



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



In the matter of:	)	
	)	
	)	ISCR Case No. 23-02401
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Erin P. Thompson, Esq., Department Counsel  
For Applicant: *Pro se*

12/03/2024

**Decision**

GARCIA, Candace Le'i, Administrative Judge:

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

**Statement of the Case**

On January 23, 2024, 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 submitted a response to the SOR (Answer) on June 8, 2024, and elected to have his case decided on the written record in lieu of a hearing. The Government's written case was submitted on July 30, 2024. A complete copy of the file of relevant material (FORM) was provided to Applicant 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 August 11, 2024. His response was due on September 10, 2024. Applicant did not provide a response to the FORM. The

case was assigned to me on November 13, 2024. The Government's documents, identified as Items 1 through 8 in its FORM, are admitted in evidence without objection.

### **Findings of Fact**

Applicant admitted all of the SOR allegations in his Answer. (Item 2) He is 35 years old. He married in July 2014, separated in 2017, and divorced in September 2020. He graduated from high school in 2007 and earned an associate degree in 2016. He served in the U.S. military from 2008 to 2012. He was briefly unemployed from May 2012 to September 2012. He then worked for various non-defense contractors until November 2020. He has since worked overseas for his employer, a DOD contractor. He was granted a security clearance when he served in the U.S. military. As of his December 2021 security clearance application (SCA), he has resided overseas on a U.S. military installation since November 2020. (Item 3)

The SOR alleges Applicant had six delinquent consumer debts totaling \$25,783 (SOR ¶¶ 1.a-1.d, 1.g-1.h), and two delinquent federal student loans totaling \$4,487 (SOR ¶¶ 1.e-1.f). The allegations are established by Applicant's admissions in his Answer, his December 2021 SCA, his June 2023 response to interrogatories, his background interview with an authorized DOD investigator in March 2022, and credit bureau reports (CBRs) from September 2022, September 2023, and July 2024. (Items 2-8)

Applicant attributes his delinquent debt to his period of unemployment following his discharge from the U.S. military, the minimal income he earned while working for various non-defense contractors, his move from state A to state B when he got married in 2014, his relocation back to state B from state A in 2017 after his separation, the COVID-19 pandemic, and his divorce. He indicated during his background interview that he has been trying to financially recover as his current employer provides free rent and allows him to drive a company vehicle. He managed to build his savings to \$12,000. He intends to utilize this money to resolve his debts. He stated during his response to interrogatories that his monthly net income was \$4,500, his monthly net remainder after expenses was \$3,800, and he was working hard to repay his debts. (Items 3-5)

Applicant provided documentation from the U.S. Department of Education reflecting it discharged both of his federal student loans in January 2022. (Item 2) He stated in his Answer he was in the process of disputing the debt in SOR ¶ 1.a because the creditor repossessed his car after it approved his payment plan; he was working with the creditors in SOR ¶¶ 1.b-1.d to reach payment plans to pay these debts; he submitted a payment plan to the creditor in SOR ¶ 1.g; and he expected to pay the debt in SOR ¶ 1.h in March 2024. He did not provide documentation to corroborate his claims. There is no evidence in the record that he has received financial counseling. (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 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 AG ¶ 19(a), an "inability to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations." Applicant has a history of not paying his debts. AG ¶¶ 19(a) and 19(c) apply.

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;

(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.

Circumstances beyond Applicant's control contributed to his delinquent debts. Documentation reflects he has resolved his federal student loans, so I find SOR ¶¶ 1.e and 1.f in his favor. However, he has not provided documentation to corroborate his claims of resolution or dispute for his remaining delinquent debts. He has not provided sufficient evidence that he has acted responsibly under his circumstances. He did not provide sufficient evidence that he initiated or is adhering to a good-faith effort to repay or otherwise resolve his overdue creditors. There are not clear indications that his financial problems are being resolved or are under control. I find that his remaining financial problems continue to cast doubt on his current reliability, trustworthiness, and judgment. AG ¶¶ 20(a), 20(b), 20(d), and 20(e) are not 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 with questions and doubts as to Applicant's eligibility and suitability for a security clearance. I conclude that Applicant did not mitigate the financial considerations 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-1.d:	Against Applicant
Subparagraphs 1.e-1.f:	For Applicant
Subparagraphs 1.g-1.h:	Against Applicant

## **Conclusion**

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

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Candace Le'i Garcia  
Administrative Judge