



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-01479
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: William H. Miller, Esq., Department Counsel  
For Applicant: *Pro se*

06/26/2023

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**Decision**

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COACHER, Robert E., Administrative Judge:

Applicant has not mitigated the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On September 26, 2022, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The DOD 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).

On October 25, 2022, Applicant answered the SOR and elected to have his case decided on the written record in lieu of a hearing. Department Counsel prepared the Government’s File of Relevant Material (FORM), which was sent to Applicant on January 25, 2023. The evidence included in the FORM is identified as Items 3-6 (Items

1 and 2 include pleadings and transmittal information). The FORM was received by Applicant on February 24, 2023. Applicant was given an opportunity to file objections and submit material in refutation, extenuation, or mitigation. Applicant did not submit any response. The Government's evidence is admitted into the record. The case was assigned to me on June 1, 2023.

### **Findings of Fact**

Applicant admitted all of the SOR allegations (§§ 1.a-1.n, and 1.p), except for §§ 1.o, 1.q, and 1.r. His admissions are adopted as findings of fact. After a careful review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is 61 years old. He has worked for his current employer, a defense contractor, since August 2016, as a supply technician. He holds an associate degree, a bachelor's degree and two master's degrees. He is married for the second time and has one adult child. (Items 3-4).

Applicant served in the U.S Army from 1994 to 2001. He also served in the Army National Guard from 2002 to 2010. He was honorably discharged. (Item 3)

The SOR alleged Applicant incurred 18 delinquent debts, comprised of student loans and consumer debts totaling approximately \$130,000 (of which approximately \$100,000 derive from his student loans) (§§ 1.a-1.f, 1.h-1.j, and 1.l-1.m). Two of the student loan accounts appear to be duplicates and I find in favor of Applicant on those debts (SOR § 1.l is a duplicate of § 1.i and SOR § 1.m is a duplicate of § 1.j).

Applicant admitted the 11 delinquent student loans of approximately \$100,000 in his SOR answer. He further stated during his background investigative interview, that he had no reason to dispute these debts. A credit report reveals that his student loans were assigned for collection between 2010 and 2016. Applicant claimed the loans were put in deferment for a period. He failed to provide any documentary evidence that he contacted the lenders, set up any payment plans for his student loans, or paid any of the accounts. They remain unresolved. (Items 2, 4, and 5)

The SOR also alleged Applicant owed seven delinquent consumer accounts totaling approximately \$17,000. (§§ 1.g, 1.k, and 1.f-1.r) He admitted these debts in his background interview and in his SOR answer, except for §§ 1.o and 1.q-1.r, which he denied. SOR §§ 1.q-1.r no longer appear on Applicant's most recent credit report and are resolved for him. The remaining debts are reported as delinquent debts in credit reports from October 2021 and June 2022. He provided no documentary evidence showing that he contacted the creditors, established payment plans, or paid any of the remaining debts. (Items 2-6)

Applicant believes that his limited income led to his financial difficulties. He is in a better financial situation now because he received a promotion and his wife is working. There was no evidence of financial counseling presented. (Item 4)

## 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 concerns 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.

Applicant has over \$100,000 of delinquent student loans and failed to pay about \$17,000 in other consumer debts. I find both the above disqualifying conditions are raised.

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

- (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.

Applicant's debts are ongoing and remain unresolved. He did not provide sufficient evidence to show that his financial problems are unlikely to recur. AG ¶ 20(a) does not apply. He did not present circumstances that were beyond his control that contributed to his financial problems and the evidence does not support a finding that he has taken responsible actions to address his debts. AG ¶ 20(b) does not apply.

Applicant failed to document any efforts he made to resolve or pay his delinquent student loans. He did not provide evidence of financial counseling. AG ¶ 20(c) does not apply. His financial issues are not under control. He has not shown a good-faith effort to address his debts. AG ¶ 20(d) applies to SOR ¶¶ 1.q-1.r, but it does not apply to the remaining SOR debts.

### **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 the facts and circumstances surrounding this case. I considered his military service and work as a contractor, but I also considered his lack of progress in resolving his debts. Applicant has not established a track record of financial responsibility.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate 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:	AGAINST APPLICANT
Subparagraphs 1.a-1.k, 1.n-1.p:	Against Applicant
Subparagraphs 1.l-1.m, 1.q-1.r:	For Applicant

### **Conclusion**

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Robert E. Coacher  
Administrative Judge