



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-01392

Appearances

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

03/27/2025

Decision

WESLEY, ROGER C. Administrative Judge

Based upon a review of the case file, pleadings, exhibits, and testimony, Applicant mitigated financial consideration concerns. Eligibility for access to classified information or to hold a sensitive position is granted.

Statement of the Case

On August 27, 2024, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudications Services (CAS) issued a statement of reasons (SOR) to Applicant detailing reasons why under the financial considerations guidelines the DCSA CAS could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DoD) Directive 5220.6 *Defense Industrial Personnel Security Clearance Review Program*, (January 2, 1992) (Directive); and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017.

Applicant responded to the SOR on September 19, 2024, and requested a hearing. This case was assigned to me on January 1, 2025. A hearing was scheduled for February 21, 2025, and the case was heard on the scheduled date. At the hearing, the Government's case consisted of five exhibits (GEs 1-5), which were admitted without objection. Applicant relied on one witness (himself) and no exhibits. The transcript (Tr.) was received on March 3, 2025.

Procedural Issues

Before the close of the hearing, Applicant requested the record be kept open to permit him the opportunity to supplement the record with documented payments to his listed SOR creditors. For good cause shown, Applicant was granted seven days to supplement the record. Department Counsel was afforded two days to respond. Within the time permitted, Applicant supplemented the record with an updated credit report, interrogatory responses confirming payments to most of the reported outstanding creditors, and payment receipts. Applicant's post-hearing exhibits were admitted without objection as AEs A-I.

Summary of Pleadings

Under Guideline F, Applicant allegedly accumulated 12 delinquent debts, exceeding \$16,000. Allegedly these debts remain unresolved and outstanding.

In Applicant's response to the SOR, he admitted each of the allegations. He added no explanations or clarifications.

Findings of Fact

Applicant is a 36-year-old employee of a defense contractor who seeks a security clearance. Allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

Background

Applicant married in June 2015 and separated in August 2022. (GE 1) He has one child from his marriage (GE 1) He earned a high school diploma in June 2007 and attended community college classes between August 2007 and October 2007 without earning a degree or diploma. Applicant reported no military service. Since September 2023, Applicant has been employed as a logistics specialist for his current employer. (GE 1) Previously, he worked for other employers in various jobs. He reported periodic unemployment 2021 and 2023. Applicant has never held a security clearance.

Applicant's finances

Between 2016 and 2024, Applicant accumulated 12 delinquent debts exceeding \$16,000. (GEs 3-5; Tr. 42-52) Applicant's consumer debts are covered in the SOR as follows: SOR ¶¶ 1.a (a delinquent credit-card account for \$7,936); 1.b-1.d and 1.f (four

credit-card accounts with the same creditor for the respective amounts of \$2,315, \$1,496, \$1,283); (1.e) a credit-card account for \$900); (1.f) (a credit-card account for \$851); 1.g (a utility account for \$667); 1.h (a credit-card account for \$603); rental account for \$7,613, 1.g (a utility account for \$667); 1.h (a credit-card account for \$603); 1.i (an educational debt for \$530); 1.j (a utility debt for \$338); and 1.l (a utility debt for \$199). Applicant attributed his debt delinquencies to periods of unemployment following the Covid-19 pandemic.

Afforded an opportunity to provide post-hearing documentation SOR-listed debts he claims to have paid, Applicant provided payment documentation for the following paid SOR-listed debts: SOR ¶¶ 1.a-1.b, 1.e-1.f and 1.i-1.j) and 1.l \$1,300. (AEs A-l; Tr. 46-51) Together, these paid SOR debts exceed \$13,000. Debts for which he has not provided any payment documentation are as follows; debts covered by SOR ¶¶ 1.c-1.h, and 1.k. These covered debts exceed \$3,700 and have not been paid or otherwise resolved by Applicant. (GEs 3-5; Tr. 44-45 and 49-50)

In his interrogatory responses of June 2024, Applicant reported gross monthly income of \$5,200, monthly expenses of \$580, and monthly debt payments of \$776. (GE3) His calculations, if accurate, leave him with a net monthly remainder of more than \$3,700. (GE 3) E 2; Tr. 58-64)

With his modified income/expense figures furnished in his hearing testimony (i.e., monthly income of \$5,700 (net of his six per cent monthly contributions to his 401(k)-retirement account) and monthly expenses in excess of \$5,000, he still retains a healthy monthly remainder of more than \$600. (Tr. 55-60) He credited his frugality in part to his saving housing expenses by living with his parents. (Tr. 60)

Endorsements

Applicant is well-regarded by his employee. (Tr. 66) His employee characterized him with honesty and demonstrated leadership. Although, he has only worked for Applicant for roughly six months.

Policies

By virtue of the jurisprudential principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), “no one has a ‘right’ to a security clearance.” 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. Eligibility for access to classified information may only be granted “upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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, these guidelines are

applied 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, reliable information about the person, past and present, favorable and unfavorable.

The AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. These guidelines include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could mitigate security concerns, if any.

These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following ¶ 2(d) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent herein:

Financial Considerations

The Concern: Failure or inability 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 or 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 acts or otherwise questionable acts to generate funds. . . . AG ¶ 18.

Burdens of Proof

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 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 “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. See *also* Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

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. 95-0611 at 2 (App. Bd. May 2, 1996).

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 ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Security concerns are raised over Applicant’s accumulation of 12 delinquent accounts exceeding \$16,000 and failure to address them prior to the issuance of the SOR in August 2023. Post-hearing documentation of his good-faith payments made to seven of his creditors leaving less than \$3,700 in unaddressed SOR debts was provided by Applicant.

Financial concerns

Applicant's documented accumulation of delinquent debts warrant the application of two of the disqualifying conditions (DC) of the financial consideration guideline. DC ¶¶ 19(a), "inability to satisfy debts"; and 19(c), "a history of not meeting financial obligations" apply to Applicant's situation. His delinquent account Accruals require no independent proof to substantiate them. See Directive 5220.6 at E3.1.1.14; *McCormick on Evidence* § 262 (6th ed. 2006). His admitted accumulation of delinquent accounts is fully documented and raise judgment issues as well over the management of his finances. See ISCR Case No. 03-01059 (App. Bd. Sept. 24, 2004).

Financial stability in a person cleared to protect classified information is required precisely to inspire trust and confidence in the holder of a security clearance that entitles the person to access classified information. While the principal concern of a security clearance holder's demonstrated difficulties is vulnerability to coercion and influence, judgment and trust concerns are implicit in cases involving delinquent debts.

Historically, the timing of addressing and resolving debt delinquencies are critical to an assessment of an applicant's trustworthiness, reliability, and good judgment in following rules and guidelines necessary for those seeking access to classified information or to holding a sensitive position. See ISCR Case No. 14-06808 at 3 (App. Bd. Nov. 23, 2016); ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015); ISCR Case No. 14-00221 at 2-5 (App. Bd. June 29, 2016). The Appeal Board has consistently imposed evidentiary burdens on applicants to provide documentation corroborating good-faith actions taken to resolve delinquent debt and other financial problems. See ISCR Case No. 19-02593 at 4-5 (App. Bd. Oct. 18, 2021); ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 20, 2020).

While late in addressing his delinquent accounts, Applicant has paid most of the listed SOR debts since rebounding from the Covid-19 economic contraction. In comparative dollar values, his seven paid debts represent the bulk of his accumulated delinquent accounts. Applicable mitigating conditions are as follows: MC ¶¶ 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"; and 20(d) "the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts."

Whole-person assessment

Whole-person assessment of Applicant's clearance eligibility requires consideration of whether his history of debt delinquencies is fully compatible with minimum standards for holding a security clearance. Applicant's civilian contributions are reinforced by his addressing most of his delinquent accounts with post-SOR debt. Overall trustworthiness, reliability, and good judgment are established. Based on a consideration of all of the facts and circumstances covered in this case, safe predictions

can be made that Applicant will be able to maintain control of his finances in the foreseeable future.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude financial considerations security concerns are mitigated. Eligibility for holding a security clearance is granted.

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:

Guideline F (FINANCIAL CONSIDERATIONS): FOR APPLICANT

Subparagraphs 1.a-1.l:

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 Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Roger C. Wesley
Administrative Judge