



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 23-02231

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel
For Applicant: *Pro se*

05/02/2025

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Clearance is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on August 25, 2022. On December 11, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA) sent her a Statement of Reasons (SOR) alleging security concerns under Guideline F. 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 July 14, 2024, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on July 31, 2024. The case was assigned to me on February 25, 2025. On March 4, 2025, the Defense Office of Hearings and Appeals notified Applicant that the hearing was scheduled to be conducted by video teleconference on March 26, 2025. I convened the hearing as scheduled. Government Exhibits 1 through 13 were admitted in evidence without objection.

Applicant testified but did not present the testimony of any other witnesses. She submitted Applicant's Exhibits (AX) A through Q, which were admitted without objection. I kept the record open until April 9, 2025, to enable her to submit additional documentary evidence. She timely submitted AX R, which was admitted without objection. DOHA received the transcript on April 7, 2025. The record closed on April 9, 2025.

Findings of Fact

In Applicant's answer to the SOR, she admitted all the allegations but denied the amount of the debt alleged in SOR ¶ 1.b. Her admissions are incorporated in my findings of fact.

Applicant is a 57-year-old security officer employed by federal contractors since July 2002. She received a security clearance in May 2004. She has never married. She has two adult children. She received an associate degree in June 2015 and a bachelor's degree in June 2017.

Applicant testified that she grew up in a family that relied on public assistance, and she did not know much about financial planning. She has a long history of financial problems, which she discussed in affidavits executed in December 2004 (GX 10) and March 2005 (GX 11) in connection with earlier security investigations.

Applicant had surgery for a torn Achilles tendon in May 2024, which made her unable to maintain the level of physical fitness required for her job. She had three surgical procedures. She was unable to work from September to December 2024. (Tr. 20-22, 31)

The SOR alleges 17 delinquent debts reflected in six credit reports (GX 3 through 8) and an IRS notice of payment due (GX 9). When Applicant was interviewed by a security investigator in June 2023, she admitted that she had been mismanaging her money, living beyond her means, and had 17 credit cards. (GX 12 at 8) She told the investigator that her average monthly income was \$5,154 per month, her monthly expenses were \$1,851, and her monthly debt payments were \$1,445. If her estimates are accurate, she has a net monthly remainder of \$2,858.

In April 2021, Applicant hired a debt-relief company to assist her in resolving her debts. The company charged her a negotiation fee of 20% of the enrolled indebtedness being handled. (AX B) She paid the company \$730 per month from April through October 2023. (Tr. 28-29) She testified that she was unable to make the agreed payments to the company after October 2023, because of her multiple surgeries and loss of income. The

company prepared a revised plan scheduled to begin in February 2025, providing for payments of \$550 per month. As of the date of the hearing, Applicant's implementation of the plan had not begun because she had not made the first two monthly payments. (Tr. 30-32)

The evidence concerning the debts alleged in the SOR is summarized below.

SOR ¶ 1.a: debt to insurance company placed for collection of \$415. In Applicant's answer to the SOR, she admitted this debt and testified that she was making payments on this debt. At the hearing, she submitted a document reflecting a payment agreement and a balance due of \$138. (AX C) The debt is being resolved. (AX R at 2)

SOR ¶ 1.b: debt to telecommunications company placed for collection of \$1,810. This debt was for unreturned equipment. In Applicant's answer to the SOR she stated that the debt was reduced to \$960 after she returned the equipment. After the hearing, she produced evidence that she was making monthly \$200 payments. The debt is being resolved. (AX R at 3-4).

SOR ¶ 1.c: credit-card debt charged off for \$668. This debt has been referred to Applicant's debt-relief company, but payments have not begun because implementation of the plan will not begin until she makes the first payments to the company. (AX B; Tr. 30).

SOR ¶ 1.d: credit-card debt placed for collection of \$740. This debt has been paid. (AX R at 6)

SOR ¶ 1.e: auto loan deficiency of \$16,723 after repossession. This debt is not resolved. Applicant made a \$300 payment on April 4, 2025, after the hearing. (AX R at 8)

SOR ¶¶ 1.f, 1.g, and 1.h: credit-card debts placed for collection of \$747, \$316, and \$ 696. Applicant made monthly payments to a collection agency for these debts, and they are now resolved. (AX E, F, G and R)

SOR ¶ 1.i: auto loan deficiency of \$23,988 after repossession. Applicant has referred this debt to her debt-relief company and is waiting for the company to negotiate a settlement, but she has not yet made the initial payments to the company to activate payment plans. The debt is not resolved. (Tr. 38)

SOR ¶ 1.j: bank account debt charged off for \$706. Applicant made a payment agreement in January 2024 to make six monthly payments. (AX J) She testified that she made all the agreed payments, but she did not provide documentation to support her testimony. (Tr. 40)

SOR ¶ 1.k: auto loan deficiency after repossession, account charged off for \$12,852. This debt is not resolved. (Tr. 41-42)

SOR ¶ 1.l: credit-card debt placed for collection of \$1,012. This debt has been paid. (Tr. 43; GX 13 at 2; AX D; AX R at 19)

SOR ¶ 1.m: bank account debt charged off for \$862. This debt has been paid. (AX A)

SOR ¶ 1.n: medical bill placed for collection of \$693. Applicant testified that she was making payments on this debt, but she provided no documentation of payments. (Tr. 48)

SOR ¶ 1.o: collection account for \$596. Applicant began making payments on this debt in July 2023. It has been paid. (AX K; AX R at 22)

SOR ¶ 1.p: medical bill placed for collection of \$500. Applicant began making payments on this debt in December 2022. It has been paid. (AX L)

SOR ¶ 1.q: IRS debt for delinquent taxes of \$7,267. This debt arose when Applicant's employer was bought by another company, and she withdrew the funds in her 401(k) retirement account but did not report them on her 2019 federal income tax return. She was provided with the form for reporting the 401(k) withdrawal, but she accidentally discarded it. When she filed her federal income tax return in 2021, the IRS informed of her tax debt. She made a payment agreement providing for payment of \$100 per month on the debt, which has been resolved by her monthly payments and diversion of her tax refunds. (GX 12 at 18; AX M; AX R at 25)

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 two disqualifying conditions under this guideline:

AG ¶ 19(a): inability to satisfy debts; and

AG ¶ 19(c): a history of not meeting financial obligations; and

AG ¶ 19(f): failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

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(g): the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

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

AG ¶ 20(b) is not established. Applicant's medical problems were conditions largely beyond her control. However, she has not acted responsibly. Her delinquent debts

include three vehicle repossessions and numerous delinquent credit-card and other consumer accounts. She has admitted living beyond her means. Her tax debt was the product of carelessness and neglect.

AG ¶ 20(c) is not established. Applicant's debt-relief company negotiates settlement of debts for a substantial fee, but it does not provide the financial counseling contemplated by this mitigating condition. She would likely benefit from competent financial counseling.

AG ¶ 20(d) is not established. A security clearance adjudication is an evaluation of an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010.) The adjudicative guidelines do not require payments on all delinquent debts simultaneously, payment of debts alleged in the SOR first, or resolution of every debt alleged in the SOR. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). Applicant testified that her debt-relief company had a plan to resolve her remaining debts, but she provided no documentary evidence showing what debts were included in the plan. As of the date of the hearing, she had not activated her debt-relief company's payment plan. She did not begin making payments on the debt of \$16,723, alleged in SOR ¶ 1.e, until after the hearing. She claimed that the debts alleged in SOR ¶¶ 1.j and 1.n were paid, but she provided no documentation to support her claim. An applicant who claims that a debt is resolved is expected to present documentary evidence supporting that claim. See ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 19, 2016).

AG ¶ 20(g) is established for the tax debt alleged in SOR ¶ 1.q. Applicant established a payment plan for her delinquent taxes, complied with the plan, and has resolved the debt.

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 applicant's security eligibility by considering the totality of the applicant'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 Guideline F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d).

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 by her delinquent debts.

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 and 1.b:	For Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	Against Applicant
Subparagraphs 1.f, 1.g, and 1.h:	For Applicant
Subparagraphs 1.i, 1.j, and 1.k:	Against Applicant
Subparagraphs 1.l and 1.m:	For Applicant
Subparagraph 1.n:	Against Applicant
Subparagraphs 1.o, 1.p, and 1.q:	For 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