



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



In the matter of:

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ISCR Case No. 24-02094

Applicant for Security Clearance

Appearances

For Government: Lauren A. Shure, Esq., Department Counsel
For Applicant: *Pro se*

06/13/2025

Decision

HALE, Charles C., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on March 26, 2024. On December 30, 2024, the Department of Defense (DoD) sent her a Statement of Reasons (SOR) alleging security concerns under Guideline F, financial considerations. The DoD acted under Executive Order (Exec. Or.) 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) promulgated in Security Executive Agent Directive 4, National Security Adjudicative Guidelines (December 10, 2016).

Applicant answered the SOR on January 31, 2025, and requested a decision on the written record without a hearing. Department Counsel submitted the Government's file of relevant material (FORM) on February 18, 2025. On February 20, 2025, a complete copy of the FORM was sent to Applicant. She received the FORM on February 28, 2025.

A response to the FORM was not received. The case was assigned to me on June 5, 2025.

The SOR and the Answer are the pleadings in the case. FORM Items 3 through 10 are admitted into evidence without objection.

Findings of Fact

Applicant admitted the sole allegation, SOR ¶ 1.a, that she filed Chapter 13 bankruptcy in November 2024 and that the bankruptcy was ongoing as of the December 30, 2024 SOR. She relies on the evidence submitted by the Government to support her the statement in her Answer:

I admit. The last court hearing was January 9, 2025. I'm making all payments on time, taking directly out of my paycheck.

Applicant's SCA was completed on March 26, 2024. She responded to Government interrogatories dated September 16, 2024. She filed Chapter 13 Voluntary Petition for bankruptcy on November 7, 2024. Her amended her Chapter 13 plan was admitted on December 20, 2024. The Bankruptcy Court signed the Order Confirming Chapter 13 Plan on January 13, 2025, approving \$437 bi-weekly payments for 36 months. (Item 5.) There was no evidence of regular payments. (Item 5; Item 6.)

Applicant's summary of assets shows \$54,383 in liabilities and she lists her debts as primarily consumer related on the form. On the assets and liabilities form she claimed an income of \$4,010 and expenses of \$3,064. She marked as part of the bankruptcy petition that she had received a briefing from an approved credit counseling agency within the 180 days before filing her bankruptcy petition and that she received a certificate of completion. The December 20, 2024 Chapter 13 plan proposed to pay \$34,086 to the trustee. The holders of allowed nonpriority unsecured claims would receive the funds remaining, if any, after disbursements have been made to all other creditors provided for in the plan. (Item 5; Item 6; Item 7.)

During Applicant's security clearance interview she explained the various reasons for why she got behind her debts. She cited COVID, when her employer shut down for two or three months. She explained she is a single parent who receives no support from the child's father who has been incarcerated since 2014. She noted she took a reduction in pay in order to secure a position on a longer-term contract for job security. She referenced a 2016 house fire. Her Statement of Financial Affairs in her bankruptcy paperwork shows her income dropping from \$58,969 in 2022, to \$41,893 in 2023, and to \$34,806 in 2024. She explained to the investigator that she was reluctant to file for bankruptcy because she was worried about maintaining her security clearance. She tried working with a debt consolidation company in early 2024 for two or three months before recognizing this was not the right solution for her. (Item 5; Item 10.)

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*, 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. 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*, 484 U.S. at 531.

Analysis

Guideline F: Financial Considerations

The security concern relating to the guideline 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

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. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012)

Applicant's admissions and the evidence in the FORM 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.

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, or a death, divorce or separation, clear

victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(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; and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

AG ¶¶ 20(a) and 20(d) do not fully apply. Applicant's financial delinquencies are ongoing and unresolved. She recently petitioned to discharge in bankruptcy over \$53,000 in debt. It is well-established that the timing of debt payments is a relevant consideration for a judge in deciding whether an applicant has acted in a reasonable and responsible manner in addressing financial problems. To receive full credit under Mitigating Condition AG ¶ 20(d), an applicant must initiate and adhere "to a good faith effort to repay overdue creditors or otherwise resolve debts." Her recent action after the security clearance application process has been initiated is insufficient for the application of this mitigating condition. See ISCR Case No. 08-06058 at 5 (App. Bd. Sep. 21, 2009) and ISCR Case No. 16-01211 (App. Bd. May 30, 2018) (citing ISCR Case No. 15-03208 at 5 (App. Bd. Mar. 7, 2017)). There is insufficient evidence to conclude that Applicant is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts. She did not establish that she has made a good-faith effort to pay or resolve her debts.

Applicant attributes her debts to unemployment, lack of support for her child from the child's father, and underemployment. The first prong of AG ¶ 20(b) therefore applies. For full consideration under AG ¶ 20(b), however, Applicant must establish that she acted responsibly under the circumstances. She has not done so. She completed her SCA in March 2024. She started working with the debt relief company in early 2024. She filed for bankruptcy in December 2024. In a Guideline F case, the Appeal Board has held that until an applicant has a "meaningful financial track record it cannot be said as a matter of law that [s]he has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts." ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007). The concept of "meaningful track record" necessarily includes evidence of actual debt reduction through payment of debts." *Id.* Payment agreements, such as a Chapter 13 bankruptcy petition, are similar to promises to pay in the future, which are "not a substitute for a track record of paying debts in a timely manner and otherwise acting in a financially responsible manner." See ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 15, 2020). Applicant did not provide sufficient evidence that she acted responsibly under the circumstances to resolve her debts. She did not establish a track record of making payments into her Chapter 13 bankruptcy plan. AG ¶ 20(b) does not fully apply.

As part of the bankruptcy process, Applicant completed the required credit counseling. The first prong of AG ¶ 20(c) therefore applies. However, her bankruptcy petition is recent, and she did not establish she was making the payments. She failed to

establish that there are clear indications that the problem is being resolved or is under control. AG ¶ 20(c) does not fully apply.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall common-sense judgment based upon careful consideration of the guidelines and the whole-person concept. In applying the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all 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 considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. While Applicant's financial delinquencies can be attributable to circumstances beyond her control as evidenced by her decreasing annual income, they remain largely unresolved. Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate her credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003). Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of true reform and rehabilitation necessary to be eligible for a security clearance. The determination of an individual's eligibility and suitability for a security clearance is not a once in a lifetime occurrence, but is based on applying the factors, both disqualifying and mitigating, to the evidence presented. Under Applicant's current circumstances, a clearance is not warranted. In the future, she may well demonstrate persuasive evidence of her security worthiness.

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**

Subparagraph 1.a: **Against Applicant**

Conclusion

In light of all of the circumstances, it is not clearly consistent with the interests of national security to grant Applicant a security clearance. Eligibility for access to classified information is denied.

Charles C. Hale
Administrative Judge