favorable security decision.

### **Analysis**

#### **Financial Considerations**

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. 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.

AG ¶ 19. Conditions that could raise a security concern and may be disqualifying include:

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

The surrounding facts leading to the SOR ¶¶ 1.b, 1.c, and 1.d accounts becoming delinquent between end of December 2017 and February 2018 support the application of AG ¶¶ 19(a) and 19(c).

AG ¶ 20. Conditions that could mitigate security concerns include:

(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; and

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

Though three listed accounts became delinquent four to five years ago, the accounts are still delinquent, and Applicant has advanced contradictory positions regarding his responsibility for the accounts. Applicant's claim of not knowing about the accounts until publication of the SOR in April 2022 is not credible. AG ¶ 20(a) does not apply.

AG ¶ 20(b) does not apply to this case because there were no unanticipated events that caused the financial problems. While Applicant provided considerable documentation of payment plans to the SOR ¶¶ 1.b, 1.c, and 1.d creditors, he submitted no proof that any of the scheduled payments were made under those plans. He submitted no payment receipts, payment ledgers, or bank statements to show compliance with the schedules. Applicant's successful challenge of the SOR ¶ 1(a) account is acknowledged as action that resolved this debt due to the fraudulent nature of the account.

Applicant receives no mitigation under AG ¶ 20(c) because the one-page counseling document does not explain the extent of Applicant's participation in the counseling service. Applicant's statement concerning the counseling service provides no clear indication that his debts are being resolved or under control.

## Personal Conduct

The security concern for personal conduct is set forth in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the national security investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation or further processing for national security eligibility.

The potential disqualifying conditions under AG ¶ 16 is:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award, benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

In his April 2021 SOR answer, Applicant denied that he deliberately falsified the December 2018 e-QIP. When an applicant denies he intentionally falsified a government form, the falsification must be evaluated with all the direct and circumstantial evidence about an applicant's statement at the time the omission occurred. See ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004)

In his December 2018 e-QIP, Applicant denied that he had delinquent debts. In his April 2021 response to SOR, he denied that he deliberately falsified the listed delinquent debts. However, in his response to the SOR, he provided payment plans for the SOR 1.b, 1.c, and 1.d accounts, which demonstrated in his view, taking responsibility for the delinquent accounts once he discovered their existence. His response to the FORM also contains his consideration of a loan to consolidate the debts, as well as evaluating legal action to extinguish the debts. Having denied his responsibility in December 2018 for the three debts, including the SOR ¶ 1.c account that he believed in his daughter was responsible for, then why would he present evidence in April 2022 accepting responsibility for the delinquent accounts. I conclude from Applicant's conflicting explanations that AG ¶ 16 (a) applies.

The potential mitigating conditions under AG ¶ 17 are:

(c) the offense is so minor, or so much time has passed, or the behavior is infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness and good judgment; and

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

AG ¶ 17(c) is inapplicable because not disclosing the truth on a security form is not a minor event. An applicant is responsible for complete candor during all phases of the security investigation so that the Government can make an informed decision concerning his security qualifications. Applicant's inconsistent responses to the delinquent accounts during the security investigation raise residual concerns about his trustworthiness and judgment. AG ¶ 17(d) does not apply.

### **Whole-Person Concept**

I have examined the evidence under the guideline for financial considerations in the context of the nine general factors of the whole-person concept 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 access to classified information must be an overall common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

Applicant is 59 years and has been married since 2013. He has two adult-age children. He received an honorable discharge in July 2005, after 22 years in the military. He has been employed as a contract analyst since October 2018.

The foregoing favorable evidence is inadequate to prevail over the negative evidence of his continuing financial issues. Given the fact that he has held a security clearance since 2001, he knew or should have known that full disclosure was required on the e-QIP. Having considered the entire record from an overall common-sense point of view, including the lack of evidence of financial counseling and character evidence, the financial considerations and personal conduct guidelines have not been mitigated.

### **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:	AGAINST APPLICANT
Subparagraphs 1.b-1.d:	Against Applicant
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against 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 Applicant eligibility for access to classified information. Applicant's application for a security clearance is denied.

---

Paul J. Mason  
Administrative Judge