



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



In the matter of: )  
)  
) ISCR Case No. 24-01076  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Sakeena Farhath, Esq., Department Counsel  
For Applicant: *Pro Se*

12/10/2024

**Decision**

HALE, Charles C., Administrative Judge

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

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on March 20, 2023. On July 18, 2024, the Department of Defense (DoD) sent a Statement of Reasons (SOR) alleging security concerns under Guideline F (Financial Considerations). The DoD acted under Executive Order (Exec. Or.) 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) promulgated in Security Executive Agent Directive 4, National Security Adjudicative Guidelines (December 10, 2016).

Applicant answered the SOR on July 24, 2024, and requested a decision on the written record without a hearing. Department Counsel submitted the Government's written case on August 26, 2024. A complete copy of the file of relevant material (FORM) was sent to Applicant on August 28, 2024, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. Applicant submitted a Response that was received on September 24, 2024. The case was assigned to me on November 13, 2024.

The SOR, the Answer (Items 1 and 2), and Response, which included enclosures, are the pleadings in the case. FORM Items 3 through 6 and the Response enclosures are admitted into evidence without objection. Admission of FORM Item 5 is discussed below.

### **Evidentiary Issue**

The FORM included a summary of a personal subject interview (PSI) conducted on October 27, 2023. (Item 5). The PSI summary was not authenticated as required by Directive ¶ E3.1.20. Department Counsel informed Applicant that she was entitled to comment on the accuracy of the PSI summary; make any corrections, additions, deletions, or updates; or object to consideration of the PSI summary on the ground that it was not authenticated. She did not object to the PSI in her Response. I conclude that she waived any objections to the PSI summary by failing to object to the PSI in her Response. "Although *pro se* applicants are not expected to act like lawyers, they are expected to take timely and reasonable steps to protect their rights under the Directive." See ISCR Case No. 12-10810 at 2 (App. Bd. Jul. 12, 2016). FORM Item 5 is therefore admitted.

### **Findings of Fact**

Applicant is 48 years old, married, and has two children. She earned her associate's degree in 1998. She has been employed by her sponsor since 2023. Each debt was discussed by her during her security clearance interview with a DoD investigator. The interview followed the Government's credit report. (Item 3; Item 4; Item 5; Item 6.)

In Applicant's Answer to the SOR, she admitted all 18 allegations under Guideline F. The allegations in SOR ¶¶ 1.a-1.r involve past-due credit-card accounts that have been charged off or placed in collection. SOR ¶¶ 1.a, 1.c, 1.d, 1.e, 1.h, 1.i, 1.k, 1.m, 1.n, 1.o, and 1.r are charged-off debts totaling \$15,072. SOR ¶¶ 1.b, 1.f, 1.g, 1.j, 1.l, 1.p, and 1.q are debts placed in collection totaling \$10,843. In her Answer she stated she was working with a credit repair company to pay off her debts. She makes payments of \$222.60 twice a month to resolve her debts. She notes that at one time she had good credit until a "few unfortunate and life change events" occurred: 1) her husband lost his job, 2) she was unable to work for four months due to surgery, and 3) then for six weeks she was unable to work her second job while training for the position, which requires the security clearance. She told the DoD investigator during her December 12, 2023 security clearance interview she could only financially cover necessities and was not be able to begin repayment on these past due debts. (Answer; Item 6 at 6.)

In her Response, she supported her Answer statements with enclosures showing she had retained a credit repair company. A September 16, 2024 letter from the credit repair company states she is a client in good standing. The credit repair letter does not indicate any activity prior to September 2024. The letter is labeled "Welcome Package" and it reflects the payment activity commences in September. Only two payments are listed in the "Ledger" section. (Response.)

### **Policies**

"[N]o 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 § 2.

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, an administrative judge applies these guidelines 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 and 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 that 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 made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense 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. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

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 burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-

20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531.

## Analysis

### Guideline F, Financial Considerations

The security 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. 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 and the Government's documentary evidence establish the following disqualifying conditions under this guideline: AG ¶ 19(a) ("inability to satisfy debts") and AG ¶ 19(c) ("a history of not meeting financial obligations").

The following mitigating conditions under AG ¶ 20 are relevant:

(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

(d): the individual initiated and is adhering to a-good-faith effort to repay overdue creditors or otherwise resolve debts.

AG ¶ 20(a) is not established. Applicant's delinquent debts are recent, numerous and ongoing. She has not resolved any of her debt. She stated in her Answer she had engaged a credit repair company, but the only evidence provided shows she initiated payments to the credit repair company after the FORM was issued. The evidence provided is insufficient to extenuate or mitigate the facts established by the Government.

She has not met her burden of proving this mitigating condition to show her current reliability, trustworthiness, or good judgment.

AG ¶ 20(b) does not fully apply. Applicant states several reasons that resulted in her financial situation. Her Response shows that after the FORM was issued, she started making payments to a credit repair company. An applicant who waits until their clearance is in jeopardy before resolving debts may be lacking in the judgment expected of those with access to classified information. See ISCR Case No. 16-01211 (App. Bd. May 30, 2018) citing ISCR Case No. 15-03208 at 5 (App. Bd. Mar. 7, 2017). Even though Applicant's debts occurred largely due to circumstances beyond her control, she did not provide sufficient evidence that she acted responsibly under the circumstances to resolve them.

AG ¶¶ 20(d) is established. Applicant provided corroborating documentary evidence to support her assertions in her Answer of trying to resolve her problems utilizing a credit repair company. The evidence of her making payments to the credit repair company is dated after the FORM was issued.

The evidence is insufficient to mitigate the security concerns. I am unable to find that Applicant acted responsibly under the circumstances. Her financial issues are recent and ongoing. They continue to cast doubt on her current reliability, trustworthiness, and good judgment. None of the other mitigating conditions are applicable.

### **Whole-Person Concept**

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. In applying the whole-person concept, an 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. 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 applied the adjudicative factors in AG ¶ 2(d). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate her credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003). Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance.

I conclude Applicant has not mitigated the financial considerations security concerns. 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 establishment of a track record of paying or resolving her debts, she may well be able to demonstrate persuasive evidence of her eligibility and suitability for a security clearance.

After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, I conclude Applicant did not mitigate the financial considerations security concerns.

### **Formal Findings**

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

Paragraph 1, Guideline F: AGAINST APPLICANT

Subparagraphs 1.a-1.r: Against Applicant

### **Conclusion**

In light of all of the circumstances, it is not clearly consistent with the interests of national security to grant Applicant a security clearance. Eligibility for access to classified information is denied.

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Charles C. Hale  
Administrative Judge