



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



In the matter of:	)	
	)	
	)	ISCR Case No. 23-00115
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Jeff A. Nagel, Esq., Department Counsel  
For Applicant: *Pro se*

07/12/2023

**Decision**

GARCIA, Candace Le'i, Administrative Judge:

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

**Statement of the Case**

On January 31, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). The action was taken under Executive Order (Exec. Or.) 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) implemented by DOD on June 8, 2017.

Applicant responded to the SOR on February 4, 2023 (Answer). He elected to have his case decided on the written record in lieu of a hearing. The Government's written case was submitted on March 3, 2023. A complete copy of the file of relevant material (FORM) was provided to Applicant on March 6, 2023, and he was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on March 18, 2023. He submitted a response on March 20, 2023 (FORM Response), which I marked as Applicant's exhibit (AE) A. He submitted additional documentation on May 7, 2023, which I marked as AE

B. The case was assigned to me on June 1, 2023. The Government's documents, identified as Items 1 through 7 in its FORM, AE A, and AE B, are admitted in evidence without objection.

### **Findings of Fact**

Applicant admitted all the SOR allegations in his Answer. He is 29 years old. He married in 2016 and divorced in 2018. He does not have any children. He graduated from high school in 2012 and he attended welding school from 2018 to 2019, but he did not earn a degree. He worked part time as a dishwasher from June 2010 to June 2013. He then enlisted in the U.S. military and served until June 2018, when he was honorably discharged. He has worked for his current employer, a DOD contractor, since July 2018. He has never held a security clearance. (Items 1-3)

The SOR alleges that Applicant has three charged-off consumer debts totaling \$31,920. (SOR ¶¶ 1.a-1.c) In addition to his admissions in his Answer, Applicant disclosed his delinquent debts in his August 2021 security clearance application (SCA), during his August 2021 background interview, and in his October 2022 response to DOHA interrogatories. His delinquent debts are also reported on three credit bureau reports from August 2021, September 2022, and March 2023. (Items 1-7)

SOR ¶¶ 1.a, 1.b, and 1.c are three charged-off credit cards with the same creditor, in the amounts of \$20,955, \$6,925, and \$4,040, respectively. Applicant obtained the credit cards in approximately 2013 and 2016, and he used them to pay for his daily living expenses. He began to fall behind on his payments after his military discharge in 2018, when he earned only a minimal income and the high interest rates on his credit cards affected his ability to pay them. He stated in his SCA and during his background interview that he was paying off other non-delinquent debts so that he would have more money to resolve his delinquent debts, which he expected to do beginning in approximately 2022. In his response to interrogatories, he stated that he intended to also save money so that he could make lump-sum payments on his credit cards. He also stated that he was experiencing medical issues that further affected his ability to resolve his debts. (Items 1-4)

Applicant stated in his Answer that payment plans had commenced for all three credit cards, and he was scheduled to pay SOR ¶ 1.a monthly and SOR ¶¶ 1.b and 1.c bi-weekly. He provided documentation reflecting that he made a payment of \$436 for SOR ¶ 1.a in March 2023, and he made three payments of \$66 and \$51 for SOR ¶¶ 1.b and 1.c, respectively, in February and March 2023. He stated that he adjusted his payment plans to have all but the largest of his three delinquent debts paid by May 2025, and the largest paid by February 2027. (Items 1-4; AE A, B)

Applicant described his financial situation as stable during his background interview. In his response to interrogatories, he stated that his annual salary was approximately \$72,000. He further stated that he purchased a home in March 2022 and his monthly mortgage was \$1,500. He obtained a roommate and refinanced his auto

loan to lower his monthly expenses, so that he could address his delinquent debts. His March 2023 credit report reflects that he has a delinquent debt not alleged in the SOR, for an apartment rental in collection for \$1,084. He indicated in his FORM Response that he intends to set up a payment plan to address this debt. In addition, he set up a payment plan of \$15 monthly for another account, also not alleged in the SOR, in collection for approximately \$513. He made payments in accordance with that plan in February and March 2023. He indicated during his background interview that he does not intend to obtain credit cards in the future. He has not received any credit counseling. (Items 2-4, 7; AE A, B)

## **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 access to classified information 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 as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Exec. Or. 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* Exec. Or. 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 pertaining to 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.

AG ¶ 19 describes conditions that could raise a security concern and may be disqualifying. I considered as relevant ¶ 19(a), an “inability to satisfy debts,” and ¶ 19(c), “a history of not meeting financial obligations.” Applicant has a history of not paying his debts. AG ¶¶ 19(a) and 19(c) are established.

Of the mitigating conditions under AG ¶ 20, I have determined the following to be relevant:

(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; and

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

Conditions beyond Applicant's control contributed to his delinquent debts. For the full application of AG ¶ 20(b), he must provide evidence that he acted responsibly under the circumstances. His documentation corroborates his stated efforts to resolve his delinquent debts. A security clearance adjudication is an evaluation of an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). The adjudicative guidelines do not require that an individual make payment on all delinquent debts simultaneously, pay the debts alleged in the SOR first, or establish resolution of every debt alleged in the SOR. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant has a plan to address his delinquent debts, to include two that are not alleged in the SOR. His debts became delinquent when he was underemployed after his military discharge. Once he had the financial means to do so, he set up payment plans to address his debts, and he commenced payments in accordance with such plans. He has demonstrated a good-faith effort to resolve his debts, and he now has the means to continue to resolve them. I find that Applicant's financial difficulties do not cast doubt on his current reliability, trustworthiness, and judgment. AG ¶¶ 20(a), 20(b), and 20(d) are established.

### **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 guidelines and the whole-person concept. I have incorporated my comments under Guideline F in my whole-person analysis. Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. I conclude that Applicant mitigated the financial considerations security concerns arising from his delinquent debts.

## 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.c:	For Applicant

## Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Candace Le'i Garcia  
Administrative Judge