



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



In the matter of:)	
)	
[Redacted])	ISCR Case No. 24-00026
)	
Applicant for Security Clearance)	

Appearances

For Government: George Hawkins, Esq., Department Counsel
For Applicant: *Pro se*

03/31/2025

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines F (Financial Considerations) and E (Personal Conduct). Clearance is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on March 23, 2022. On January 22, 2024, the Defense Counterintelligence and Security Agency (DCSA) sent her a Statement of Reasons (SOR) alleging security concerns under Guidelines F and E. The DCSA acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (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), which became effective on June 8, 2017.

Applicant answered the SOR on April 29, 2024, and requested a hearing. On June 4, 2024, Department Counsel amended the SOR to add SOR ¶ 1.t, alleging an additional delinquent debt. Applicant did not object to the amendment. Department Counsel was ready to proceed on July 8, 2024. The case was assigned to me on January 8, 2025. On January 14, 2025, the Defense Office of Hearings and Appeals notified Applicant that the hearing was scheduled to be conducted by video teleconference on February 21, 2025. I convened the hearing as scheduled. Government Exhibits 1 through 7 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AX) A through F, which were admitted without objection. DOHA received the transcript on March 3, 2025. I held the record open until March 21, 2025, to enable Applicant to submit additional documentary evidence. She timely submitted AX G through M, which were admitted without objection. The record closed on March 21, 2025.

Findings of Fact

In Applicant's answer to the SOR, she admitted all the allegations in the SOR and the amendment to the SOR. Her admissions are incorporated in my findings of fact.

Applicant is a 36-year-old travel coordinator employed by a federal contractor since February 2022. She has worked for federal contractors since July 2019. She received a security clearance in February 2019. She completed high school and some college courses but does not have a degree. She married in February 2010, separated in 2018, and divorced in October 2020. She received no financial assistance from her husband after they separated. Her ex-husband is in jail. (Tr. 28) She has nine children and a one-year-old granddaughter, who all live with her. (Tr. 16) She received a security clearance in February 2019.

The SOR as amended alleges 20 delinquent debts, which are reflected in credit reports dated April 6, 2022 (GX 2) and May 30, 2024 (GX 3). At the beginning of the hearing, I granted Department Counsel's motion to withdraw the allegation in SOR ¶ 1.s. (Tr. 11-12) The evidence concerning the debts alleged in SOR ¶¶ 1.a through 1.r and 1.t is summarized below.

SOR 1.a: car loan charged off for \$21,215. Applicant testified that this debt arose when her car was stolen and wrecked in 2019. Her insurance company (alleged in SOR ¶ 1.q below) refused to pay the balance on the loan. (Tr. 40-42) The lender for the car loan offered to settle the debt for \$3,182. (AX G) She accepted the offer on May 23, 2024, and paid the agreed amount on May 30, 2024. (AX E).

SOR ¶ 1.b: apartment rent placed for collection of \$2,303. Applicant explained the circumstances of this debt when she was interviewed by a security investigator in July 2022. She stated that she moved out of an apartment in 2018 after giving the apartment manager the required 30-day notice and received an acknowledgment of the notice from the manager. She provided the security investigator with a copy of the notice. In 2019, she noticed that her credit report reflected past-due rent. The May 2024 credit report reflects that the debt is disputed. (GX 3 at 4) The evidence reflects that she has a reasonable basis for disputing this debt.

SOR ¶ 1.c: furniture rental placed for collection of \$1,872. In February 2025, Applicant agreed to settle the debt for around \$370, to be paid in six monthly installments by automatic withdrawal from a bank account. (AX A) The debt is being resolved.

SOR ¶ 1.d: furniture rental placed for collection of \$1,660. Applicant settled this debt for \$1,000, which she is paying in monthly installments. As of the date of the hearing, she still owed about \$200 on this debt. (AX B; Tr. 52-53) It is being resolved.

SOR ¶ 1.e: credit-card account charged off for \$597. Applicant settled this debt for \$300 and is making monthly payments of \$57.75. (AX J; AX L) It is being resolved.

SOR ¶ 1.f: overdraft fee charged off for \$179. Applicant made a payment agreement providing for monthly \$10 payments. As of the date the record closed, her payments were current. (AX M) It is being resolved.

SOR ¶ 1.g: overdraft fee charged off for \$118. Applicant testified that this debt was paid in 2023 or 2024. (Tr. 55) The May 2024 credit report reflects that this debt was settled for less than the full amount in April 2024. (GX 3 at 5-6)

SOR ¶ 1.h: telecommunications bill for \$62. Applicant presented no evidence regarding this debt. It is not resolved.

SOR ¶¶ 1.i and 1.j: two medical bills for \$59 each. Applicant presented no evidence regarding these debts.

SOR ¶ 1.k: credit-card account past due for \$367 with a balance of \$1,382. Applicant presented no evidence regarding this debt.

SOR ¶ 1.l: credit-card account past due for \$172 with a balance of \$788. Applicant presented no evidence regarding this debt.

SOR ¶ 1.m: credit-card account past due for \$187 with a balance of \$482. Applicant presented no evidence regarding this debt.

SOR ¶¶ 1.n and 1.o: medical bills for \$50 each, placed for collection. Applicant presented no evidence regarding these debts.

SOR ¶ 1.p: deficiency after automobile repossession, charged off for \$5,884. In Applicant's answer to the SOR, she provided documentary evidence that this debt was resolved.

SOR ¶ 1.q: \$145 debt to auto insurance company for vehicle alleged in SOR ¶ 1.a. Applicant testified that she paid this debt. (Tr. 42) The debt is not reflected in the credit reports from April 2022, May 2024, or February 2025. (GX 3; GX 4; GX 7) It is resolved.

SOR ¶ 1.r: past-due rent placed for collection of \$4,161. Applicant testified that she contacted this creditor in May 2024, seeking to settle the debt. She provided documentation of her conversation with the creditor, who was unable to locate her account because she does not know the account number. (AX K; Tr. 47) The debt is not reflected on the credit reports submitted at the hearing. (GX 2; GX 3) Applicant has made a good-faith effort to resolve this debt.

SOR ¶ 1.t: unsatisfied judgment for \$7,195. This judgment against Applicant was entered in September 2018. She submitted evidence of payments made twice a month in varying amounts from November 2018 to December 2021. She notified the creditor's attorney in June 2024 that she believed the debt was satisfied, and the attorney responded that she still owed \$200.79. In July 2024, she notified the attorney that she would make the final payment. (AX B) However, as of the date of the hearing, she had not yet made the final payment. (Tr. 61) The debt is not yet fully resolved.

Among the documents submitted by Applicant after the hearing was documentation of a debt for property in a resort community. The debt is reflected in the February 2025 credit report (GX 7), which shows that the debt was incurred in June 2021 for \$12,591 and was 180 days past due. Applicant's documentation shows that the debt was settled for \$3,500, to be paid over 12 months at \$292 per month, starting in February 2025. She made the first payment on February 28, 2025, one week after the hearing.¹ (AX F)

Under Guideline E, the SOR alleged that Applicant falsified her SCA by failing to disclose the debts alleged in SOR ¶¶ 1.a through 1.s. She answered "No" to all the financial questions, including questions regarding judgments entered against her, involuntary repossessions, defaults on loans, debts turned over to collection agencies, garnishments, and any debts delinquent for more than 120 days. (GX 1 at 54) When Department Counsel asked her why she did not disclose her delinquent debts in her SCA, she responded, "I don't know. . . I read the questions wrong. And I think I really wasn't paying attention to the question that was being asked." (Tr. 68)

Applicant currently earns about \$93,000 per year after receiving a pay raise in November 2024. She previously earned about \$88,000 per year. Her take-home pay is about \$6,000 per month. She occasionally drives a ride-share car to generate more income. She receives government assistance in the form of a 70% housing voucher and \$800 per month for food. She has about \$17,380 in her retirement account. She drives a 2019 compact car that was a gift from her church. (Tr. 27-35) She has never received credit counseling. (Tr. 36)

¹ This debt was not alleged in the SOR, and I have considered it only for the limited purposes of assessing Applicant's credibility, to evaluate her evidence of mitigation, and in my whole-person analysis. See ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006).

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* at 531. Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” See ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019) It is “less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “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. 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* 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 evidence submitted at the hearing 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.

AG ¶ 20(a) is not established. Applicant's delinquent debts are recent, frequent, and were not incurred under circumstances making recurrence unlikely.

AG ¶ 20(b) is not established. Applicant encountered several conditions largely beyond her control. Her automobile was stolen and wrecked in 2019. She and her husband separated in 2018 and divorced in 2020. She received no financial support for herself, her nine children, and her one grandchild after they separated. There is no evidence that the births of her nine children were conditions largely beyond her control, but her unmarried daughter's birth of a child was a condition largely beyond her control. However, she has not acted responsibly. At the hearing, she offered no explanations for the unresolved debts alleged in SOR ¶¶ 1.h-1.o. Her purchase of property in a resort community in June 2021, before resolving the debts alleged in the SOR, raises doubts about her financial responsibility.

AG ¶ 20(c) is not established. Applicant has not received financial counseling, and her the record does not show "clear indications" that her financial problems are under control.

AG ¶ 20(d) is established for the debts alleged in SOR ¶¶ 1.a, 1.c-1.g, and 1.p-1.r. It is not fully established for the debt alleged in SOR ¶ 1.t, because Applicant has not shown that she made the final payment on the debt. It is not established for the debts alleged in SOR ¶¶ 1.h-1.o.

AG ¶ 20(e) is established for the debt alleged in SOR ¶ 1.b. The record reflects that Applicant has a reasonable basis to dispute this debt.

Guideline E, Personal Conduct

The security concern under this guideline 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 relevant disqualifying condition is AG ¶ 16(a):

[D]eliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

When a falsification allegation is controverted, as in this case, the Government has the burden of proving it. An omission, standing alone, does not prove falsification. An administrative judge must consider the record evidence as a whole to determine an applicant's state of mind at the time of the omission. See ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004). An applicant's experience and level of education are relevant to determining whether a failure to disclose relevant information on a security clearance application was deliberate. ISCR Case No. 08-05637 (App. Bd. Sep. 9, 2010).

Applicant is a mature adult who has worked for federal contractors since 2019. She is not a neophyte in the security-clearance process, having held a clearance for most of her federal service. She offered no cogent or persuasive explanation for her negative answers to all the questions about financial delinquencies. I conclude that AG ¶ 16(a) is established.

The following mitigating conditions are potentially applicable:

AG ¶ 17(a): the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; and

AG ¶ 17(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.

AG ¶ 17(a) is not established. Applicant made no effort to correct the omissions until she was confronted with the evidence.

AG ¶ 17(c) is not established. Her falsification of her SCA is arguably infrequent, but it is recent and did not happen under unique circumstances. Falsification of an SCA is not “minor.” It “strikes at the heart of the security clearance process.” ISCR Case No. 09-01652 (App. Bd. Aug. 8, 2011.)

Whole-Person Analysis

Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. An administrative judge must evaluate an appellant’s security eligibility by considering the totality of the appellant’s conduct and all the 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 Guidelines F and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under Guidelines F and E and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by her delinquent debts and personal conduct.

Formal Findings

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

Paragraph 1, Guideline F (Financial Considerations): **AGAINST APPLICANT**

Subparagraphs 1.a-1.g:	For Applicant
Subparagraphs 1.h-1.o:	Against Applicant
Subparagraphs 1.p-1.r:	For Applicant
Subparagraph 1.s:	Withdrawn
Subparagraph 1.t:	For Applicant

Paragraph 2, Guideline E (Personal Conduct):

AGAINST APPLICANT

Subparagraph 2.a:

Against Applicant

Conclusion

I conclude that 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.

LeRoy F. Foreman
Administrative Judge