



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



In the matter of:

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ISCR Case No. 24-00353

Applicant for Security Clearance

Appearances

For Government: Brittany C. White, Esq., Department Counsel
For Applicant: *Pro Se*

11/19/2024

Decision

BORGSTROM, Eric H., Administrative Judge:

Applicant attributed his financial delinquencies to a failed business and to supporting a family of five on one income for a period of time. He is gainfully employed, his financial situation has stabilized, and he has made debt payments for nearly a year. He mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On May 13, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant 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 Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines implemented by the DOD on June 8, 2017.

In Applicant's June 14, 2024 response to the SOR (Answer), he admitted, with explanations, all nine delinquent accounts. He attached documentation of a payment arrangement with one creditor. He requested a decision by a Defense Office of Hearings

and Appeals (DOHA) administrative judge based upon the written record in lieu of a hearing. (Answer)

On July 9, 2024, Department Counsel submitted a file of relevant material (FORM) and provided a complete copy to Applicant. Department Counsel's FORM includes Items 1 through 6. In the FORM, Department Counsel provided Applicant notice that failure to respond to the FORM may be considered a waiver of any objections to the admissibility of the evidentiary exhibits, or "Items."

On July 17, 2024, Applicant received the FORM and its attachments. With an undated two-page response to the FORM (FORM Response), Applicant attached three documents, which I marked as Applicant Exhibits (AE) A through C. He did not raise any objections to the admissibility of any of the Government's evidentiary exhibits. The case was assigned to me on October 8, 2024. Items 1 through 6 and AE A through C are admitted into evidence.

Findings of Fact

Applicant is 51 years old. He graduated from high school in 1991, and he earned a bachelor's degree in 1995. He was married in September 1997 and divorced in November 2001. He has been married to his second wife since May 2005. He has a 31-year-old child, whom he adopted in 2012. (GE 3)

From January 2012 to December 2016, Applicant was employed full time as a systems analyst for a private company. From January 2017 to February 2017, he worked full time as the owner of a small business. The business failed, and he found work full time as a systems analyst from February 2017 to June 2019. From June 2019 until April 2021, he was employed as technology support for a private company. He was laid off, but he found work full time as a business analyst for a private company from May 2021 until July 2023. Since July 2023, he has been employed full time as a business analyst for a DOD contractor, and this new position came with a significant pay increase. (GE 3)

On October 17, 2023, Applicant was interviewed by an authorized investigator on behalf of the Office of Personnel Management (OPM). He acknowledged his delinquent accounts and attributed his financial problems to his daughter, her boyfriend, and their child moving in with Applicant and his wife. At the time, Applicant supported a family of five on his income alone. He did not provide any further details about the length of time and the expenses associated with his financial support for these three individuals. As of the date of the security interview, his daughter, her boyfriend, and their child no longer lived with Applicant and his wife. (GE 6)

In his June 11, 2024 Answer, Applicant attributed his financial delinquencies to his failed business in early 2017 and his daughter, her boyfriend, and their child living with Applicant and his wife for a period of time beginning in 2021. He referenced repaying \$25,000 in personal loans to "investors" in his business, but he did not include any further information about when those loans were repaid. He also referred to "significant medical costs" incurred by himself or his wife; however, he provided no further information.

Applicant claimed that he had paid SOR ¶ 1.a. the day he submitted the Answer, that he had made payments on SOR ¶ 1.i., and that he intended to make payment arrangements to resolve SOR ¶ 1.b. He claimed his daughter's boyfriend owed him an unspecified amount of money. He attached documentary evidence of the payment agreement for SOR ¶ 1.i., initiated in December 2023. He did not provide any evidence to corroborate any debt payments. (Answer)

The SOR alleges nine delinquent debts totaling approximately \$39,600. In his Answer, Applicant admitted all nine delinquent accounts. (Answer)

SOR ¶ 1.a. This utility account became delinquent in November 2023 and was placed for collection in December 2023 in the approximate amount of \$402. As of August 2024, this account was paid in full. **This debt is resolved.** (Answer; FORM Response; GE 6; AE C)

SOR ¶ 1.b. This account became delinquent in about October 2022 and was placed for collection in April 2023 in the approximate amount of \$6,436. In July 2024, Applicant initiated a payment agreement, and he has made two payments totaling \$199. **This debt is being resolved.** (Answer; FORM Response; GE 5; AE B)

SOR ¶ 1.c. This account was opened in February 2012, became delinquent in August 2022, and was charged off in the approximate amount of \$5,913. There is no evidence of any payments, payment arrangements, or debt-resolution efforts on this account. **This debt is not resolved.** (Answer; GE 4-6)

SOR ¶ 1.d. This account was opened in February 2020, became delinquent in March 2023, and was charged off in June 2023 in the approximate amount of \$3,817. There is no evidence of any payments, payment arrangements, or debt-resolution efforts on this account. **This debt is not resolved.** (Answer; GE 4, GE 5)

SOR ¶ 1.e. This personal loan was opened in November 2021, became delinquent in November 2022, and was charged off in April 2023 in the approximate amount of \$4,240. There is no evidence of any payments, payment arrangements, or debt-resolution efforts on this account. **This debt is not resolved.** (Answer; Items 4-6)

SOR ¶ 1.f. This personal loan was opened in December 2018, became delinquent in January 2023, and was charged off in June 2023 in the approximate amount of \$6,751. There is no evidence of any payments, payment arrangements, or debt-resolution efforts on this account. **This debt is not resolved.** (Answer; Items 4-6)

SOR ¶ 1.g. This personal loan was opened in December 2020, became delinquent in November 2022, and was charged off in April 2023 in the approximate amount of \$3,453. There is no evidence of any payments, payment arrangements, or debt-resolution efforts on this account. **This debt is not resolved.** (Answer; Items 4-6)

SOR ¶ 1.h. This credit-card account was opened in September 2016, became delinquent in August 2022, and was charged off in February 2023 in the approximate amount of \$6,415. As of December 2023, this account was settled for an unspecified amount. **This debt is resolved.** (Answer; Items 5-6)

SOR ¶ 1.i. This account became delinquent in July 2022 and was assigned to collection in February 2023 in the approximate amount of \$2,212. As of April 2024, Applicant had paid this balance down to \$1,530 under a payment agreement. In his FORM Response, he stated that he had further reduced the outstanding balance to \$1,200. **This debt is being resolved.** (Items 4-5)

In Applicant's FORM Response, he claimed he had resolved an unalleged debt, but he did not provide any further information about the amount of the debt or the timing of its resolution. He explained that his current annual income is approximately \$90,480, his monthly income is approximately \$4,908, and his monthly expenses are approximately \$3,200. He did not present a plan for addressing and resolving his remaining outstanding delinquent accounts; however, he averred that his current financial situation was solid and that he intended to resolve his delinquent debts. His debt-resolution efforts were governed by his available funds as he has limited his expenses and slowly rebounded. (FORM Response)

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 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 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."

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 security decision.

A person who seeks access to sensitive 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 sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive 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

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

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

Applicant's nine accounts, totaling over \$38,900, became delinquent between about August 2022 and November 2023. AG ¶¶ 19(a) and 19(c) apply.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable in this case:

(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 has initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant bears the burdens of production and persuasion in mitigation. An applicant is not held to a standard of perfection in his debt-resolution efforts or required to be debt-free. "Rather, all that is required is that an applicant act responsibly given his circumstances and develop a reasonable plan for repayment, accompanied by 'concomitant conduct,' that is, actions which evidence a serious intent to effectuate the plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017). See, e.g., ISCR Case No. 13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014).

Applicant's financial delinquencies arose between August 2022 and November 2023. With Applicant's raise in August 2023 and the departure of his daughter, boyfriend, and their child, his financial situation began to stabilize. Given the recency of the delinquencies and that several debts remain unpaid, it is premature to apply AG ¶ 20(a). There is no evidence of credit counseling (AG ¶ 20(c)).

Applicant initiated his first debt-resolution efforts in December 2023, with the payment agreement on SOR debt ¶ 1.i., and he has maintained payments through at least August 2024. He resolved SOR ¶¶ 1.a. and 1.h., and he has a payment agreement and made payments on SOR ¶ 1.b. As of the close of the record, he had not initiated any debt-resolution efforts on SOR ¶¶ 1.c.-1.g. AG ¶ 20(d) applies as to SOR ¶¶ 1.a., 1.b., 1.h., and 1.i.

Applicant attributed his financial delinquencies to his failed business and to his financial support of his daughter, her boyfriend, and their child. During his security interview, he explained that his August 2023 raise enabled him to stabilize his finances and address his financial delinquencies. The recency of Applicant's debt-resolution efforts must be juxtaposed against the recency of the delinquencies (between August 2022 and November 2023). Since December 2023, Applicant has resolved two accounts, entered into two payment agreements, and adhered to the two payment agreements. He has not

incurred any new loans or opened any new credit-card accounts for several years. His monthly income (\$4,900) exceeds his monthly expenses (\$3,200), leaving him with a comfortable net monthly remainder to address his delinquent accounts. In less than one year, he has paid or resolved approximately 20% (\$8,028) of his alleged debt, and he has payment agreements to resolve another 19% (\$7,437). Although he has not established payment agreements for all of his accounts, he has demonstrated a track record of financial responsibility in the short time since his accounts became delinquent. Applicant's debt-resolution efforts are not measured against a standard of perfection. AG ¶ 20(b) applies. Applicant mitigated the financial considerations security concerns.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a position of trust 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.

Applicant attributed his financial delinquencies to a failed business and to supporting a family of five on one income for a period of time. He is gainfully employed, his financial situation has stabilized, and he has made debt payments for nearly a year. He mitigated the financial considerations security concerns. He mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

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.i.:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, I conclude that 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.

Eric H. Borgstrom
Administrative Judge