



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



In the matter of: )  
)  
) ISCR Case No. 23-02885  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Cassie L. Ford, Esq., Department Counsel  
For Applicant: *Pro Se*

11/20/2024

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**Decision**

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BORGSTROM, Eric H., Administrative Judge

Applicant's divorce and support obligations contributed to some of his financial delinquencies; however, these obligations concluded in April 2021. Applicant made some payments on four delinquent debts - at least two which resulted in civil judgments against Applicant, but he has not acted responsibly to address and resolve debts when not pursued by creditors. There is no evidence of a plan to resolve his remaining accounts or that he intends to repay these debts. Eligibility for access to classified information is denied.

**Statement of the Case**

On January 26, 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 February 6, 2024 response to the SOR (Answer), he admitted, with explanations, all 13 delinquent accounts. He did not attach any documentary evidence to

his Answer. 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 15, 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 10. 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.

On August 5, 2024, Applicant received the FORM and its attachments. On August 22, 2024, he provided a one-page response and attached four documents, which I marked as Applicant Exhibits (AE) A through D. He did not raise any objections to the admissibility of any of the evidentiary exhibits. The case was assigned to me on October 8, 2024. Items 1 through 10 and AE A through D are admitted into evidence.

### **Findings of Fact**

Applicant is 48 years old. He graduated high school in 1995. From August 1995 to May 1996, he attended college courses but did not earn a degree. He married in August 2002 and divorced in October 2019. He has been married to his second wife since October 2021. He has a 21-year-old child, who does not reside with him. Since December 2014, he has been employed full time as an implementation specialist by a DOD contractor. (GE 5)

On November 30, 2022, Applicant was interviewed by an authorized investigator on behalf of the Office of Personnel Management (OPM). During the interview, he attributed his financial delinquencies to his divorce and significant spousal and child-support obligations. He explained that he continued to make timely debt payments until about July 2020, when he could no longer sustain his monthly financial obligations, debt payments, and child-support obligation. Those support obligations ended in April 2021. During his security interview, Applicant stated that he had previously decided in July 2020 not to repay his debts because he did not have sufficient funds, and he continued to hold that position as of the November 2022 interview. (GE 10)

In his Answer, Applicant provided greater detail about his support obligations and recent debt-resolution efforts. He explained that his first wife filed for divorce in June 2019. Upon the filing, he was required to pay \$1,300 in monthly spousal support and \$1,710 in monthly child support. Upon the finalization of the divorce in October 2019, he was required to pay monthly child support of \$1,840. This support obligation later grew to \$2,200. In his Answer, Applicant claimed to be making monthly payments on SOR ¶¶ 1.a., 1.b., 1.h., and 1.j. He provided no documentary evidence to corroborate his claimed payments. As to the remaining 10 delinquent accounts, Applicant admitted these accounts and explained that "[r]epayment has not been offered by creditor." (Answer)

**SOR ¶ 1.a.** Applicant incurred this personal loan in about July 2018. In about June 2020, this account became delinquent in the approximate amount of \$21,498. In 2021, a judgment was entered against Applicant in the approximate amount of \$21,998. In about May 2021, he entered into a settlement agreement with the creditor to pay \$200 a month

on a total balance of \$11,000. In his FORM response, he claimed to have made 40 payments totaling approximately \$8,000; however, the documentary evidence provided only shows 24 payments - between August 2022 and July 2024 -- totaling \$4,800. **This debt is being resolved.** (Answer; GE 6, GE 7, GE 10; AE A)

**SOR ¶ 1.b.** This credit-card account was placed for collection in about February 2020 in the approximate amount of \$18,902. Applicant's June 2023 credit report indicates that he has a payment agreement in place on this account. In his FORM response, Applicant claimed to have paid \$5,383 towards a \$10,200 settlement amount; however, he did not provide any documentary evidence of a settlement agreement. He submitted two screenshots showing 19 monthly payments of \$283.33 (totaling approximately \$5,383) between January 2023 and August 2024 and an outstanding balance of \$16,886. **This debt is being resolved.** (Answer; GE 6, GE 7, GE 10; AE C)

**SOR ¶ 1.c.** This vehicle loan was opened in March 2017 and became delinquent in about June 2019. The vehicle was later repossessed. This account was charged off in the approximate amount of \$14,697. There is no evidence of any payments or payment arrangements on this account. **This debt is not resolved.** (Answer; GE 6, GE 7, GE 10)

**SOR ¶ 1.d.** This credit-card account was opened in February 2018, became delinquent in about July 2020, and was charged off in the approximate amount of \$10,087. There is no evidence of any payments or payment arrangements on this account. **This debt is not resolved.** (Answer; GE 6, GE 7, GE 10)

**SOR ¶ 1.e.** This credit-card account became delinquent in about January 2020, and it was charged off in the approximate amount of \$8,703. There is no evidence of any payments or payment arrangements on this account. **This debt is not resolved.** (Answer; GE 6, GE 7, GE 10)

**SOR ¶ 1.f.** This credit-card account was opened in January 2019, became delinquent in about August 2019, and was later charged off in the approximate amount of \$5,112. There is no evidence of any payments or payment arrangements on this account. **This debt is not resolved.** (Answer; GE 6, GE 7, GE 10)

**SOR ¶ 1.g.** This credit-card account was placed for collection in about April 2022 in the approximate amount of \$2,424. There is no evidence of any payments or payment arrangement on this account. **This debt is not resolved.** (Answer; GE 6, GE 7, GE 10)

**SOR ¶ 1.h.** This account was placed for collection in about February 2021 in the approximate amount of \$1,311. With his Answer, Applicant included correspondence from the creditor, dated April 2024, acknowledging a payment of an unspecified amount and that the account was closed. There is no evidence as to the amount of the payment. **This debt is resolved.** (Answer; GE 7, GE 10; AE 8)

**SOR ¶ 1.i.** This credit-card account became delinquent in about July 2020 and was charged off in the approximate amount of \$1,273. There is no evidence of payments or payment arrangements on this account. **This debt is not resolved.** (Answer; GE 6, GE 7, GE 10)

**SOR ¶ 1.j.** This credit-card account was placed for collection in May 2021 in the approximate amount of \$974. There is no evidence of payments or payment arrangements on this account. **This debt is not resolved.** (Answer; GE 6, GE 10)

**SOR ¶ 1.k.** This credit-card account had been placed for collection in January 2021 in the approximate amount of \$5,360. In his FORM response, Applicant claimed to have paid \$2,375 on this account. He provided a letter from the creditor reflecting a monthly payment agreement of \$95 beginning in July 2022, with an outstanding balance of \$3,270. **This debt is being resolved.** (Answer; GE 6, GE 7; AE D)

**SOR ¶ 1.l.** This cell-phone bill account was placed for collection in about May 2022 in the approximate amount of \$1,842. There is no evidence of payments or payment arrangements on this account. **This debt is not resolved.** (Answer; GE 6)

**SOR ¶ 1.m.** This credit-card account was placed for collection in about February 2021 in the approximate amount of \$1,387. There is no evidence of payments or payment arrangements on this account. **This debt is not resolved.** (Answer; GE 6)

In his FORM response, Applicant claims that he has an agreement to pay \$100 monthly on a \$5,472 repayment agreement for an unalleged delinquent account. He provided documentary evidence of seven completed payments. There is no evidence of credit counseling, and Applicant has not provided a budget showing his monthly income and expenses. (Answer; AE 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 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;
- (b) an unwillingness to satisfy debts regardless of ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant's 13 accounts, totaling over \$94,000, became delinquent between June 2019 and May 2022. During his November 2022 security interview, he stated that he did not intend to repay his delinquent accounts. In his Answer, he stated that he did not engage in any debt-resolution efforts with the nine creditors which had not contacted him.

His statements reflect an unwillingness to satisfy his debts. AG ¶¶ 19(a), 19(b), 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 than 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 has not disputed any of the accounts. All but one account remain delinquent. There is no evidence of credit counseling. AG ¶¶ 20(a) and 20(c) do not apply.

Applicant attributed his financial delinquencies to his divorce and support obligations between June 2019 and April 2021. Multiple accounts (SOR ¶¶ 1.g., 1.j., and 1.i.) became delinquent after his support obligations concluded. Prior to his November 2022 security interview, Applicant made payment arrangements on only two accounts (SOR ¶¶ 1.a. and 1.k.). Of note, a judgment had been entered on SOR ¶ 1.a. During that security interview, he unequivocally stated that he did not intend to repay his delinquent accounts. In his Answer, he explained that he had not taken any steps on nine of the 13 delinquent accounts because the creditors had not contacted him. Applicant has not established that he acted responsibly to address his delinquent accounts – particularly given his delay and statements that he did not intend to repay. AG ¶ 20(b) does not apply.

Applicant resolved SOR ¶ 1.h. after a judgment was filed, and he is currently making monthly payments on SOR ¶¶ 1.a., 1.b., and 1.k. AG ¶ 20(d) applies to SOR ¶¶ 1.a., 1.b., 1.h., and 1. k..

There is no evidence of any debt-resolution efforts as to SOR ¶¶ 1.c.-1.g., 1.i., 1.j., 1.l., and 1.m. While Applicant is not required to be making payments on all of his delinquent accounts simultaneously, he has not indicated his intent to resolve these accounts nor developed a reasonable plan to do so. None of the financial considerations mitigating conditions apply to SOR ¶¶ 1.c.-1.g., 1.i., 1.j., 1.l., and 1.m. Applicant did not mitigate 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's divorce and support obligations contributed to some of his financial delinquencies; however, these obligations concluded in April 2021. Applicant made some payments on four delinquent debts - at least two which resulted in civil judgments against Applicant, but he has not acted responsibly to address and resolve debts when not pursued by creditors. There is no evidence of a plan to resolve his remaining accounts or that he intends to repay these debts. His actions do not reflect the reliability, trustworthiness, and good judgment of those entrusted to safeguard classified information. He did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

### **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.b.:	For Applicant
Subparagraph 1.c.-1.g.:	Against Applicant
Subparagraph 1.h.:	For Applicant
Subparagraphs 1.i.-1.j.:	Against Applicant

Subparagraph 1.k.:  
Subparagraphs 1.1.-1.m.:

For Applicant  
Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, I conclude that 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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Eric H. Borgstrom  
Administrative Judge