



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



In the matter of: )  
)  
) ISCR Case No. 19-01573  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Eric C. Price, Esq., Department Counsel  
For Applicant: *Pro Se*  
06/08/2020

---

**Decision**

---

HEINTZELMAN, Caroline E., Administrative Judge:

Applicant failed to mitigate the financial considerations security concerns raised by his delinquent debts and outstanding federal taxes. National security eligibility for access to classified information is denied.

**History of the Case**

Applicant submitted a security clearance application on May 2, 2018. On July 23, 2019, the Department of Defense (DOD) issued a Statement of Reasons (SOR) alleging security concerns under Guideline F, Financial Considerations. Applicant answered (Answer) the SOR on August 31, 2019, and requested a decision on the written record without a hearing.

On January 2, 2020, a complete copy of the File of Relevant Material (FORM), containing six Items, was mailed to Applicant. He received the FORM on January 9, 2020. The FORM notified Applicant that he had an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of his receipt of the FORM. Applicant did not respond to the FORM, and the case was assigned to me on May 12, 2020. Items 1 through 6 are admitted into evidence without objection.

## Findings of Fact

Applicant is 51 years old. He has been married since 1993, and has a 24-year-old son and a teenage daughter. In 1990, he received a diploma after attending a two-year technical program. He has worked as an electrical and electronics mechanic for a defense contractor since August 2002. This is his second security clearance application. (Item 3; Item 4)

The SOR alleges four consumer debts totaling \$21,448 and \$17,500 in outstanding federal income taxes. In his answer to the SOR, Applicant admitted all five of the allegations without explanation. According to Applicant, his financial issues were the result of car repairs for a vehicle, paying for his son's college education, a 2018 reduction in income, and co-signing an automobile loan for his son, who subsequently failed to make the payments. (Item 2; Item 3; Item 4)

During his September 2018 personal subject interview, Applicant told the government investigator that the alleged \$1,752 credit-card debt was incurred to pay for vehicle repairs. In approximately June 2015, he fell behind on the payments and paid less than the required monthly minimum payment. The account was ultimately placed for collection and charged off. Although Applicant told the investigator that he would contact the creditor to resolve the debt by December 2018, the debt remains outstanding and unpaid. (Item 3 at 31-32; Item 4 at 6; Item 5 at 2; Item 6 at 8)

Applicant purchased a vehicle in August 2015 for \$15,787. In November 2016, he fell behind on the payments because he was providing financial support to his son who was in college. The vehicle was repossessed in August 2017 and sold at auction. The outstanding balance for the vehicle is \$5,758, which remains unpaid and unresolved. (Item 4 at 6; Item 5 at 2-3; Item 6 at 9)

According to Applicant, he closed his cellular-phone account with Company A in September 2016 and paid the bill in full. Company A sent an additional bill to him for \$193, which he failed to pay. He told the investigator that he would resolve the debt shortly after the September 2018 interview. This debt does not appear in his most recent credit report; however, he provided no documentation to show that the debt has been paid and resolved. (Item 4 at 7; Item 6 at 8)

In December 2016, Applicant co-signed an automobile loan for his son's vehicle. In April 2017, his son fell behind on the monthly loan payments. Applicant sent his son money to help him catch up on the payments, but the vehicle was ultimately repossessed. The outstanding balance is \$13,745, and it remains unpaid and unresolved. (Item 4 at 6-7; Item 5 at 1-2; Item 6 at 8)

In his response to DOHA interrogatories, Applicant included Internal Revenue Service (IRS) transcripts for tax years 2013, 2014, 2015, 2016, and 2017. Applicant filed the returns for his federal income taxes in a timely manner. However, he failed to have

enough money withheld from his paychecks and accrued tax debts for tax years 2013, 2015, 2016, and 2017, the remaining balance totals over \$17,500. (Item 4 at 7, 12-39)

Starting in April 2014, Applicant entered into various installment-payment agreements with the IRS. According to Applicant, he failed to comply with these agreements due, in part, to a reduction in his income in 2017. In 2013 Applicant's adjusted gross income (AGI) was almost \$130,000; his 2014 AGI was almost \$133,000; his 2015 AGI was almost \$143,000; his 2016 AGI was almost \$160,000; and his 2017 AGI was \$133,550. In May 2019, he entered into a new installment agreement for the four relevant tax years. However, he did not provide proof of ongoing and continuing payments pursuant to the May 2019 installment agreement. There is no evidence in the record that Applicant has obtained credit counseling. (Item 2; Item 4 at 7, 12-39)

### **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 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, these guidelines are applied 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 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.

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 to obtain 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.

Section 7 of Executive Order (Exec. Or.) 10865 provides that 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* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F: Financial Considerations**

The security concern under Guideline F 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. . . .

Applicant's admissions and the record evidence establish three disqualifying conditions under this guideline: AG ¶ 19(a) (“inability to satisfy debts”), AG ¶ 19(c) (“a history of not meeting financial obligations”), and AG ¶ 19(f) (“failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.”).

AG ¶ 20 describes conditions that could mitigate security concerns. 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; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Applicant entered into an installment agreement with the IRS in May 2019. However, he failed to provide proof that he is in compliance with these arrangements. Additionally, he has not paid or resolved his outstanding consumer debts. Applicant did not demonstrate that his financial issues were due to conditions beyond his control, nor did he act responsibly to address his obligations. Mitigation under AG ¶¶ 20(a), 20(b), and 20(d) was not established.

### **Whole-Person Concept**

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall common sense judgment based upon careful consideration of the applicable guidelines, each of which is to be evaluated in the context of the whole person. An 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.

I have incorporated my comments under Guideline F in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under this guideline, and evaluating all the evidence in the context of the whole person, I conclude that Applicant has not mitigated the financial considerations security concerns raised by his delinquent debts and outstanding federal taxes. The record lacks sufficient evidence to demonstrate that he is reliable, trustworthy, and exercises good judgment. Accordingly, Applicant has not carried his burden of showing that it is clearly consistent with the interests of national security of the United States to grant him eligibility for access to classified information.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:

**AGAINST APPLICANT**

Subparagraphs 1.a – 1.e:           Against Applicant

**Conclusion**

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

---

CAROLINE E. HEINTZELMAN  
Administrative Judge