



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



In the matter of: )  
)  
) ISCR Case No. 23-00933  
)  
)  
Applicant for Security Clearance )

**Appearances**

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

September 19, 2023

**Decision**

LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of Case**

On May 2, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Financial Considerations and Guideline E, Personal Conduct. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective for cases after June 8, 2017.

Applicant answered the SOR on May 10, 2023, and requested a hearing before an administrative judge. The case was assigned to me on June 12, 2023. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on June 16, 2023, and the hearing was convened as scheduled on August 24, 2023. The Government offered five exhibits, referred to as Government Exhibits 1 through 5, which were

admitted without objection. The Applicant offered no exhibits, however he did testify on his behalf. DOHA received the transcript of the hearing (Tr.) on September 1, 2023.

### **Findings of Fact**

Applicant is 28 years old. He is not married and has no children. He has a high school diploma and two years of college. He is currently employed as a Heavy Line Diesel Mechanic for a non-government company. He is applying for a position with a defense contractor who is currently sponsoring him for a security clearance in connection with his potential employment.

### **Guideline F - Financial Considerations**

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness, and ability to protect classified information.

The SOR alleged that Applicant is indebted to eleven creditors which include collections, charge offs, and past-due accounts totaling approximately \$26,000. In his answer, Applicant admits each of the delinquencies. Credit reports of the Applicant dated December 10, 2022; June 8, 2023, and August 22, 2023, confirm this indebtedness. (Government Exhibits 3, 4, and 5.)

Applicant is a self-taught mechanic since the age of 13. He began working professionally as a mechanic about 10 ½ years ago. Over the years he has accumulated extensive experience and has recently completed formal training with Honda. His current financial situation is tight. He often brings home about \$2,000 bi-weekly after taxes. With his regular monthly expenses of rent in the amount of \$1,965, food, utilities, as well as repair expenses for a truck his father gave him that needs work, he has little discretionary money. He has \$200 in a savings account, \$2,800 in his checking account, and \$2,500 in his retirement account.

Since late 2020, or early 2021, Applicant has been employed full time, however he has changed jobs and worked for several employers with an effort to find stability, better pay, and opportunity for growth. In October 2022, he received an offer of employment with a defense contractor dependent on his security clearance. Applicant completed a security clearance application dated November 14, 2022. This is Applicant's first time applying for a security clearance.

Applicant stated that in 2019 when the COVID shutdown began and became worse through 2020, his ability to work and earn a living was significantly impacted. In 2019, he was furloughed from his job with Honda for about two months without pay. This forced him to open credit card debt to simply survive. This paid for his rent, food, and other living necessities. His monthly bills that he had always paid on time before COVID became delinquent and owing. Following the furlough, he was let go because

there was not enough work. He was then unemployed for about a month. In total, he was without employment for about five months. (Tr. p. 42.)

The following delinquent debts became delinquent and are of security concern:

1.a. A delinquent debt owed to a creditor that was charged off in the approximate amount of \$9,849. This was a dirt bike/motorcycle that Applicant leased from a dealership. The payments were \$183 monthly. Applicant made the monthly payments until late 2021, when work slowed down, and he could no longer afford them. He has not made a payment in about a year. Applicant intends to pay the debt as he wants to keep the motorcycle. (Tr. p. 27.) The debt remains owing.

1.b. A delinquent debt owed to a creditor was charged off in the approximate amount of \$5,167. This is a credit card that Applicant opened in 2017 and used to pay rent, health insurance, food, and the essentials to survive. (Tr. p. 29.) In late 2021, work slowed down, and he stopped making payments on the account. Applicant stated that about two months ago, he made a couple of \$400 payments. The debt remains owing.

1.c. A delinquent debt owed to a creditor was placed for collection in the approximate amount of \$4,043. This is a pay pal account or credit line that Applicant obtained in 2019. He initially used the money to pay for his hobby involving RC helicopters, and ultimately had to use it to help pay for rent and living expenses. He has not made a payment for about a year. (Tr. p.31.) The debt remains owing.

1.d. A delinquent debt owed to a creditor was charged off in the approximate amount of \$1,878. This is a credit card used for living expenses. Applicant has not made a payment on it for about a year. The debt remains owing. (Tr. p. 32.)

1.e. A delinquent debt owed to a creditor was charged off in the approximate amount of \$1,324. This is a credit card used for living expenses. Applicant has not made a payment on it for about a year. The debt remains owing. (Tr. p. 32.)

1.f. A delinquent debt owed to a creditor was placed for collection in the approximate amount of \$1,140. Applicant stated that this was a “buy now, pay back later” program. He used the money to purchase several car parts. The debt remains owing. (Tr. p. 32-33.)

1.g. A delinquent debt owed to a creditor for an account was placed for collection in the approximate amount of \$919. Applicant stated that this was a “buy now, pay back later” program. About two years ago, he purchased parts for his car and a couple of hobby items and has not been able to pay the debt. (Tr. p. 32.) The debt remains owing.

1.h. A delinquent debt owed to a creditor for an account was placed for collection in the approximate amount of \$827. Applicant stated that this was a “buy now, pay back later” program. About two years ago, he purchased parts for his car and a

couple of hobby items and has not been able to pay the debt. (Tr. p. 32.) The debt remains owing.

1.i. A delinquent debt owed to a creditor for an account was charged off in an amount unknown. Applicant stated that this was a small loan he took out in the amount of \$400. He has not been able to pay the debt. The debt remains owing. (Tr. p. 36.)

1.j. A delinquent debt owed to a creditor for an account was past due in the approximate amount of \$207 with a total balance of \$341. This is a credit card he used to purchase tools he needed for work in 2021 and 2022. He stated that he made a payment on the account about five and a half months ago through autopayment. (Tr. pp. 37-38.)

1.k. A delinquent debt owed to a creditor for an account was past due in the approximate amount of \$244 with a total balance of \$1,879. This is a credit card he used to purchase tools and other items he needed for work. He stated that he made a payment on the account about five and half months ago through autopayment. (Tr. pp. 38-39.) The debt remains owing.

### **Guideline E – Personal Conduct**

The Government alleged that Applicant is ineligible for a clearance because he engaged in conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations that raise questions about his reliability, trustworthiness, and ability to protect classified or sensitive information.

Applicant completed a security clearance application dated November 14, 2022. (Government Exhibit 1.) In response to Section 26, regarding his Financial Record, Applicant was asked if any of the following happened? . . . “In the past seven years have you had bills or debts turned over to a collection agency? . . . In the past seven years have you had any account or credit card suspended, charged off, or cancelled for failing to pay as agreed?” Applicant answered, “No.” Applicant failed to disclose the delinquent debts set forth above in subparagraphs 1.a., through 1.k.

Applicant gave several excuses for not answering the questions accurately. He stated that he did not know the status of his accounts, nor did he have all of the information he needed to answer the questions accurately. He stated that he did not have the resources necessary to gather the information and so he checked, “No”, in response to the questions. He stated that he did not know that he could explain or make comments about his situation on the application. He also stated that he did not understand the questions. (Tr. pp. 39-40, 46-48, and Applicant’s Answer to SOR.)

## Policies

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be 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, administrative judges apply the guidelines in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable clearance 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 the 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 EO 10865 provides that adverse 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

The security concern for Financial Considerations is set out in 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Two are potentially applicable in this case:

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

Due to COVID and its aftermath, Applicant incurred significant delinquent debt that he has not paid. At this time there is insufficient information in the record to conclude that he is financially stable, or that he can afford his lifestyle, or that he has the financial resources available to handle his financial obligations. There is no evidence in the record to show that any regular monthly payments of any sort are being made toward his debts. In fact, they all remain outstanding. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under Financial Considerations are potentially applicable under AG ¶ 20.

- (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.

There is evidence to show that circumstances beyond the Applicant's control, namely the impact of COVID, contributed to Applicant's financial debts. There were several periods of unemployment resulting in a total of about five months without income. However, since late 2020 or early 2021, Applicant has been working full time and has done very little to show that he has addressed his delinquent indebtedness. Furthermore, he has failed to provide any documentation to support his contentions that he has made a "few payments" toward two or three of his debts. None of the mitigating conditions apply. This guideline is found against Applicant.

### **Guideline E - Personal Conduct**

The security concern for the personal conduct guideline is set out 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 security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying condition is potentially applicable:

(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.

AG ¶ 17 provides conditions that could mitigate security concerns. I have considered each of the mitigating conditions below:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(c) the offense is so minor, or so much time has passed, or the behavior is so 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, or good judgment;

(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;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Applicant was not candid and truthful when he answered the questions on his security clearance application about his past financial record. This shows irresponsible and unreliable conduct. Whether he was careless or dishonest his conduct shows poor judgment. Applicant knew or should have known to answer the questions on his application carefully and accurately. Deliberately concealing material information from the government on a security clearance application raises serious questions about one's credibility and trustworthiness. Carelessness shows immaturity and irresponsibility. In either case, none of the mitigating conditions are applicable here, and Applicant does not meet the eligibility requirement to access classified information. This guideline is found against the Applicant.

### **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 relevant 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 considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. Applicant has not addressed his financial delinquencies and was not candid with the Government about his financial history. Insufficient mitigation has been shown. Accordingly, I conclude Applicant has not mitigated the Financial Considerations and Personal Conduct security concerns.

### **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. through 1.k.	Against 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 or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson  
Administrative Judge