



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



## Appearances

For Government: Dan O'Reilly, Esq., Department Counsel  
For Applicant: *Pro se*

01/24/2025

## Decision

LOUGHREN, Edward W., Administrative Judge:

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

## **Statement of the Case**

On November 6, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). Applicant responded to the SOR on November 30, 2023, and requested a hearing before an administrative judge. The case was assigned to me on July 2, 2024.

The hearing was convened as scheduled on September 19, 2024. Government Exhibits (GE) 1 through 5 were admitted in evidence without objection. Applicant testified and submitted Applicant Exhibits (AE) A and B, which were admitted without objection. The record was held open for Applicant to submit additional documentary evidence. He submitted an email that I have marked AE (C) and admitted in evidence without objection.

## **Findings of Fact**

Applicant is a 54-year-old employee of a defense contractor. He has worked for his current employer since February 2023. He earned an associate degree in 1991, a bachelor's degree in 2020, and a master's degree in 2021. He is married with three adult children. (Tr. at 17-20; GE 1, 2)

Applicant has been disabled since he was a child, which has led to multiple operations and sustained periods of unemployment and underemployment. He received Social Security Disability Insurance (SSDI) payments when he was unable to work. His wife is also disabled, does not work, and receives SSDI payments. He was unable to pay all his bills and several debts became delinquent. He decided his best course was to continue his education. He worked as a contract employee of his current employer from about March 2021 until he was hired as a direct employee of the contractor in February 2023. His annual salary increased from about \$30,000 at his former job to about \$68,000 at his current job. (Tr. at 14-15, 19-25; Applicant's response to SOR; GE 1, 2)

The SOR alleges \$8,126 owed on an auto loan after the vehicle was repossessed (SOR ¶ 1.a) and six miscellaneous delinquent debts in amounts ranging from \$109 to \$1,025 and totaling about \$3,038. Applicant admitted owing all the debts in his response to the SOR, except for the \$374 debt alleged in SOR ¶ 1.d, which he denied. All the debts are listed on one or more credit reports. (Applicant's response to SOR; GE 4, 5; AE A, B)

Applicant had a secured debt for furniture that became delinquent. This debt was not alleged in the SOR and cannot be used for disqualification purposes but may be used while assessing the applicability of mitigating conditions and in the whole-person analysis. He received a settlement from a car accident of about \$10,000 in 2022. He stated that he used about \$1,500 from the settlement to settle the \$3,000 furniture debt. His credit report showed the balance as \$4,594 in June 2022 before the debt was settled with payments totaling \$2,548 in June and July 2022. He donated \$5,000 to his church, and he used the remaining funds for bills and general living expenses. (Tr. at 26-29; 39; GE 1-5; AE A, B)

Applicant submitted a Questionnaire for National Security Positions (SF 86) in February 2023. He reported all the SOR debts, except for the \$240 debt alleged in SOR ¶ 1.e. He wrote that the \$374 debt alleged in SOR ¶ 1.d "was a loan I think." He indicated the debts were charged off, and he had no plans for further action. (GE 1)

Applicant was interviewed for his background investigation in April 2023. He discussed the SOR debts. He stated that the \$374 debt alleged in SOR ¶ 1.d might be for a loan, but he was unsure, and that the only information he had on the account was that it was on his credit report. He stated that he did not intend to pay the \$8,126 vehicle loan (SOR ¶ 1.a) because he had to make payments on his current vehicle. He stated that the \$240 department store debt (SOR ¶ 1.e) was opened by his wife without his knowledge. He stated that he did not pay the \$109 utility debt (SOR ¶ 1.f) because the

electric bill went up substantially. He stated that he would attempt to contact the creditor and set up a payment plan. He stated that he did not intend to pay other debts because they were charged off. (GE 2)

Applicant responded to DoD interrogatories in August 2023. He had not made any payments toward his delinquent debts. He wrote for several of the debts, including the \$374 debt alleged in SOR ¶ 1.d, that his “[f]inancial status has not and does not allow for repayment of this debt.” Even though he had specifically discussed the \$240 department store debt (SOR ¶ 1.e) during his background interview, he wrote that he did not recognize the debt, and that he had never had an account with the company. He stated that he could not currently pay the \$109 utility debt (SOR ¶ 1.f) “due to financial hardship.” (GE 3)

Applicant did not pay any of the SOR debts before the hearing. He wrote in his November 2023 response to the SOR that he owed the \$109 utility debt (SOR ¶ 1.f), but he was unable to pay the debt. He testified that the debt, as well as the \$240 debt (SOR ¶ 1.e), the \$374 disputed debt (SOR ¶ 1.e), and the \$468 debt (SOR ¶ 1.g), had fallen off his credit report. Those debts are not reflected on the two credit reports submitted by Applicant. The remaining debts continue to be listed on his credit reports. (Tr. at 29-30; Applicant’s response to SOR; AE A, B)

On November 22, 2024, Applicant settled the \$822 debt alleged in SOR ¶ 1.c for \$658, payable through ten payments of \$65.82. The payments are to be automatically deducted every two weeks from Applicant’s account. He did not document any payments. (AE C)

Applicant testified that he has concentrated on paying his current bills, and he did not have the income to pay his delinquent debts, but he planned on paying his debts as he becomes more financially secure. His credit reports do not reflect any new debts that were not alleged in the SOR. His wife’s SSDI payments are about \$801 a month, but he wrote that he does not use those payments for bills or household expenses, as “[s]he used it for her small bills: a credit account, a small credit card account and a dental bill. The remainder is spent on our grandkids and anything else that she may need.” One of their sons lives with them and provides \$800 per month toward rent. Applicant owes more than \$120,000 in federal student loans. They have been and remain deferred because he was attending school, then as part of COVID relief, and currently because there is a pending lawsuit against the college. He does not know when or if he will have to start paying his student loans or how much his payments will be. He has received some financial counseling through his church. (Tr. at 18-19, 33-44; GE 3-5; AE A, B)

Applicant submitted his bank and credit union statements in response to DoD interrogatories. A July 2023 bank statement shows debits totaling \$230 for fast food restaurants, doughnuts, and pizza. A separate joint credit union statement in Applicant’s and his wife’s name for July 2023 shows debits totaling \$217 for restaurants, including fast food restaurants, and Starbucks. (GE 3)

## Policies

This case is adjudicated 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 (AG), which became effective on June 8, 2017.

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(c), 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 classified information enters 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified 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 has a history of delinquent debts and financial problems. AG ¶¶ 19(a) and 19(c) are applicable.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following 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, 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.

Applicant denied owing the \$374 debt (SOR ¶ 1.e), and it is not reflected on the two credit reports he submitted. I am giving him the benefit of the doubt on this debt and find it mitigated.

Applicant is credited with settling a debt in 2022 that was not alleged in the SOR. His donation of about \$5,000 to his church is commendable, but it is also questionable as it came at the expense of paying his creditors. He did not pay any of the SOR debts before his hearing. Some of the debts are not on his recent credit reports, but that does not establish any meaningful, independent evidence as to the disposition of the debt. See, e.g., ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 25, 2015). In November 2024, he settled the \$822 debt alleged in SOR ¶ 1.c for \$658, payable through ten payments of \$65.82, automatically deducted every two weeks from his account. However, an applicant who begins to resolve security concerns only after having been placed on notice that his or her clearance is in jeopardy may lack the judgment and willingness to follow rules and regulations when his or her personal interests are not threatened. See, e.g., ISCR Case No. 20-02971 at 4 (App. Bd. Jun. 15, 2023).

This is not an easy case because Applicant has been disabled since he was a child, and his wife is disabled. His financial problems were beyond his control. For AG ¶ 20(b) to be applicable, he must also prove that he has acted responsibly under the circumstances. Unfortunately, he has not. He testified that he concentrated on paying his current bills, and he did not have the income to pay his delinquent debts. I accept that as true before he started working for his current employer in February 2023.

It took some time for Applicant to get back on his feet, but I cannot accept that he was unable at any point to pay debts as small as \$109 and \$240, particularly in light of his July 2023 bank and credit union statements that show many debits for fast food restaurants, doughnuts, pizza, and Starbucks. I am giving those debits limited weight because Applicant was not questioned about the debits at his hearing, but I cannot give them no weight. The bottom line is he went an extended period without paying any of his debts, including two debts that totaled less than \$350.

Applicant has had a difficult life, but I am bound by AG ¶ 2(b), which requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” Applicant did not act responsibly under the circumstances, and he did not make a good-faith effort to pay his debts. His financial issues are recent and ongoing. They continue to cast doubt on his current reliability, trustworthiness, and good judgment. The above mitigating conditions, individually or collectively, are insufficient to eliminate concerns about his finances.

## **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 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.

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 about Applicant's eligibility and suitability for a security clearance. I conclude 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.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraphs 1.e-1.g:	Against Applicant

## **Conclusion**

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

---

Edward W. Loughran  
Administrative Judge