



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



In the matter of:

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ISCR Case No. 24-00924

Applicant for Security Clearance)

Appearances

For Government: Rhett Petcher, Esq., Department Counsel
For Applicant: *Pro se*

09/19/2025

Decision

Curry, Marc E., Administrative Judge:

Applicant failed to mitigate the financial considerations security concerns. His application for a security clearance is denied.

Statement of the Case

On July 29, 2024, the Defense Counterintelligence and Security Agency Adjudication and Vetting Services (AVS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations, and Guideline E, personal conduct, explaining why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The AVS took the action under Executive Order (EO) 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 National Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017.

On August 27, 2024, Applicant answered the SOR, admitting all of the allegations. He requested a hearing, and the case was assigned to me on April 2, 2025. On April 29, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice of video teleconference hearing scheduling the case for May 14, 2025. At the hearing, I received five government exhibits, marked as Government Exhibit (GE) 1 through GE 5. At the end of the hearing, Department Counsel withdrew the personal conduct allegation without objection. (Tr. 49) The transcript was received on May 27, 2025.

Preliminary Ruling

Subparagraph 1.n in the SOR alleges that Applicant is “indebted to the IRS [for] past due Federal income taxes for at least tax year 2023.” This allegation is both overbroad and lacking in specificity. Although an SOR does not need to be drafted with the specificity of a criminal pleading, it must, at minimum, be drafted in a sufficient enough manner for an applicant to prepare a response. Subparagraph 1.n does not meet this threshold. Therefore, I resolve it in Applicant’s favor.

Findings of Fact

Applicant is a 35-year-old married man with three children, ages 11, 3, and 2. He has a GED and has taken some cybersecurity courses. (Tr. 48) Applicant has been working as a security guard since 2012. He has worked for the same company since 2022. (GE 5 at 4)

Applicant has approximately \$32,000 of delinquent debt, as alleged in the SOR. The majority, totaling approximately \$17,000, constitutes the deficiency from a car that was repossessed in 2016. (Tr. 28; GE 2 at 7) Four debts, alleged in subparagraphs 1.b, 1.j, 1.k, and 1.m, totaling approximately \$11,000, constitute medical bills, stemming primarily from a knee surgery. (Tr. 35)

Five debts, alleged in subparagraphs 1.c through 1.e, 1.g, and 1.l, totaling \$4,805, constitute utility bills. Subparagraphs 1.f and 1.h, totaling approximately \$750, are a student loan bill and a parking ticket, respectively. (Tr. 34)

Applicant attributes his financial problems to difficulties making ends meet while living in an area with a high cost of living. Although his wife periodically earns income as a delivery driver, her work fluctuates because she dedicates most of her attention to caring for one of the children who is autistic. (Tr. 21)

In June 2024, Applicant and his family were evicted from their home for failing to keep up with the rent. (Tr. 24) After the eviction, they relocated to a town with a lower cost of living. Although Applicant’s new rent payment was much cheaper than what it had been in his prior location, he only reaped a nominal increase in net income because he had to quit his part-time job. (Tr. 26)

In July 2024, during an investigative interview, an agent asked Applicant about the status of his delinquent debt. (GE 2) He told the agent that he hoped to have it satisfied within two years. (GE 2 at 5)

As of the date of the hearing, Applicant had not made any progress with debt repayment on any of his delinquent debt. (Tr. 29) He earns approximately \$50,000 per year and has minimal discretionary monthly income to apply to his delinquencies. (Tr. 29, 45) Applicant has approximately \$10,000 invested in a 401(k) retirement account. (Tr. 45)

In 2024, Applicant consulted with a bankruptcy lawyer. (Tr. 29, 39) He testified that he is paying the attorney's retainer with incremental payments and currently owes approximately \$1,100. (Tr. 40) Further, Applicant testified that the attorney would begin working on the bankruptcy petition once he finishes paying the attorney's retainer. (Tr. 40) Applicant provided no proof of any payments made to the bankruptcy attorney.

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant's eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 1(d) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . ." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

Analysis

Guideline F: Financial Considerations

The security concern under this Guideline states, "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." (AG ¶ 18) Applicant's history of financial delinquencies triggers the application of 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, 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 debt.

Applicant's debts remain outstanding. He has not sought financial counseling, nor provided evidence establishing that the debts are under control. Under these circumstances, AG ¶¶ 20(a), 20(c) and 20(d) do not apply.

Applicant provides nearly all the financial support for his family of five, with a salary of approximately \$50,000. Until June 2024, he was attempting to support his family while residing in an area with a high cost of living. Moreover, a significant portion of his debt stemmed from medical bills related to a knee surgery. As such, circumstances beyond his control contributed to his financial problems.

Applicant testified that he was considering addressing his financial problems by filing for bankruptcy protection. However, he provided no evidence of a retainer agreement, nor of the payment plan he must complete before his attorney was to begin work on his case. Additionally, since his 2024 interview he has not made any progress with debt repayment on any of his delinquent debt. Consequently, although his financial problems were caused primarily by circumstances beyond his control, he did not present any evidence substantiating the steps that he has taken to resolve the financial problems. Under these circumstances, AG ¶ 20(b) is only partially applicable. Applicant did not provide sufficient evidence to mitigate the financial considerations security concerns.

Whole-Person Concept

Applicant's financial problems were caused by circumstances beyond his control. However, he presented insufficient evidence establishing the steps that he testified that he was taking to remedy them. Upon considering this case in the context of the whole-person concept, I conclude Applicant has failed to mitigate the financial considerations security concern.

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.m:
Subparagraph 1.n:

Against Applicant
For Applicant

Paragraph 2, Guideline E:

WITHDRAWN

Conclusion

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

Marc E. Curry
Administrative Judge