



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



In the matter of:)	
)	
XXXXXXXXXX)	ISCR Case No. 24-01635
)	
Applicant for Security Clearance)	

Appearances

For Government: John C. Lynch, Esq., Department Counsel
For Applicant: *Pro se*

03/05/2025

Decision

KATAUSKAS Philip J., Administrative Judge:

Applicant provided sufficient evidence to mitigate the security concerns raised under Guideline F, financial considerations. Eligibility is granted.

Statement of the Case

Applicant submitted his security clearance application (SCA) on October 31, 2022, in connection with his employment by a defense contractor. On September 27, 2024, following a background investigation, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. DOD issued the SOR under Executive Order 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 Security Executive Agent Directive 4 (SEAD 4) *National Security Adjudicative Guidelines* (AG), which became effective on June 8, 2017.

On October 23, 2024, Applicant submitted an answer to the SOR (Answer) and requested a decision by an administrative judge from the Defense Office of Hearings and Appeals (DOHA) based on the administrative (written) record, in lieu of a hearing. On December 11, 2024, Department Counsel submitted the Government's File of Relevant Material (FORM), including documents identified as Items 1 through 9. On December 13, 2024, the FORM was mailed to Applicant. Applicant received the FORM on December 21, 2024. He was afforded an opportunity to note objections and to submit material in refutation, extenuation, or mitigation, and was given 30 days from receipt of the FORM to do so. He did not respond. Government Items 1 and 2, the SOR and the Answer, respectively, are the pleadings in the case. Items 3 through 9 are admitted without objection. The case was assigned to me on February 21, 2025.

Administrative Matters

Applicant's Answer included seven enclosures proffered to support assertions in his Answer. (Item 2.) I have marked his enclosures as Applicant's Exhibits (AE) A through AE G, as follows:

AE A Final Judgement and Dissolution of Marriage May 14, 2024;

AE B Debt Resolution Agreement September 18, 2024;

AE C Credit Union Settlement Letter August 13, 2024;

AE D Payments to financial technologies.(10/1/24-10/31/24);

AE E Equifax Account Status October 23, 2024;

AE F Tiger Account Satisfaction Letter July 23, 2024; and

AE G Credit Card Settlement Letter October 10,2024.

On February 27, 2025, I reopened the record to allow Applicant to submit documents to update his payments under a debt resolution plan (DRP). On February 28, 2025, he submitted a document showing payments from October 5, 2024, through February 21, 2025. I have marked that document as AE H. AE H is admitted without objection.

Findings of Fact

After a thorough and careful review of the pleadings, the Government's exhibits, and Applicant's Response, I make the following findings of fact.

Applicant is 33 years old years old, married in December 2010, divorced in May 2024, and has a son eight years old. He has two associate degrees (August 2016) and a bachelor's degree (March 2022). He served on active duty in the U.S. Army from June 2010 until March 2023 when he was honorably discharged. He returned home and lived with his parents. He then worked for a security firm until June 2023, when he resigned

due to health issues. In November 2023, he took a position as a screener in Country A, in the Middle East. He is currently sponsored by a defense contractor. (Items 2 and 3.)

Under Guideline F, the SOR alleged that Applicant has ten delinquencies totaling \$122,089. (Item 1.) He admitted all SOR debts. He explained that his financial difficulties arose from his separation and divorce from his wife. He and his wife separated in 2021 while he was serving overseas on active duty. At the time, he understood that under Army regulations in the absence of a court order, he had to provide monthly support for his wife and son. He relied on credit cards to fund those additional expenses. His wife also used some of those same credit cards to set up her separate household. She filed for divorce in September 2022. He incurred significant legal fees, because they could not come to an agreement on the terms of the divorce. The divorce was finalized on May 14, 2024, and he assumed all debts incurred during the marriage. (Item 2; AE A.) Applicant's accounts became delinquent between February 2022 and October 2024. (Items 4-7.)

In 2024, Applicant took several vacations. Six were after the divorce was finalized. Four were to Country B, a Middle Eastern country near Country A (340 air miles), and three were to Southeast Asia. (Item 9.) He explained that the expenses of these trips were shared with friends, and three of his trips to Country B were for necessary medical treatments that were prohibitively expensive in Country A. (Items 2 and 9.) Applicant claims that his current employment with a defense contractor combined with his Veterans' Administration benefits provide him with sufficient income to handle living expenses, child support, and debt repayment. (Item 2.)

SOR ¶¶ 1.a, c, and e through 1.h (\$92,492). On September 18, 2024, Applicant enrolled these six debts in a DRP. The DRP requires him to pay \$616.69 twice a month to a dedicated account that will defray these debts. From October 5, 2024, through February 21, 2025, he has made the required bimonthly payments. (AE B; AE H.) These debts are being resolved.

SOR ¶ 1.b is an account charged off for \$20,139. Applicant provided an August 8, 2024 letter from the creditor that the amount was settled in full on August 8, 2024. (AE C.) This debt has been resolved.

SOR ¶ 1.d is an account placed for collection for \$8,402. Applicant provided an August 10, 2024 letter from the creditor that the account has been resolved. (AE G.) This debt has been resolved.

SOR ¶ 1.i is an account charged off for \$967. Applicant provided an Equifax Account Status of October 23, 2024 showing the account has been paid. (AE E.) This debt has been resolved.

SOR ¶ 1.j is an account charged off for \$89. Applicant provided a July 23, 2024 letter from the creditor that it has been paid in full. (AE F.) This debt has been resolved.

Law and Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has noted, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.” *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines, which are flexible rules of law, apply together with common sense and the general factors of the whole-person concept. The administrative judge must consider all available and 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 applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion in seeking a favorable security decision.

Analysis

Guideline F: Financial Considerations

The security concern relating to Guideline F 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.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual’s self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Guideline F notes conditions that could raise security concerns under AG ¶ 19. The followings conditions are applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

The SOR debts are established by Applicant's admissions and the credit reports. AG ¶¶ 19(a) and (c) apply. The next inquiry is whether any mitigating conditions apply.

Guideline F also includes conditions that could mitigate security concerns arising from financial difficulties. The following mitigating conditions under AG ¶ 20 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; and
- (d) the individual initiated and is adhering to a good faith effort to repay overdue creditors or otherwise resolve the debts.

The SOR debts became past due between February 2022 and October 2024. They are fairly recent, significant, and numerous. The SOR allegations are not mitigated by AG ¶ 20(a).

AG ¶ 20(b) has two elements. First, the conditions that resulted in financial problems must have been “largely beyond” applicant’s control. Second, the applicant must have acted “responsibly” under the adverse circumstances he confronted.

Here, Applicant’s financial problems began when he and his wife separated in 2021, while he was posted overseas in the Army. His wife used their credit cards to set up a household for her and their eight-year-old son. Applicant’s wife filed for divorce in September 2022. Applicant retired from the Army in March 2023, returned home and lived with his parents. In November 2023, he eventually found employment with a company in Country A. Separation and divorce are expressly noted in AG ¶ 20(b) as conditions largely beyond an applicant’s control. In this case, Applicant was also in transition to civilian life after serving 13 years in the Army. His finances no doubt were in flux, and the divorce was apparently not amicable, resulting in significant legal fees. The conditions he was confronting were largely beyond his control, thus satisfying the first element of AG ¶ 20(b).

The next question is whether Applicant acted responsibly in confronting those adverse conditions. Between his separation in 2021 and the final divorce decree in May 2024, his finances were likely unstable. When the divorce was finalized, however, he could make financial plans. Within four months, he established a DRP for six of his SOR debts and has made bimonthly payment under that plan from October 2024 through February 2025. He also resolved SOR ¶¶ 1.b, d, I, and j, either by settlement or payment in full. I do not find that any of his vacations showed poor judgment or irresponsible behavior. All but two were taken after the divorce was finalized, and three were for medical reasons. I find that he acted responsibly and that AG ¶ 20(b) applies in full. SOR ¶¶ 1.a, c, and e through 1.h have been mitigated. Mitigating condition AG ¶ 20(d) also applies.

Whole-Person Concept

Under AG ¶ 2(a), 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. AG ¶¶ 2(a) and (d)(1)-(9) (explaining the “whole-person” concept and factors). In my analysis above, I considered the potentially disqualifying and mitigating conditions and the whole-person concept in light of all the facts and circumstances surrounding this case.

Applicant leaves me with no questions about his eligibility and suitability for a security clearance. Therefore, I conclude that Applicant has provided sufficient evidence to mitigate the security concerns arising under Guideline F, financial considerations. I find in favor of Applicant on SOR ¶ 1.

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:	FOR APPLICANT
Subparagraph 1.a – 1.j:	For Applicant

Conclusion

In light of all of the circumstances presented, it is clearly consistent with the interests of national security to grant Applicant access to classified information. Eligibility for access to classified information is granted.

Philip J. Katauskas
Administrative Judge