



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



In the matter of:

Applicant for Security Clearance

)
)
)
)
)

ISCR Case No. 24-01994

Appearances

For Government: Nicole A. Smith, Esq., Department Counsel

For Applicant: Samir Nakhleh, Esq.

07/14/2025

Decision

MURPHY, Braden M., Administrative Judge:

Applicant did not provide sufficient evidence to mitigate financial considerations security concerns over his delinquent debts. Applicant's eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on April 22, 2024, in connection with his employment in the defense industry. On December 11, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued him a Statement of Reasons (SOR) detailing security concerns under Guideline F, Financial Considerations. The DCSA issued the SOR under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (AG) effective within the DOD on June 8, 2017.

Applicant answered the SOR on January 13, 2025, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The case was assigned to me on March 11, 2025. On March 27, 2025, following consultation

with the parties, DOHA issued a notice scheduling the hearing for April 22, 2025. The hearing was to take place virtually through an online platform.

The hearing convened as scheduled. Department Counsel submitted Government's Exhibits (GE) 1 through 4. Applicant testified and submitted Applicant Exhibits (AE) A through O, of which AE A through J had been submitted with his Answer to the SOR. All these exhibits were admitted without objection. I left the record open until May 6, 2025, to allow Applicant the opportunity to submit additional information. He timely submitted post-hearing exhibits AE P through X, all of which were admitted without objection. DOHA received the hearing transcript (Tr.) on May 1, 2025.

Findings of Fact

Applicant admitted all the debts alleged in the SOR (§§ 1.a -1.g) with explanations. His admissions are incorporated into the findings of fact. Additional findings follow.

Applicant is 43 years old. He has been married and divorced twice, from 2006 to 2013 and again from 2015 to April 2021. He has one child, now age six, from his second marriage. He currently lives with his fiancée and her three children. (GE 1; Tr. 20-21, 31, 66-67)

Applicant retired from the Air Force in May 2022 as a technical sergeant (E-6) after 20 years of honorable service. Applicant was employed from June to November 2022 with contractor 1. He was employed with contractor 2 from November 2022 to early 2025. Since mid-March 2025, he has worked for contractor 3. He works on a military base. He has held a clearance since he joined the Air Force. (GE 1; Tr. 22-28, 63-64; AE I) While in the Air Force, Applicant earned the Air and Space Achievement Medal, several unit awards, and appropriate service medals. (AE S)

Applicant disclosed various delinquent accounts on his SCA. He said he had been able to pay his bills with his second wife's income adding to the household, but he fell behind on his debts after their divorce, which led to child support payments. (GE 1; Tr. 31-32)

In his background interview, Applicant said his delinquent accounts were loans, lines of credit, and credit card accounts. He was ordered to assume responsibility for the accounts in the divorce settlement due to his higher income. He prioritized paying his child support over his debt payments. He considered retaining a debt consolidator but could not afford the payments. He was also advised not to pay the debts and to take no action to address them since they were charged off and would drop off his credit report after seven years. At that time, that was his intended plan. (GE 2; Tr. 31-32)

The six SOR debts total about \$62,655. They are established by credit reports in the record, from May 2024 and February 2025. (GE 3, GE 4) In his SOR response, Applicant gave the same answer for each of the SOR debts:

I admit that this account is delinquent. In 2021, following my divorce, the court assigned all jointly accumulated debt to me and ordered a \$1,026 monthly child support payment. Managing both obligations on a single income became unfeasible. Faced with the choice, I prioritized paying my child support. However, I have since enrolled in a debt consolidation plan and have begun making payments to address the outstanding debt.

Applicant provided documentation of his divorce settlement and child support order. (AE A, AE B) He entered a debt resolution program (DRP) in December 2024. All the SOR debts are included. (AE O) The DRP estimated that it could settle Applicant's SOR debts for about \$31,000, while charging \$15,663 in legal fees (saving him about \$15,000). Payments started in early January 2025, with biweekly payments of \$448.50 for 53 months (four years, five months). (Tr. 35-37, 78-79; AE C, AE D) He entered into this agreement after he received the SOR in mid-December 2024 and retained counsel. As of the April 2025 hearing, he had made seven bi-weekly payments to the DRP. (AE N)

SOR ¶ 1.a (\$20,620) is a credit card account (#XX83) with Bank J that has been charged off. In March 2025, a settlement was reached through the DRP for \$10,320, with 24 monthly payments of \$430 soon to begin. (Tr. 38,80-81; AE O, AE X)

SOR ¶ 1.b (\$19,824) is a credit card account (#XX52) with Bank J that has been charged off. This account is enrolled in the DRP. (Tr. 39, 80-81; AE O)

SOR ¶ 1.c (\$9,158) is an account with Bank C that has been charged off. This account is enrolled in the DRP. (Tr. 80-81; AE O)

SOR ¶ 1.d (\$5,620) is an account with Bank W that has been charged off. Applicant settled this account for \$1,405 and made the payment in March 2025. (Tr. 32-34, 80; AE M at 3, AE K, AE P) This account is resolved.

SOR ¶ 1.e (\$4,846) is a credit account that has been charged off. This account is enrolled in the DRP. (AE O)

SOR ¶ 1.f (\$1,699) is a credit card account (#XX16) with Bank J that has been charged off. This account was settled and paid in March 2025. (Tr. 34, 80; AE M at 2) This account is resolved.

SOR ¶ 1.g (\$888) is an auto supply store credit account that has been charged off. Applicant settled the debt for \$578 in March 2025. (Tr. 34-35, 80; AE L) This account is resolved

Applicant acknowledged that the SOR debts were incurred during the second marriage because he and his second wife were living beyond their means. He clarified that he was responsible for all the marital credit card debt not specifically assigned to his ex-wife because the credit cards were in his name. He did not reach out to his creditors after the divorce because he could not afford the settlement payments. (Tr. 52-55, 67-69)

Applicant was reluctant to address his debts when he left the military in May 2022 because he was new to the civilian workforce and he wanted his finances “under control” before addressing his debts. He acknowledged, however, that his income increased once he left the Air Force. He refinanced his house in April 2024, around the time he prepared his SCA. A financial advisor told him not to address his debts, since they are charged off and outside the statute of limitations. (Tr. 40-41, 57-58, 86)

Applicant said his fiancée wants him to stabilize his finances and address his debts. They got engaged in November 2024, shortly before he received the SOR. He then retained the debt reduction firm because he wants to pay off his debts as fast as possible. (Tr. 71-72, 86)

After he signed with the DRP in December 2024, Applicant made his initial debt payments by cashing out his 401k plan (about \$5,000) when he moved from contractor 2 to contractor 3 in March 2025. He can continue making payments into the DRP because he is now receiving military retirement and VA disability benefits in addition to his salary. (Tr. 35, 39-41, 62, 81-82)

Applicant acknowledged a propensity for buying expensive cars. When he left the Air Force in May 2022, he owed a sports car that he had bought in 2019 for between \$30,000 and \$50,000. In fall of 2023, he traded that car in for a truck. In April 2024, he bought another sports car for about \$60,000, around the time he refinanced his mortgage. In September 2024, Applicant traded in the two vehicles (the truck and the second sports car) for another truck. This is currently his only vehicle. The sale price for that vehicle was around \$72,000. But he acknowledged that he was “upside down” on the truck he traded in (purchased in 2023), so the loan was for about \$90,000 or more. He has a \$1,700 monthly car payment. He likes keeping his vehicles under warranty in case of mechanical trouble. (Tr. 48-52, 55-56, 62, 72-78; AE U)

Applicant lives with his fiancée in her house. She also works for a DOD contractor. He also owns his own home. It is currently vacant but he expects to rent it out soon. His plan is that the rent will cover his mortgage payments. This will free up \$1,800 to \$2,000 to pay his debts. (Tr. 41-44) With his new job with contractor 3, his annual salary increased from \$69,000 to \$85,000. According to his post-hearing personal financial statement (PFS) Applicant earns \$5,193 in monthly net income from his employer, plus an additional \$6,437 in retirement and disability benefits. He listed monthly expenses of just under \$3,000, and debt payments of \$4,271 (mortgage, truck payment, and DRP payments). He owes over \$86,500 on the truck. He listed a monthly remainder of \$4,373. (Tr. 58-61, 64, 85; AE Q, AE R, AE T, AE U, AE W)

Applicant is current on his taxes. He has not had formal credit counseling. He intends to resolve his debts through the DRP unless he can settle and pay the debts himself. (Tr. 84-85)

Applicant’s former supervisor at contractor 2 wrote a letter attesting to his integrity, service, diligence, professionalism, and excellence. (Tr. 30; AE G) His ex-wife attested to his trustworthiness, responsibility, reliability, integrity, and dedication to his son and

family. She endorsed his eligibility for a clearance. (Tr. 31; AE H) Another personal reference (possibly his fiancée but it is not clear) offered a similar letter endorsing Applicant's character. (AE F) He is well-regarded at work and is rated a successful performer. (Tr. 27; AE E) He has completed appropriate security and classified information trainings. (AE J)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

The adjudicative 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 several 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. 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, 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 as to obtaining 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.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline for financial considerations is set out, in relevant part, 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. . . .

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

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) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant and his second wife incurred various consumer credit debts during their marriage, which ended in 2021. These debts were due to overspending and living beyond their means. The debts are his responsibility to address, per the divorce settlement agreement. The SOR debts are established by the Applicant's credit reports, his admissions, and his testimony. AG ¶¶ 19(a) and 19(c) apply. Applicant also acknowledged that for a period of time, he elected not to address his debts, intending instead to let the statute of limitations expire so they would become uncollectible. During this same period, he purchased several expensive trucks and sports cars. This suggests he had the money to address his debts but decided to use the money elsewhere. AG ¶ 19(b) also applies.

The following mitigating conditions under AG ¶ 20 are potentially applicable:

- (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, or 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.

Applicant's debts originated due to overspending and living beyond his means during his second marriage. He has (and accepts) responsibility for the debts in the divorce settlement. Applicant testified that several factors impacted his ability and willingness to address his debts responsibly. He prioritized his child support payments over dealing with his creditors, but he has also purchased several expensive trucks and sports cars in recent years, all with high sale prices and large monthly payments. In about April 2024, when he refinanced his mortgage, he was given bad financial advice to ignore his debts so they would age out of the statute of limitations and become uncollectible. As a result, he took little concrete action to address them until he received the SOR and retained legal counsel, in late 2024. In December 2024, he retained the DRP, and in January 2025, he began addressing his debts through settlement arrangements made by DRP representatives. In this manner, some of his debts are resolved (SOR ¶¶ 1.d, 1.f, 1.g) while other, larger SOR debts remain pending (though enrolled in the DRP program).

Applicant's debts are ongoing and unresolved and they are not due to an isolated circumstance. They continue to cast doubt on his judgment, trustworthiness, and reliability. AG ¶ 20(a) does not apply.

Applicant's debts originated during his second marriage, and he acknowledged that they are attributable to overspending. He was assigned the marital credit card debt since the SOR accounts are in his name. The divorce and his child support responsibilities took priority over debt payments, but that was not a circumstance beyond his control, especially since he made a conscious decision not to address his debts (albeit having been given bad financial advice). Applicant has also not acted reasonably in addressing his debts. He has purchased several expensive trucks and sports cars, for between \$30,000 and \$90,000 in recent years. While having an interest in his family's safety and a trustworthy auto is admirable, he could have purchased a less expensive vehicle without giving up safety and reliability. His repeated auto purchases are not responsible, especially given his delinquent debts. AG ¶ 20(b) does not apply.

Applicant now has a plan in place to address his debts. He has begun addressing them through the DRP, and some smaller debts are now resolved. But he did not become serious about addressing his debts until late 2024, when he got engaged, retained legal counsel, and hired the DRP. He has a limited track record of steady payments towards his debts, and a long way to go. The timing of his actions, coupled with the limited payments so far, undercut a showing of full good faith under AG ¶ 20(d).

Applicant did not establish that any of the mitigating conditions fully apply to mitigate the security concern demonstrated by his delinquencies.

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(a), 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 condition under all the facts and circumstances surrounding this case. Applicant's debts remain largely unresolved, and he has only recently begun a good-faith effort to address them. If he continues his current path, he may demonstrate renewed eligibility for access to classified information at a later date. But as of now, he needs a longer track record of debt payments and financial responsibility. He has not met his burden of showing that he has mitigated the financial security concerns shown by his history of delinquent debts. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. I conclude he did not provide sufficient evidence to mitigate the security concerns arising under Guideline F, financial considerations.

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.c, 1.e:

Against Applicant

Subparagraphs 1.d, 1.f, 1.g:

For Applicant

Conclusion

Considering all the circumstances presented, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Braden M. Murphy
Administrative Judge