



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



In the matter of:)
)
) ISCR Case No. 24-00538
)
Applicant for Security Clearance)

Appearances

For Government:
Tara Karoian, Esquire, Department Counsel

For Applicant:
Pro se

03/25/2025

Decision

ROSS, Wilford H., Administrative Judge:

Applicant mitigated the security concerns under Guidelines E (Personal Conduct) and F (Financial Considerations). Eligibility for access to classified information is granted.

Statement of the Case

On July 9, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines E and 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 in writing (Answer) on August 26, 2024, and requested a hearing before an administrative judge. Department Counsel was prepared to proceed on October 31, 2024. The case was assigned to me on November 13, 2024. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on November 21, 2024. I convened the hearing as scheduled on December 17, 2024. The Government offered Government Exhibits 1 through 7, which were admitted without objection. Applicant testified on his own behalf. He requested that the record remain open for the receipt of additional documentation. He submitted Applicant Exhibits 1 through 7 in a timely fashion, and they were admitted without objection. DOHA received the transcript of the hearing (Tr.) on January 13, 2025. The record closed on January 17, 2025.

Findings of Fact

Applicant is 47 years old, married, and has two children. He has a master's degree in engineering management. He is employed by a defense contractor as a senior principal program quality engineer. He began working for his current employer in June 2023. This is his first application for national security eligibility. (Government Exhibit 1 at Sections 12, 13A, and 17; Tr. 19-20.)

Paragraph 1 (Guideline E, Personal Conduct)

The Government alleges in this paragraph that Applicant is ineligible for clearance because he has engaged in conduct that shows poor judgment, untrustworthiness, or unreliability. Applicant admitted the single allegation under this guideline with explanations.

Applicant worked for another company (Company A) from 2007 through 2021. He was terminated from his employment with Company A for incorrect reporting of time records. According to Applicant, these incidents took place during a time when he had major health issues. He overslept in his car while on a break from work. He stated that the incorrect reporting of his break time was an innocent mistake on his part and not an attempt to obtain money that he had not earned. He has been extremely open in describing this incident and expresses a credible intent not to engage in any conduct like that in the future. (Answer; Government Exhibit 1 at Section 13A, Government Exhibit 2 at 7; Tr. 32-39.)

Paragraph 2 (Guideline F, Financial Considerations)

The Government alleges in this paragraph that Applicant is ineligible for clearance because he is financially overextended and therefore potentially unreliable, untrustworthy, or at risk of having to engage in illegal acts to generate funds. Applicant admitted the four allegations under this guideline with explanations. The Government provided credit reports of Applicant dated August 16, 2023; February 12, 2024; May 21, 2024; July 1, 2024; and October 30, 2024, supporting the existence of the debts. (Government Exhibits 7, 6, 4, 5, and 3.)

Applicant maintains that his delinquent indebtedness was due to three situations. First, both he and his daughter had health issues in the 2000 and 2001 time period that required medical care that was not covered by insurance. Second, the COVID pandemic had an impact on his work in terms of an income reduction. Third, as the financial issues grew, he attempted to resolve them with the creditors before he became delinquent. According to him, the creditors refused to deal with him because he was not yet delinquent. (Tr. 26-32, 44-48.)

Applicant and his wife both obtained new employment in the 2023 time frame. Both of their new jobs came with substantial raises in income. Once that occurred, he began working to resolve his past-due indebtedness. (Tr. 23-26, 48-49.)

The current status of the debts in the SOR is as follows:

1.a. Applicant admitted owing a credit union approximately \$3,333. He resolved this debt in April 2024, as shown by documentation from the collector for the credit union. This debt was paid before the issuance of the SOR in this case. This debt is resolved. (Applicant Exhibit 1 at 1; Tr. 51-53.)

1.b. Applicant admitted that he owed a delinquent debt for a credit card in the amount of approximately \$2,472. He made a payment agreement with the collector for the credit card and fulfilled the agreement in October 2024, as confirmed by correspondence from the creditor. This debt is resolved. (Applicant Exhibit 1 at 2; Tr. 53-54.)

1.c. Applicant admitted owing a bank \$4,367 for a past-due debt. He has repeatedly contacted the bank, but they have sold the account and are unwilling or unable to provide him with contact information for the entity they sold the debt to. The credit reports in the record do not provide any further information about this debt. This debt is not resolved, but I find Applicant has made a good-faith attempt to resolve it. (Tr. 50, 56-57.)

1.d. Applicant admitted that he owed a delinquent debt for a credit card in the amount of approximately \$2,739. He made a payment agreement with the collector for the credit card and fulfilled the agreement in August 2024, as confirmed by correspondence from the creditor. This debt is resolved. (Applicant Exhibit 1 at 3; Tr. 54-55.)

Mitigation

Applicant is a very successful and respected employee. The record shows that he has made an impact during his brief span on the job. His supervisor wrote an extremely laudatory letter. He has also received other recognition from his employer. (Applicant Exhibits 2, 3, 4, and 5; Tr. 36-38.)

Applicant also paid off a past-due automobile debt, as shown in Government Exhibit 3 at page 4. This payment occurred in June 2024, before issuance of the SOR. (Tr. 58.)

Applicant is financially stable. His wife supplied a letter discussing their financial situation. She also provided a budget showing that they are easily able to keep up with their current debts. (Applicant Exhibit 6; Tr. 58-63.)

Policies

When evaluating an applicant's national security eligibility 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 Executive Order 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* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

Paragraph 2 (Guideline E, Personal Conduct)

The security concern relating to the guideline for Personal Conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. One is potentially applicable in this case:

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

- (1) untrustworthy or unreliable behavior to include breach of client confidentiality, release or proprietary information, unauthorized release of sensitive corporate or government protected information;
- (2) any disruptive, violent, or other inappropriate behavior;
- (3) a pattern of dishonesty or rule violations; and
- (4) evidence of significant misuse of Government or other employer's time or resources.

Applicant was terminated from employment in 2021 due to his issues with correctly entering his time on his timecard. AG ¶ 16(a) is applicable.

The following mitigating conditions under AG ¶ 17 are possibly applicable to Applicant's conduct:

- (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and
- (d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

As stated under Paragraph 1, above, Applicant has expressed remorse for this single incident that had a devastating impact on his life. There is compelling evidence that it shall not be repeated. He has mitigated the single allegation under this guideline. Paragraph 1 is found for Applicant.

Paragraph 1 (Guideline F, Financial Considerations)

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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.

AG ¶ 19 describes two conditions that could raise security concerns and may be disqualifying in this case:

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

Applicant was alleged to have four delinquent debts. AG ¶¶ 19(a) and (c) apply. The burden thereby shifts to Applicant to mitigate the adverse inference of his delinquent debts.

The guideline includes three conditions in AG ¶ 20 that could mitigate the security concerns arising from Applicant's alleged financial difficulties:

- (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, or 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.

With regard to allegations 2.a, 2.b, and 2.d, Applicant submitted documentation showing that he had paid off those debts. There is compelling evidence that most of his financial difficulties were in relation to family health issues and the impact of the COVID pandemic. Upon he and his wife getting new jobs with substantial raises he began to resolve the debts. Turning to the debt in allegation 2.c, I find Applicant has made a good-faith effort to resolve that debt. He realizes that he must continue to work diligently to resolve that particular debt. AG ¶¶ 20(a), (b), and (d) apply.

In support of these findings, I cite the Appeal Board's decision in ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008) for the proposition that the adjudicative guidelines do not require that an applicant be debt-free. The Board's guidance for adjudications in cases such as this is the following:

[A]n applicant is not required, as a matter of law, to establish that he has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he has established a plan to resolve his financial problems and taken significant actions to implement that plan. The Judge can reasonably consider the entirety of an applicant's financial situation and his actions in evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic. There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payments of such debts one at a time. (Internal citations and quotation marks omitted.)

Based on all of the available evidence, Applicant has mitigated the security concerns of this guideline.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for national security eligibility by considering the totality of the

applicant's conduct and all relevant circumstances. The 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.

Under AG ¶ 2(c), the ultimate determination of whether to grant national security eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. Applicant has fully mitigated the security concerns of his personal conduct and financial conduct. As stated elsewhere in this decision, and supported by the evidence, Applicant is a talented and successful person who works hard at his job. The incident under Guideline E will not be repeated. He has resolved, or is resolving, his financial situation. Such financial difficulties will not occur in the future. His conduct has earned him the privilege of being granted national security eligibility. Paragraphs 1 and 2 are found for Applicant.

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 E:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline F:	FOR APPLICANT
Subparagraphs 2.a through 2.d:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is granted.

WILFORD H. ROSS
Administrative Judge