



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



In the matter of:)
)
) ISCR Case No. 24-00705
)
Applicant for Security Clearance)

Appearances

For Government: Aubrey M. De Angelis, Esq., Department Counsel
For Applicant: *Pro se*

02/20/2025

Decision

BLAZEWICK, Robert B., Chief Administrative Judge:

Applicant did not mitigate the security concerns under Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

On May 21, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F. The action was taken 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 responded to the SOR on June 14, 2024, and requested a decision on the written record in lieu of a hearing. The Government's written case was submitted on September 11, 2024. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit

material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on October 9, 2024, and he did not respond. The case was assigned to me on December 11, 2024. The Government exhibits included in the FORM are admitted in evidence.

Findings of Fact

The SOR alleges nine delinquent consumer debts totaling approximately \$31,351 (SOR ¶¶ 1.a-1.i) and one judgment entered against the Applicant in 2020 in the approximate amount of \$1,609.38, for which a warrant was later issued when he failed to appear in court for the case (SOR ¶ 1.j). He admitted all of the allegations without further explanation. The alleged debts are supported by his answer to the SOR; his February 2024 response to interrogatories; his October 2023 interview with an investigator; credit reports from September 2023, March 2024, April 2024, and August 2024; and the records of the judgment entered against him in 2020. (Items 3-11)

Applicant is 35 years old. He has been employed by a defense contractor since 2023. He has an associate degree, which he earned in 2018. He divorced in 2020 and has three minor children. (Items 4, 6)

Applicant did not report any financial or non-criminal court actions on his September 2023 security clearance application (SCA), but he did report periods of unemployment from July 2020 to December 2020 and from February 2021 to May 2021. In his October 2023 interview with an investigator, he admitted to having delinquent debts and explained that he had not listed them on his SCA because he did not know all the details. He attributed his financial problems to hardships with employment, job security, and prioritizing his income to pay for household and childcare necessities. He also told the investigator that he was unaware of having an active warrant and did not know what it was for. In his February 2024 response to interrogatories, Applicant reported that he had not made any progress on addressing his debts and further explained that he was not financially literate when he opened the accounts and was living above his means at that time. He expressed an intention to bring all accounts current now that he is more financially stable. He also explained that he researched the outstanding warrant and discovered it was from a missed court date. He was directed to contact an attorney associated with the case but he has been unsuccessful in doing so despite numerous attempts. Applicant's answer to the SOR did not contain any evidence that he has made progress toward addressing the alleged debts. (Items 3-6)

Applicant's most recent credit report, from August 2024, reflects a \$3,989 decrease in the balance of one of his debts (SOR ¶ 1.d), with a last payment date of July 11, 2024, and a current balance of \$20,391. It also reflects three new collection accounts totaling approximately \$2,348. (Item 10)

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 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.

Applicant’s admissions and the evidence in the FORM 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 are potentially applicable:

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;

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;

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;

AG ¶ 20(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

AG ¶ 20(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 debts are recent and remain unresolved. He did not provide sufficient evidence to show that his financial problems are unlikely to recur, and in fact he has had three more accounts go into collection since the SOR was issued. AG ¶ 20(a) does not apply.

Although Applicant indicated that his financial problems stemmed from job instability, his two reported periods of unemployment were almost 4-5 years ago, lasting only a few months each time, and there is no evidence that he acted responsibly under those circumstances. To the contrary, he admitted that he was living beyond his means and was not financially literate when he opened the alleged accounts. He did not provide evidence that he received financial counseling therefore AG ¶ 20(b) and 20(c) do not apply.

There is evidence that the balance of one of the alleged debts, SOR ¶ 1.d, is lower than originally alleged and that the last payment date was very recent. Unfortunately, Applicant did not provide any evidence explaining how and why this balance is being paid, for example by garnishment, a lump-sum payment, or a debtor-initiated repayment plan. "It is reasonable for a Judge to expect applicants to present documentation about the satisfaction of specific debts." See ISCR Case No. 09-07091 at 2 (App. Bd. Aug. 11, 2010). Given that this debt is by far the largest alleged debt, and that the balance was still over \$20,000 as of August 2024, more evidence regarding payment toward this debt is necessary for AG ¶ 20(d) to fully apply to it. He did not provide evidence that he has made any efforts to resolve the remaining debts alleged on the SOR. Therefore, AG ¶ 20(d) does not apply to the other allegations. Applicant did not provide evidence that he has a reasonable basis to dispute any of the past-due debts. Therefore AG ¶ 20(e) does not apply.

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 his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003).

"Once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance." ISCR Case No. 09-01652 at 3 (App. Bd. Aug. 8, 2011), *citing Dorfmont v. Brown*, 913 F.2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 4999 U.S. 905 (1991). Applicant has not overcome this presumption. 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 has not mitigated the security concerns raised under Guideline F, financial considerations.

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.j:	Against Applicant

Conclusion

I conclude it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is denied.

Robert B. Blazewick
Chief Administrative Judge