



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



In the matter of:

Applicant for Security Clearance

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) ISCR Case No. 24-01768
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Appearances

For Government: Karen A. Moreno-Sayles, Esq., Department Counsel

For Applicant: *Pro se*

09/26/2025

Decision

HARVEY, Mark, Administrative Judge:

Guideline F (financial considerations) security concerns are not mitigated.
Eligibility for access to classified information is denied.

Statement of the Case

On April 2, 2024, Applicant completed an Electronic Questionnaires for Investigations Processing or security clearance application (SCA). (Government Exhibit (GE) 1) On December 27, 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 Dir. 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. (Hearing Exhibit (HE) 2)

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 or continue 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. (HE 2) On January 9, 2025, Applicant provided his response to the SOR. On May 28, 2025, Department Counsel was ready to proceed. On June 2, 2025, the case was assigned to me.

On June 26, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing on July 25, 2025. The hearing was held as scheduled using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered five exhibits into evidence, and Applicant did not offer any exhibits into evidence. (Tr. 9-10, 16-17; GE 1-GE 5) There were no objections, and all proffered exhibits were admitted into evidence. (Tr. 17) On August 1, 2025, DOHA received a copy of the transcript. No documents were received after the hearing. The record closed on September 24, 2025. (Tr. 40-41)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admitted the SOR allegations in ¶¶ 1.a through 1.d. He denied the allegation in SOR ¶ 1.e. (HE 3) His admissions are accepted as findings of fact.

Applicant is a 33-year-old assembly mechanic, and a DOD contractor has employed him for one year. (Tr. 7-8) In 2010, he graduated from high school. (Tr. 7) He intends to take cybersecurity classes at a community college. (Tr. 33) He has not served in the military. (Tr. 8) He has never married, and he does not have any children. (Tr. 8)

Financial Considerations

Applicant changed employments several times in recent years, and he moved out of state and then returned to his home state. His current hourly wage is \$28.60. (Tr. 34)

SOR ¶ 1.a alleges Applicant has a charged-off account for about \$20,350. In 2018, he purchased a camper and financed it by borrowing from the SOR creditor. (Tr. 20) He purchased the camper to live in when he moved to a different state. (Tr. 21) After 11 months, he moved back to his home state to be near family. (Tr. 21) He currently does not live in the camper because there is nowhere near work where he can live in the camper. (Tr. 21-22) The monthly payments on the loan were \$450. (Tr. 22) He tried to sell the camper; however, he was unable to sell it for what he owed on it. (Tr. 22) Either last year or the year before, he paid the creditor \$1,200. (Tr. 23) He received a call from a debt collector about two weeks before his hearing, and he said he intended to call the creditor about the debt. (Tr. 23) Most likely, he will return the camper to the creditor and take "the hit" on his credit. (Tr. 23-24) He did not provide documentation showing the \$1,200 payment.

SOR ¶ 1.b alleges Applicant has a charged-off account for about \$3,012. He was unsure of the origin of the debt, but possibly it was a credit card. (Tr. 24) His May 23, 2025 credit bureau report (CBR) indicates the amount of the charge off is \$2,626. (Tr. 25) He said he researched the debt; however, he hit “a brick wall.” (Tr. 25) He did not attempt to contact the creditor or dispute the debt. (Tr. 25) In the future, he intends to research the debt and determine how to resolve the debt. (Tr. 25)

SOR ¶ 1.c alleges Applicant has an account placed for collection for about \$2,708. About four years ago, he obtained a personal loan to pay his rent and to make his vehicle payment. (Tr. 26) He borrowed about \$3,000, and he made enough \$200 monthly payments to pay about half of the loan. (Tr. 27) His most recent payment was in early 2024. (Tr. 27) He did not provide any documentation showing payments. (Tr. 27) He said he intends to pay this debt in the next month. (Tr. 28)

SOR ¶ 1.d alleges Applicant has an account that is past due for about \$808 with a total balance of \$34,791. In 2018 or 2019, he purchased a vehicle, and he financed the debt with the creditor. (Tr. 28) The monthly payments were \$950. (Tr. 28) A week or so before his hearing, he made a partial payment, and he intends to make a full payment after his hearing. (Tr. 30) His May 23, 2025 CBR shows a balance of \$34,160 and \$514 past due on the account. (Tr. 30; GE 5) Applicant is credited with making payments on this debt because the past due amount is less than one month’s \$950 payment.

SOR ¶ 1.e alleges Applicant has a vehicle-related state tax debt for about \$2,000, which resulted when he purchased the vehicle in 2018 or 2019. He made some partial payments. (Tr. 31) Applicant said he was 99 percent sure that the debt was paid in late 2024, and he could obtain proof of payment. (Tr. 30-32) He was able to renew his driver’s license, and he believed that renewal might not have been possible if the debt was not paid. (Tr. 32)

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 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, *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, this decision should be construed to suggest that it is based 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

Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

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.

AG ¶ 19 includes disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(a) inability to satisfy debts”; and “(c) a history of not meeting financial obligations.”

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant’s financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant’s self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant’s security eligibility.

In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained the role of CBRs in financial considerations analysis:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government’s obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted).

The record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c). requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*. The financial considerations mitigating conditions under AG ¶ 20 which may be applicable in this case are as follows:

(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;

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

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

AG ¶ 20(a) does not apply to the SOR debts. "It is also well established that an applicant's ongoing, unpaid debts demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017)).

Applicant changed employments several times in recent years, and he moved out of state and then returned to his home state. These circumstances were largely beyond his control. However, "[e]ven if [an applicant's] financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the [administrative judge] could still consider whether [the applicant] has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007). The DOHA Appeal Board has said:

[A]n applicant must act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by concomitant

conduct even if it may only provide for the payment of debts one at a time. ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008). What constitutes responsible behavior depends on the facts of a given case and the fact that an applicant's debts will not be paid off for a long time, in and of itself, may be of limited security concern. ISCR Case No. 09-08462 at 4. Relevant to the equation is an assessment as to whether an applicant acted responsibly given [his or] her limited resources. See, e.g., ISCR Case No. 08-06567 at 3-4 (App. Bd. Oct. 29, 2009).

ADP Case No. 23-00547 at 3 (App. Bd. Apr. 23, 2024). A component for analyzing responsible behavior in AG ¶ 20(b) is whether Applicant maintained contact with creditors and attempted to negotiate partial payments to keep debts current. Applicant did not provide correspondence from or to the creditors showing he maintained contact with them. He did not prove that he acted responsibly under the circumstances.

Applicant's SOR alleges he has five delinquent debts totaling \$ 28,878. "[A] single debt can be sufficient to raise Guideline F security concerns." ISCR Case No. 19-02667 at 3 (App. Bd. Nov. 3, 2021) (citing ISCR Case No. 14-05366 at 3 (App. Bd. Feb. 5, 2016)). "Additionally, a single debt that remains unpaid over a period of years can properly be characterized as a history of not meeting financial obligations." *Id.*

The Appeal Board has previously stated that it is reasonable for a Judge to expect an applicant to present documentation corroborating actions taken to resolve debts. ISCR Case No. 19-03757 at 3 (App. Bd. Aug. 18, 2021) (citing ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 15, 2020)). For most of the SOR debts, Applicant did not provide documentation showing: (1) proof of payments, such as checking account statements, photocopies of checks, or a letter from the creditor proving that he paid or made payments to the creditors; (2) correspondence to or from the creditors to establish maintenance of contact; (3) correspondence to creditors or CBRs showing credible debt disputes indicating he did not believe he was responsible for the debts and why he held such a belief; (4) more evidence of attempts to negotiate payment plans, such as settlement offers or agreements to show that he was attempting to resolve his delinquent debts; or (5) other evidence of progress or resolution. He failed to establish mitigation under AG ¶ 20(e) because he did not provide documented proof to sufficiently substantiate the existence, basis, or the result of any debt disputes.

Applicant is credited with mitigating the debt in SOR ¶ 1.d, which was past due for \$808, because he has a payment plan, and he is making payments on his vehicle.

None of the mitigating conditions fully apply to the debts in SOR ¶¶ 1.a, 1.b, 1.c, and 1.e. "[U]ntil an applicant has a meaningful financial track record, it cannot be said as a matter of law that [he or] she has initiated a good-faith effort to repay overdue creditors or otherwise resolved debts. The phrase 'meaningful track record' necessarily includes evidence of actual debt reduction through payment on debts." ISCR Case No. 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007)).

There is no documentation establishing that Applicant is working to establish payment plans, has paid, or is making payments to the other creditors. I have lingering concerns about whether he will establish payment plans, pay, or otherwise resolve these four SOR debts, and maintain his financial responsibility. Financial considerations security concerns are not mitigated at this time.

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 that guideline but some warrant additional comment.

Applicant is a 33-year-old assembly mechanic, and a DOD contractor has employed him for one year. In 2010, he graduated from high school. He intends to take cybersecurity classes at a community college.

The evidence against grant of a security clearance is detailed in the financial considerations analysis section, *supra*, and this evidence is more substantial than the evidence of mitigation. He did not establish that he was unable to make more timely and significant documented progress resolving four of his SOR debts. The financial evidence raises unmitigated questions about his reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards documented resolution of his debts and maintenance of his financial responsibility, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

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 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.b, and 1.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	Against Applicant

Conclusion

I conclude that it is not clearly consistent with the interests of national security to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge