



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

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ISCR Case No. 24-01948

Applicant for Security Clearance

**Appearances**

For Government: Nicholas Temple, Esq., Department Counsel  
For Applicant: *Pro se*

10/02/2025

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**Decision**

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HARVEY, Mark, Administrative Judge:

Guideline F (financial considerations) security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On February 12, 2024, Applicant completed an Electronic Questionnaires for Investigations Processing or security clearance application (SCA). (Government Exhibit (GE) 1) On October 8, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and Security Executive Agent Dir. 4, establishing in Appendix A, the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the

SOR set forth security concerns arising under Guideline F. (HE 2) On January 9, 2025, Applicant provided his response to the SOR. On February 13, 2025, Department Counsel was ready to proceed. On June 18, 2025, the case was assigned to me.

On June 26, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing on July 25, 2025. The hearing was held as scheduled using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered six exhibits into evidence, and Applicant did not offer any exhibits into evidence. (Tr. 14, 18-21; GE 1-GE 6) There were no objections, and all proffered exhibits were admitted into evidence. (Tr. 21) On August 8, 2025, DOHA received a copy of the transcript. No documents were received after the hearing. The record closed on September 25, 2025. (Tr. 103, 108)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

### **Findings of Fact**

In Applicant's SOR response, he admitted the SOR allegations in ¶¶ 1.a through 1.n, and 1.p through 1.v. He denied the allegations in SOR ¶¶ 1.o and 1.w. (HE 3) His admissions are accepted as findings of fact.

Applicant is a 45-year-old carpenter, and he worked for the government contractor sponsoring him for seven months until he was placed on furlough in February 2025. (Tr. 8) In 1998, he graduated from high school. (Tr. 7) He has two years of college; however, he does not have a degree. (Tr. 7) He has not served in the military. (Tr. 7) He was married in 2006 and divorced in 2011. (Tr. 8) In 2015, he married his spouse. (Tr. 9) His children are ages 4, 9, and 17. (Tr. 9) His spouse works in a health center. (Tr. 100)

### **Financial Considerations**

Around 2020, Applicant started a remodeling business, and at first, it was successful. (Tr. 63-64) He opened several credit cards from 2020 to early 2023, and he used credit cards to pay business expenses. (Tr. 24-26, 63, 65-67) He had to personally guarantee repayment to obtain the credit card accounts. (Tr. 24-26) Some clients did not pay for work he performed on their houses. (Tr. 24, 84-94) He acknowledged that he was responsible for "a little mismanagement" and a "little poor decision making" relating to his finances and running his business. (Tr. 78) The economy, including COVID-19, had a role in his financial problems. (Tr. 75-78)

The SOR alleges Applicant had a bankruptcy in 2014, and he has 23 delinquent debts totaling \$48,631. The debts are substantiated in his credit bureau reports (CBRs) and his bankruptcy is shown in his bankruptcy filing (GE 3-GE 5). Their status is as follows:

SOR ¶ 1.a alleges Applicant filed Chapter 7 Bankruptcy in November 2013. This bankruptcy was discharged in March 2014. The reason he filed for bankruptcy is he did not want to be responsible for his spouse's substantial debts after they were divorced in 2011. (Tr. 62) The bankruptcy discharged debts totaling about \$150,000. (Tr. 70) Consumer debt was the main source of the discharged debts. (Tr. 71)

The SOR alleges three accounts owed to the same creditor: SOR ¶ 1.b is an account placed for collection for about \$5,679; SOR ¶¶ 1.l and 1.q are charged-off accounts for about \$1,824 and \$1,040, respectively. (Tr. 24, 47-49, 58) The accounts became delinquent in late 2023 or early 2024. (Tr. 24, 49) He made some payments to both accounts. (Tr. 25, 47) He did not describe any payments after the accounts became delinquent. (Tr. 50)

Applicant's SOR alleges four credit-card accounts with the same creditor, which were placed for collection as follows: ¶ 1.c for about \$4,759; ¶ 1.e for about \$3,944; ¶ 1.f for about \$3,918; and ¶ 1.k for about \$1,914. Applicant used the credit cards to finance his business expenses. (Tr. 27, 37, 46-47) The accounts became delinquent in late 2023 or early 2024. (Tr. 28) He said he made some payments and reduced the amount of some of the debts. (Tr. 27) He said he made monthly \$100 payments to one account and \$300 monthly payments to another account. (Tr. 28) He estimated his total payments were \$2,000 to \$2,500. (Tr. 29) He stopped making payments when he was furloughed from his employment in February 2025. (Tr. 29) He did not provide documentation showing the payments he made.

Applicant has two debts with the same collection agent. SOR ¶¶ 1.d and 1.p allege he has accounts placed for collection for about \$4,620 and \$1,286, respectively. For SOR ¶ 1.d, the original loan was for \$6,027; the creditor offered to settle the debt for \$4,219; and he made \$352 payments in April, May, and June 2024, reducing the balance of the debt to \$3,164. (Tr. 34-36; GE 2) For SOR ¶ 1.p, his original balance was \$1,515; the creditor offered to settle the debt for \$1,212; he made payments totaling \$1,112; and the current balance of the debt is \$100. (Tr. 57; GE 2) The two debts are in established payment plans and there is documentary evidence of payments.

SOR ¶¶ 1.g and 1.h allege Applicant has two accounts placed for collection for about \$3,106 and \$3,019. The accounts became delinquent in late 2023 or early 2024. (Tr. 38-43) He did not describe any payments to address either of these debts. (Tr. 38-40)

SOR ¶¶ 1.i and 1.j allege Applicant has two accounts placed for collection for about \$2,890 and \$2,747, respectively. For SOR ¶ 1.i, the account was used for personal expenses, and for SOR ¶ 1.j, he did not remember what he used the account to purchase. (Tr. 43-46) The accounts became delinquent in late 2023 or early 2024. (Tr. 44-46) He did not describe any payments to address either of these debts. (Tr. 44-46)

Applicant's SOR alleges five accounts with the same creditor as follows: ¶ 1.m is a charged-off account for about \$1,644; SOR ¶ 1.n is a charged-off account for about \$1,419; ¶ 1.r is a charged-off account for about \$860; ¶ 1.t is a charged-off account for

about \$697; and ¶ 1.v is an account placed for collection for about \$362. He used these accounts for business purchases. (Tr. 50-51, 58) He did not make any payments since the accounts became delinquent around early 2023. (Tr. 51)

SOR ¶¶ 1.o and 1.w allege Applicant has two accounts placed for collection for about \$1,380 and \$177, respectively. He denied responsibility for these two debts. (Tr. 51, 60) He had a telecommunications account with the creditor in SOR ¶ 1.o about 10 years ago, and he changed telecommunications carriers to his current company. (Tr. 52-53) For SOR ¶ 1.w, he believed the debt might be the result of identity theft because he did not have an account with the telecommunications carrier. (Tr. 52-53) About three years ago, he disputed the two debts with the SOR creditors. (Tr. 54, 60) He has not received any response to the disputes of the debts from the creditors. (Tr. 53, 60)

SOR ¶¶ 1.s and 1.u allege Applicant has two charged-off accounts for about \$811 and \$535, respectively. (Tr. 59-60) The SOR ¶ 1.s debt is from a checking account and the SOR ¶ 1.u account is from a credit card. (Tr. 60) These two accounts became delinquent in late 2023 or early 2024. (Tr. 59-60) He did not describe any payments to address these two debts. (Tr. 59-60)

Applicant's undated budget from around July or August 2024 submitted in response to DOHA interrogatories shows that he and his spouse have net monthly pay of \$6,392, expenses of \$1,740, debt payments of \$4,481 (includes a \$1,950 payment to a mortgage account), and a net monthly remainder of \$171. (GE 2) According to this budget, his gross salary in 2024 was \$4,740. (GE 2) He did not indicate any payments to any SOR creditors in his budget. Applicant's current gross monthly salary is about \$4,000, and his net monthly salary is about \$2,800. (Tr. 82-84) He was unsure about whether all of his business tax returns were filed. (Tr. 94-95)

## Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority "to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy" to have access to such information. *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An

administrative judge must consider all available, reliable information about the person, past and present, favorable, and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, this decision should be construed to suggest that it is based on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## Analysis

### Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

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.

AG ¶ 19 includes disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(a) inability to satisfy debts"; and "(c) a history of not meeting financial obligations."

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained the role of CBRs in financial considerations analysis:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government's obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted).

The record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*. The financial considerations mitigating conditions under AG ¶ 20 which may be applicable in this case are as follows:

(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.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

AG ¶ 20(a) does not apply to the SOR debts. "It is also well established that an applicant's ongoing, unpaid debts demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017)).

Applicant was divorced in 2011; the COVID-19 pandemic resulted in less income for Applicant; some customers did not pay him and his employees for their work; and he was furloughed in February 2025 from his employment as a DOD contractor. These circumstances were largely beyond his control. However, "[e]ven if [an applicant's] financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the [administrative judge] could still consider whether [the applicant] has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007). The DOHA Appeal Board has said:

[A]n applicant must act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by concomitant conduct even if it may only provide for the payment of debts one at a time. ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008). What constitutes responsible behavior depends on the facts of a given case and the fact that an applicant's debts will not be paid off for a long time, in and of itself, may be of limited security concern. ISCR Case No. 09-08462 at 4. Relevant to the equation is an assessment as to whether an applicant acted responsibly given [his or] her limited resources. See, e.g., ISCR Case No. 08-06567 at 3-4 (App. Bd. Oct. 29, 2009).

ADP Case No. 23-00547 at 3 (App. Bd. Apr. 23, 2024). A component for analyzing responsible behavior in AG ¶ 20(b) is whether Applicant maintained contact with creditors and attempted to negotiate partial payments to keep debts current. Applicant did not provide correspondence from or to most of the creditors showing he maintained contact with them. He did not prove that he acted responsibly under the circumstances.

Applicant's SOR alleges he has 23 delinquent debts totaling \$48,631 and a bankruptcy in 2014. “[A] single debt can be sufficient to raise Guideline F security concerns.” ISCR Case No. 19-02667 at 3 (App. Bd. Nov. 3, 2021) (citing ISCR Case No. 14-05366 at 3 (App. Bd. Feb. 5, 2016)). “Additionally, a single debt that remains unpaid over a period of years can properly be characterized as a history of not meeting financial obligations.” *Id.*

The Appeal Board has previously stated that it is reasonable for a Judge to expect an applicant to present documentation corroborating actions taken to resolve debts. ISCR Case No. 19-03757 at 3 (App. Bd. Aug. 18, 2021) (citing ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 15, 2020)). For most of the SOR debts, Applicant did not provide documentation showing: (1) proof of payments, such as checking account statements, photocopies of checks, or a letter from the creditor proving that he paid or made payments to the creditors; (2) correspondence to or from the creditors to establish maintenance of contact; (3) correspondence to creditors or CBRs showing credible debt disputes indicating he did not believe he was responsible for the debts and why he held such a belief; (4) more evidence of attempts to negotiate payment plans, such as settlement offers or agreements to show that he was attempting to resolve his delinquent debts; or (5) other evidence of progress or resolution. With the exceptions of SOR ¶¶ 1.o and 1.w, Applicant failed to establish mitigation under AG ¶ 20(e) because he did not provide documented proof or a reasonable basis to sufficiently substantiate the existence, basis, or the result of any debt disputes.

Applicant is credited with mitigating the debts in SOR ¶¶ 1.d for \$4,620 and 1.p for \$1,286 because he has payment plans and made several payments to the creditor. He is also credited with mitigating the telecommunications accounts in SOR ¶¶ 1.o for \$1,380 and 1.w for \$177 because he consistently disputed his responsibility for the debts. He is also credited with mitigation of the bankruptcy in 2014 because it is not recent, and he maintained his financial responsibility for several years after the bankruptcy.

None of the mitigating conditions fully apply to the debts in SOR ¶¶ 1.b, 1.c, 1.e through 1.n, and 1.q through 1.v. “[U]ntil an applicant has a meaningful financial track record, it cannot be said as a matter of law that she has initiated a good-faith effort to repay overdue creditors or otherwise resolved debts. The phrase ‘meaningful track record’ necessarily includes evidence of actual debt reduction through payment on debts.” ISCR Case No. 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007)).

There is no documentation establishing that Applicant is working to establish payment plans to address the 18 debts in SOR ¶¶ 1.b, 1.c, 1.e through 1.n, and 1.q through 1.v. He has not made recent payments to these 18 creditors. I have lingering concerns about whether he will establish payment plans, pay, or otherwise resolve these 18 SOR debts, and maintain his financial responsibility. Financial considerations security concerns are not mitigated at this time.

## **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), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall common-sense judgment based upon careful consideration” of the guidelines and the whole-person concept. My comments under Guideline F are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline but some warrant additional comment.

Applicant is a 45-year-old carpenter, and he worked for a government contractor for seven months until he was furloughed in February 2025. He has two years of college; however, he does not have a degree.

The evidence against grant of a security clearance is detailed in the financial considerations analysis section, *supra*, and this evidence is more substantial than the evidence of mitigation. He did not establish that he was unable to make more timely and significant documented progress resolving 18 of his SOR debts. The financial evidence raises unmitigated questions about his reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards documented resolution of his debts and maintenance of his financial responsibility, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence, to the facts and circumstances in the context of the whole person. Applicant failed to mitigate 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
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b and 1.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraphs 1.e through 1.n:	Against Applicant
Subparagraphs 1.o and 1.p:	For Applicant
Subparagraphs 1.q through 1.v:	Against Applicant
Subparagraph 1.w:	For Applicant

### **Conclusion**

I conclude that it is not clearly consistent with the interests of national security to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is denied.

Mark Harvey  
Administrative Judge