



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



In the matter of:

ISCR Case No. 24-01306

Applicant for Security Clearance

**Appearances**

For Government: Andre M. Gregorian, Esq., Department Counsel

For Applicant: Alan Edmunds, Esq.

06/23/2025

**Decision**

BENSON, Pamela C., Administrative Judge:

Applicant failed to demonstrate that he has acted responsibly to address and resolve his financial delinquencies. He did not provide sufficient evidence to mitigate the financial considerations security concerns. National security eligibility for access to classified information is denied.

**Statement of the Case**

On July 10, 2023, Applicant completed an Electronic Questionnaires for Investigations Processing or security clearance application (SCA). On September 18, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant 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* (Directive) (January 2, 1992), as amended; 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.

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant a security clearance for

Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline F. Applicant responded to the SOR on November 13, 2024 (Answer), and he requested an administrative judge issue a decision based on the administrative record.

On December 20, 2024, Department Counsel submitted a file of relevant material (FORM), which included Government Exhibits (GE) 1 through 8. The FORM was provided to Applicant on January 17, 2025, and he had 30 days to respond to the FORM, file any objections or provide additional information. Applicant did not respond to the Government's FORM or provide any additional information. I admitted into evidence GE 1 through 8, without objection.

### **Findings of Fact**

In Applicant's Answer, he admitted to all of the SOR allegations. (SOR ¶¶ 1.a through 1.n.) His admissions are accepted as findings of fact.

Applicant is 57 years old. He attended college from 2009 through 2011 but did not earn enough credits for a college degree. According to his July 2023 SCA, he is twice divorced, currently unmarried, and he is the father of twin adult daughters. He is in a relationship a woman who resides in Mexico. A federal contractor is sponsoring him for a security clearance. This is Applicant's first application for a DOD security clearance. (GE 3)

### **Financial Considerations**

The SOR alleges 13 delinquent accounts totaling approximately \$31,345, and a prior Chapter 7 bankruptcy. Applicant attributes his financial problems to his divorce and unemployment; however, the debts also appear to stem from the financial assistance he provides to his girlfriend in Mexico. He disclosed his 2017 Chapter 7 Bankruptcy on the July 2023 SCA, but he did not disclose any of his delinquent accounts, as required. He has not submitted any documentation with his Answer or in response to the Government's FORM, showing that he has taken responsible action to resolve any of the alleged delinquent accounts. (GE 3, 8)

SOR ¶ 1.a alleges Applicant filed for Chapter 7 Bankruptcy in November 2017. This bankruptcy was discharged in February 2018. He listed on his bankruptcy petition that his estimated liabilities totaled between \$100,000-\$500,000. (GE 2, 3, 4, 5, 7)

SOR ¶ 1.b alleges Applicant is indebted to OLIPHANT USA for an account that has been charged off in the approximate amount of \$6,288. This debt remains unresolved. (GE 2, 4, 5)

SOR ¶ 1.c alleges Applicant is indebted to MIDLAND CREDIT MANAGEMENT for an account placed for collection in the approximate amount of \$5,689. This debt remains unresolved. (GE 2, 4, 5)

SOR ¶ 1.d alleges Applicant is indebted to PROGRESO FINANCIERO for an account that has been charged off in the approximate amount of \$4,799. This debt remains unresolved. (GE 2, 4, 5)

SOR ¶ 1.e alleges Applicant is indebted to NCB CREDIT MANAGEMENT SERVICES for an account placed for collection in the approximate amount of \$4,525. This debt remains unresolved. (GE 2, 4, 5)

SOR ¶ 1.f alleges Applicant is indebted to MOBILLOANS for an account that has been charged off in the approximate amount of \$2,781. This debt remains unresolved. (GE 2, 4, 5)

SOR ¶ 1.g alleges Applicant is indebted to SECURITY CREDIT SYSTEMS for an account placed for collection in the approximate amount of \$2,268. This debt remains unresolved. (GE 2, 4, 5)

SOR ¶ 1.h alleges Applicant is indebted to FIRST NATIONAL BANK for an account that has been charged off in the approximate amount of \$518. This debt remains unresolved. (GE 2, 4, 5)

SOR ¶ 1.i alleges Applicant is indebted to FIRST SAVINGS BANK for an account that has been charged off in the approximate amount of \$477. This debt remains unresolved. (GE 2, 4, 5)

SOR ¶ 1.j alleges Applicant is indebted to IC SYSTEM for an account placed for collection in the approximate amount of \$171. This debt remains unresolved. (GE 2, 4, 5)

SOR ¶ 1.k alleges Applicant is indebted to COMENITY CAPITAL BANK for an account that has been charged off in the approximate amount of \$868. This debt remains unresolved. (GE 2, 4, 5)

SOR ¶ 1.l alleges Applicant is indebted to UPSTART NETWORK for an account that has been charged off in the approximate amount of \$1,026. This debt remains unresolved. (GE 2, 4, 5)

SOR ¶ 1.m alleges Applicant is indebted to CREDIT ONE BANK for a delinquent account in the approximate amount of \$627. This debt remains unresolved. (GE 2, 4, 5)

SOR ¶ 1.n alleges Applicant is indebted to LOANME for a delinquent account in the approximate amount of \$4,060. This debt remains unresolved. (GE 2, 4, 5)

During Applicant's August 2023 background interview, the investigator confronted Applicant with his undisclosed delinquent debts. Applicant explained he did intentionally omit these delinquent accounts on his July 2023 SCA, but stated these accounts were not disclosed due to oversight. He promised that he would contact these overdue creditors and arrange payment plans. (GE 8)

## Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no 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 applicant’s 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, *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 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. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence 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. 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**

### **Guideline F: Financial Considerations**

The concern under Guideline F (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 . . . .

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.

The record evidence of Applicant's delinquent debts and his admissions establish the following disqualifying conditions under AG ¶ 19:

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

AG ¶ 20 describes conditions that could mitigate security concerns. The following are potentially applicable in this case:

- (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, 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.

Applicant bears the burden of production and persuasion in mitigation. An applicant is not held to a standard of perfection in his or her debt-resolution efforts or required to be debt-free. "Rather, all that is required is that an applicant act responsibly given his circumstances and develop a reasonable plan for repayment, accompanied by 'concomitant conduct,' that is, actions which evidence a serious intent to effectuate the plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017). See, e.g., ISCR Case No. 13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014).

Given the facts, it is clear that Applicant promised to start paying down his delinquent debts when confronted with them during his August 2023 background interview. To date, he has not provided any information that he has paid, is in the process of paying, or that he has made arrangements to resolve any of the 13 delinquent debts listed in the SOR.

None of the mitigating conditions can be applied here. Applicant attributed his financial delinquencies to divorce and unemployment, which are circumstances beyond his control. Notwithstanding the events that affected his finances, Applicant must demonstrate that he acted responsibly under the circumstances. He did not provide sufficient information to mitigate the financial concerns in this case. Overall, I find that Applicant has not demonstrated that he acted responsibly to address his financial delinquencies, or that his finances are currently under control. Applicant did not provide sufficient evidence to mitigate the financial considerations security concerns.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the 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), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall common-sense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guideline F are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant's financial difficulties are recent, ongoing, and not isolated. There is no evidence that he has sought recent credit counseling or otherwise contacted his creditors to arrange repayment schedules for his delinquent debts, despite his promise to do so during his August 2023 background interview. As such, his financial troubles are not under control.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant failed to mitigate the Guideline F (financial considerations) security concerns.

### **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:

Paragraph 1, Guideline F:

AGAINST APPLICANT

Subparagraphs 1.a - 1.n:

Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, I conclude that it is not clearly consistent with the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Pamela C. Benson  
Administrative Judge