



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



In the matter of:)
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Applicant for Security Clearance)

ISCR Case No. 20-03829

Appearances

For Government: Michelle P. Tilford, Esq., Department Counsel
For Applicant: *Pro se*

11/30/2022

Decision

LYNCH, Noreen A., Administrative Judge:

This case alleges security concerns under Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on August 18, 2020. (Item 3) On June 28, 2022, the Department of Defense Consolidated Adjudications Facility (DOD CAF) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline F. (Item 1) The DOD CAF acted 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) implemented by the DOD on June 8, 2017.

Applicant answered the SOR and requested a decision on the record without a hearing. (Item 2) Department Counsel submitted the Government’s written case on July 19, 2022. A complete copy of the file of relevant material (FORM) was sent to Applicant, including documents identified as Items 1 through 7. He was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government’s

evidence. He received the FORM on August 18, 2022, but he did not provide additional information. The case was assigned to me on November 17, 2022.

Findings of Fact

Applicant, age 36, is married and has two biological children and one stepchild. In June 2019, Applicant earned an Associate's degree. He reports no military duty. He has worked for his current employer since July 2020. He reports no unemployment in the last sixteen years. He does not have a security clearance. (Item 3)

The Statement of Reasons (SOR) sets forth security concerns under Guideline F. The SOR ¶¶ 1.a through 1.d lists four delinquent debts totaling approximately \$35,000 for three automobile loans that were charged off, and \$168 for a medical bill that was placed for collection. (Items 4, 5, 6) In his Answer to the SOR, Applicant admitted SOR 1.a, through SOR 1.d. He did not provide any other explanations.

In his 2020 subject interview, Applicant acknowledged that all SOR debts were unpaid. (Item 7) The delinquent accounts appear in his 2020, and 2022 credit bureau reports. (Items 4, 5) He told the Government investigator that he planned to consolidate his auto loans in November 2020, but provided no documentation to support his claim. He wants to pay his debts and now allows his spouse to maintain the household budget.

Applicant provided no budget, has had no financial counseling, and there is no information concerning his income or expenses. He stated that he is willing and able to pay his delinquent debts. He offered no documents to indicate that he has taken steps to do so.

As to SOR ¶¶ 1.a, 1.c, and 1.d, Applicant answered that the three alleged debts were delinquent automobile loans that were charged off. (Item 7). He purchased a used car in October 2018, had insufficient household income to maintain the payments, and allowed the bank to repossess the vehicle. As to the second delinquent auto loan, he purchased a used 2014 vehicle, which needed repairs that he could not afford to make. In 2016, Applicant allowed the bank to repossess the vehicle. The last delinquent auto loan was the result of a car that he co-signed for his girlfriend in February 2014. His friend could not afford the payments, and allowed the bank to repossess the car. His girlfriend wrecked the car in 2014. (Item 7)

As to SOR ¶ 1.b, Applicant stated the medical bill of \$168 was the result of an emergency room visit in October 2017. (Item 3). He stated that he forgot about the debt. The account became delinquent in 2017. He told the investigator he was willing and able to repay the debt as he plans to contact the debtor. There is no evidence that he has done so. (Item 7)

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 (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context 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, "Any doubt concerning personnel being considered for national security eligibility 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. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of EO 10865, "Any determination under this order adverse to an applicant shall be a determination 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 concern under this guideline 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

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person 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).

Applicant's admissions, corroborated by his credit reports, establish two disqualifying conditions under this guideline: AG ¶ 19(a) ("inability to satisfy debts") and, AG ¶ 19(c) ("a history of not meeting financial obligations").

The security concerns raised in the SOR may be mitigated by any of the following potentially applicable factors:

AG ¶ 20(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. This does not apply as the history of financial concerns date back to 2014. He has unresolved debts that are not paid.

AG ¶ 20(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. There is no mitigation credit available because Applicant purchased another vehicle just months after the first one was repossessed. He has not provided any evidence that his current financial situation is stable or reported any circumstances beyond his control.

AG ¶ 20(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. Applicant has not sought financial counseling and provided no information about a budget or his financial status.

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debt. Applicant failed to demonstrate that he has made any good-faith efforts to repay his creditors.

Applicant failed to meet his burden to mitigate the financial concerns set out in the SOR due to insufficient evidence and documentation. For these reasons, I find he has not mitigated the security concerns under the financial considerations guideline. After considering the mitigating conditions outlined above, none of them apply in this case.

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 commonsense 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 Guideline F, and evaluating all the evidence in the context of the whole person, including Applicant's years of employment, I conclude that he has not presented sufficient evidence of mitigation under the financial considerations guideline. He has not met his burden of proof. Clearance is denied.

Formal Findings

I make the following formal findings on the allegations in the SOR:

¶ 1, Guideline F (Financial Considerations):	AGAINST APPLICANT
Subparagraphs 1.a-1.d:	Against Applicant

Conclusion

I conclude that it is not clearly consistent with the national interest to grant Applicant's eligibility for access to classified information under the financial consideration guideline. Clearance is denied.

Noreen A. Lynch
Administrative Judge