



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



Appearances

For Government: Tara R. Karoian, Esq., Department Counsel
For Applicant: *Pro se*

04/29/2025

Decision

LOUGHREAN, 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 February 26, 2024, 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 March 19, 2024, and requested a hearing before an administrative judge. The case was assigned to me on November 21, 2024.

The hearing was convened as scheduled on January 28, 2025. Government Exhibits (GE) 1 through 7 were admitted in evidence without objection. Applicant testified and submitted Applicant Exhibit (AE) A, which was admitted without objection. The record was held open for Applicant to submit additional documentary evidence. He submitted an email with attached documents. The attached documents were not well organized. I have attempted to organize them in a logical manner. I have marked them AE B through G and admitted them in evidence without objection.

Findings of Fact

Applicant is a 48-year-old employee of a defense contractor. He has worked for his current employer since about December 2020. He served on active duty in the U.S. military from 1998 until he was honorably discharged in 2005. He attended college for a period without earning a degree. He married for the second time in 2002 after his first marriage ended in divorce in 2001. He has three adult stepchildren. (Tr. at 17, 27, 39, 43; GE 1)

Applicant has a history of financial problems. He and his wife filed a Chapter 7 bankruptcy case in 2009, and their debts were discharged the same year. (Tr. at 23-24; Applicant's response to SOR; GE 6)

Applicant's wife developed a debilitating disease in 2006 and has been unable to work. The copayment for her medication is about \$500 per month. He became the sole provider for his wife and stepchildren, and at times, his stepchildren's children. He had periods of underemployment and unemployment. He was laid off from his previous job in December 2019 and when the COVID-19 pandemic hit, he was unable to find a job until December 2020. (Tr. at 16, 20-28; GE 1, 7)

The SOR alleges the 2009 bankruptcy (SOR ¶ 1.a); an auto loan that was \$456 past due with a \$35,368 balance (SOR ¶ 1.c); and 22 miscellaneous delinquent debts in amounts ranging from \$338 to \$14,024 and totaling about \$57,000. (SOR ¶¶ 1.b and 1.d to 1.x) Applicant admitted owing all the debts in his response to the SOR, but he added that the debts alleged in SOR ¶¶ 1.p and 1.q were paid (addressed below). All the debts are listed on one or more credit reports. (Applicant's response to SOR; GE 4, 5)

Applicant contracted with a debt resolution company in March 2024. He enrolled \$49,139 in debt in the company's program. He agreed to pay \$381 by recurring deposits every two weeks into an escrow account. The company agreed to negotiate settlements with his creditors, and pay the creditors, minus the company's fees, from the escrow account. The deposits increased to \$393 in June 2024. Applicant made all the deposits. As of February 5, 2025, he had paid \$8,974 into the escrow account and \$8,571 was withdrawn for payments and fees, leaving a balance of \$403. (Tr. at 16-19; AE B-D)

The following is the status of the SOR debts. The debts in the resolution program are addressed first.

The \$338 debt alleged in SOR ¶ 1.b was settled for \$260 in April 2024. The payment was completed the same month, and the debt is resolved. (AE D)

The \$1,143 debt alleged in SOR ¶ 1.e was settled for \$571 in April 2024. The final payment was made in August 2024, and the debt is resolved. (AE D)

The \$5,322 debt alleged in SOR ¶ 1.f was settled for \$2,661 in April 2024 with monthly payments to the creditor. Applicant's documentation indicates that as of

February 28, 2025, \$847 had been paid to the creditor, with \$1,813 remaining to be paid, at the rate of \$139 per month. (AE D)

The \$460 debt alleged in SOR ¶ 1.i was settled for \$244 in June 2024. The final payment was made in September 2024, and the debt is resolved. (AE D)

The \$886 debt alleged in SOR ¶ 1.j was settled for \$399 in March 2024. The final payment was made in February 2025, and the debt is resolved. (AE D)

The \$14,024 debt alleged in SOR ¶ 1.o was settled for \$4,207 in June 2024 with monthly payments to the creditor. Applicant's documentation indicates that as of March 28, 2025, \$1,402 had been paid to the creditor, with \$2,805 remaining to be paid, at the rate of \$200 per month. (AE D)

The \$417 debt alleged in SOR ¶ 1.x was settled for \$187 in March 2024. The payment was completed the same month, and the debt is resolved. (AE D)

A \$384 debt was settled through the program for \$200 in March 2024. The final payment was made in January 2025, and the debt is resolved. (AE D) This does not appear to be a debt that was alleged in the SOR. Any matter that was not alleged in the SOR will not be used for disqualification purposes. It may be used in assessing Applicant's overall financial situation, in the application of mitigating conditions, and in the whole-person analysis.

Additional debts in the program that have not yet been settled include debts for \$653 (SOR ¶ 1.d); \$2,968 (SOR ¶ 1.g); \$751 (SOR ¶ 1.h); \$1,000 (SOR ¶ 1.l); \$7,064 (identified as \$2,791 past due with a \$4,254 balance in SOR ¶ 1.n); \$3,885 (SOR ¶ 1.s); \$1,210 (SOR ¶ 1.t); \$967 (SOR ¶ 1.u); \$2,675 (SOR ¶ 1.v); \$1,552 (SOR ¶ 1.w); \$1,485 (not identified as an SOR debt); and \$2,037 (not identified as an SOR debt). (AE D)

SOR ¶ 1.c alleges an auto loan that was \$456 past due with a \$35,368 balance, as listed on the February 2024 credit report. That report indicated the account was opened in August 2022. Applicant stated that the loan was paid when he traded that vehicle and his wife's vehicle in for another vehicle. They are down to one vehicle between them. (Tr at 41-42; Applicant's response to SOR; GE 2)

The creditor for the \$7,855 debt alleged in SOR ¶ 1.k obtained a judgment and a garnishment order against Applicant. As of June 2024, he owed \$9,058, plus \$9 costs. Records indicate that \$393 was withheld from his paycheck dated March 14, 2025. The remaining balance on the garnishment was \$1,414, which means that about \$7,653 had been garnished from his wages. (AE B, E, F)

Applicant asserted that the \$5,724 debt for a motorcycle (SOR ¶ 1.p) was settled and paid on February 5, 2019. In his response to the SOR, he wrote that he was waiting for a settlement letter from the creditor. No additional documentation on the debt was submitted. The 2017 and 2019 credit reports indicate that the loan was initiated in 2011, and it was charged off in 2013. The debt is not listed on the 2023 and 2024 credit

reports, but those reports were obtained long after the seven-year reporting period for the debt had ended. (Tr. at 30-32; Applicant's response to SOR; GE 2-5)

Applicant asserted that the \$521 defaulted loan alleged in SOR ¶ 1.q was paid through a wage garnishment in 2019. He submitted a document that appears to support his assertion. Credit reports and Applicant's document indicate that the loan was taken out in January 2015, but there were no payments made between April 2015 and 2019. The debt is not listed on the 2023 and 2024 credit reports. (Tr. at 30-31; Applicant's response to SOR; GE 2-5)

Applicant did not provide any information about the bank account in collection for \$647 (SOR ¶ 1.m). The debt is listed on the June 2023 combined credit report by TransUnion as assigned in June 2022, with an activity date of June 2023. The debt is not listed on the February 2024 Experian credit report.

Applicant did not provide any information about the satellite television account that was in collection for \$454 (SOR ¶ 1.r). The debt is listed on the 2017 and 2019 credit reports with an activity date of May 2014. The debt is not listed on the 2023 and 2024 credit reports, but those reports were obtained long after the seven-year reporting period for the debt had ended. (GE 2-5)

In May 2024, Applicant agreed to pay a creditor \$1,080 over the course of 17 months. As of January 2025, he had paid \$580. I am unable to identify this as an SOR debt. (AE G)

Applicant stated that his finances have improved, and he usually has a few hundred dollars left over at the end of the month after his garnishment, payments to the debt resolution program, and regular bills. He admitted that he has not yet filed his 2023 federal and state income tax returns. He stated that he owed the IRS about \$4,000 for previous tax years, excluding 2023, but he was on a \$100 per month payment plan and he had paid off two or two and a half years of taxes. He also stated that he was about \$300 behind on a secured credit card and his military exchange credit card account. Neither account was listed as past due on the February 2024 credit report. The secured credit card had a balance of \$108, and the military exchange credit card had a balance of \$4,587. (Tr. at 33-41; GE 2)

Applicant submitted a letter from his manager attesting to his excellent job performance and "exceptional character, professionalism, and reliability." The manager added:

[Applicant's] trustworthiness and dedication are beyond reproach. In an industry where even the smallest mistake can have catastrophic consequences, [Applicant] has consistently demonstrated his commitment to excellence and safety. I have never once questioned his integrity or his ability to carry out his duties with the utmost professionalism and care. (AE A)

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's wife developed a debilitating disease in 2006 and has been unable to work. He became the sole provider for his wife and stepchildren, and at times, his stepchildren's children. He had periods of underemployment and unemployment. He was laid off from his previous job in December 2019, and when the COVID-19 pandemic hit, he was unable to find a job until December 2020. Those events were beyond his control. For AG ¶ 20(b) to be applicable, Applicant must establish that he acted responsibly under the circumstances.

The 2009 Chapter 7 bankruptcy (SOR ¶ 1.a) remains relevant to Applicant's current financial situation because it establishes that he was unable to benefit from the fresh start granted by the bankruptcy. However, it no longer has any independent security significance. That allegation is mitigated.

Applicant contracted with a debt resolution company in March 2024. He enrolled \$49,139 in debt in the company's program. He has been paying \$393 every two weeks into an escrow account. As of February 5, 2025, he had paid \$8,974, and a number of debts have been settled and paid or are being paid. The debts alleged in SOR ¶¶ 1.b, 1.e, 1.i, 1.j, 1.x have been settled and paid. These debts are mitigated. The debts alleged in SOR ¶¶ 1.f and 1.o have been settled and are being paid. These debts are also mitigated.

Applicant stated that the past-due auto loan alleged in SOR ¶ 1.c was paid when he traded in the vehicle. The debt alleged in SOR ¶ 1.k is being paid by garnishment. His assertion that the \$5,724 debt for a motorcycle (SOR ¶ 1.p) was settled and paid on February 5, 2019, is accepted. The \$521 defaulted loan alleged in SOR ¶ 1.q was paid through a wage garnishment in 2019. Those four debts are mitigated.

Applicant has other SOR and non-SOR debts that have not been resolved, either because they have not yet been addressed by the debt resolution company or they are not enrolled in the program.

Had the above been the end of the story, this case might have gone in a different direction. Unfortunately, it is not. Applicant has accrued new past-due debts, and his taxes are in disarray. He admitted that he has not yet filed his 2023 federal and state income tax returns. He stated that he owed the IRS about \$4,000 for previous tax years, excluding 2023, but he was on a \$100 per month payment plan and he had paid off two or two and a half years of taxes. It does little good financially to make payments on certain debts, while other financial issues, including taxes, continue to arise.

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.” I find that Applicant did not act responsibly under the circumstances, and he did not make a good-faith effort to pay all 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. I also considered Applicant's honorable military service and his favorable character evidence.

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:	For Applicant
Subparagraph 1.d:	Against Applicant
Subparagraphs 1.e-1.f:	For Applicant
Subparagraphs 1.g-1.h:	Against Applicant
Subparagraphs 1.i-1.k:	For Applicant
Subparagraphs 1.l-1.n:	Against Applicant

Subparagraphs 1.o-1.q:	For Applicant
Subparagraphs 1.r-1.w:	Against Applicant
Subparagraph 1.x:	For 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