



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



In the matter of:)
)
) ISCR Case No. 24-02080
)
Applicant for Security Clearance)

Appearances

For Government: George A. Hawkins, Esq., Department Counsel
For Applicant: *Pro se*

09/24/2025

Decision

LAFAYE, Gatha, Administrative Judge:

Applicant failed to provide sufficient evidence to mitigate 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 19, 2023. On February 13, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) alleging security concerns under Guideline F. Applicant received the SOR on March 1, 2025, answered it shortly thereafter (Answer), and elected to have his case decided on the written record in lieu of a hearing. The case was assigned to me on August 1, 2025.

The Government's written case was submitted on April 1, 2025. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on April 18, 2025 and did not respond, nor did he submit documentary evidence.

Evidence

Government Exhibits (GE) 1 and GE 2 consist of the SOR and Applicant's Answer, which are the pleadings in the case. GE 3 through GE 12 are admitted in evidence without objection.

Findings of Fact

In his Answer, Applicant admitted all allegations in SOR ¶¶ 1.a through 1.k. His admissions are incorporated in my findings of fact. After thorough review of the evidence, I make the following additional findings of fact.

Applicant is 42 years old. In May 2002, he earned his high school diploma. He did not list any colleges attended, but there are college loan debts assigned to him individually. (GE 7-9) Though unmarried, he has resided with his cohabitant fiancé (partner) since October 2003, and they have two children, ages 18 and 22. (GE 3, 4, 6)

Applicant was hired as a senior microwave technician for a defense contractor in November 2022, after doing similar work for the same contractor in a temporary position from October 2021 to November 2022. Despite listing he was unemployed from January 2019 through October 2021, he informed the DOD investigator he worked as an operator for a private company from January 2019 to October 2021, and an assembly technician for another company from February 2020, until he was laid off in November 2020. From July 2014 to about January 2019, Applicant worked for several companies doing work as an assembler, laser operator, and technician. (GE 3, 4, 6 at 4)

Applicant completed his most recent SCA in March 2023, and in Section 26 – Financial Record, he disclosed that he failed to file and pay his 2021 federal and state income tax returns, and that he owed about \$5,000 of unpaid income taxes. (GE 3 at 31) He explained the reason for the delay as follows:

[The] reason for my failure to file and pay my taxes was due to [being] temporarily separated from my partner, which led to financial difficulties while raising two of my children. I intend to file my 2021 tax returns by the 2023 deadline. (*Id.*)

Applicant also listed two debts as being delinquent since 2013 and 2014, respectively. He listed a student loan debt for \$41,000, which he was unable to pay, stating, "I cannot afford the monthly payment due to multiple high debt ratio." He said he was in consultation with the creditor to make payment arrangements. (*Id.* at 32) The second debt is credit card debt for \$621, which he was unable to pay for the same reason. He also claimed to be in consultation with the creditor to make payment arrangements on this debt. (GE 3 at 33) Applicant had previously disclosed the same two debts in his February 2016 SCA. Although he completed a SCA for a position with a defense contractor, he was not hired. (GE 4, 6)

In September 2024, Applicant's gross hourly wage was listed as \$31.26, or about \$65,000 annually. He participates in his employer's 401(k) retirement plan and had accumulated about \$1,394 for the year. He borrowed about \$500 against his 401(k). The record shows that he automatically pays a tax levy of \$50 per pay period, and as of September 2024, he had paid \$1,900 towards his state income tax indebtedness. (GE 5 at 13) Applicant provided additional pay stubs to the DOD investigator but they are not legible. (GE 12)

Applicant's personal financial statement, dated September 17, 2024, listed a total net monthly income of about \$3,033, and monthly expenses of \$2,946, which leaves about \$87 remaining each month. He listed "\$0" as the amount remaining at the end of the month. He did not list any debts he pays, nor did he list any assets he owns. He also mentioned that his partner is currently unemployed and has \$0 monthly income. He claimed he was seeking financial counseling, but no name or documentary proof was provided. (GE 5)

In his November 2023 interview with DOD investigators, Applicant said his current financial situation was not great and that he had difficulties paying his bills on time. He attributed his financial problems to excessive credit card debts. He opened multiple credit card accounts, had car payments, and said he had purchased a home he could not afford. He was not making monthly payments on his debts, nor did he have a payment plan with his creditors, but said he could pay his debts in full in about six months by creating a payment plan and prioritizing payments. (GE 6) In September 2024, he said he was "currently researching other sources of income to make ends meet." (GE 5 at 9) It is unclear whether his search materialized into additional income. He also explained:

Because of the economic situation, I was unable to keep up with payments on my listed debt[s]. Onto that current situation, my current partner is unemployed which [led] to [a] short income status. As of now, I am the only provider for income and to make ends meet. (GE 5 at 10)

The SOR alleges 11 financial concerns, including federal income tax indebtedness for 2021 and 2023; state income tax indebtedness for tax years 2019, 2020, 2021, and 2022; a Chapter 13 bankruptcy action in 2017, and seven independent delinquent debts, which include two student loans that together total about \$53,300. His alleged delinquent debts altogether total about \$68,000.

The evidence regarding the SOR allegations is summarized below:

Applicant admitted all 11 financial concerns in the SOR. However, the debts alleged in SOR ¶¶ 1.e and 1.i are duplicate accounts, and SOR ¶ 1.i is decided in Applicant's favor. The remaining 10 financial concerns alleged in the SOR are supported by his adopted statements, which were made during his background interview (GE 5, 6); three credit bureau reports (GE 7, 8, 9); and admissions in his 2016 and 2023 SCAs. (GE 3, 4)

SOR ¶¶ 1.a and 1.b allege Applicant is indebted to the federal government for delinquent income taxes of \$2,674 in 2023, and \$795 in 2021. SOR ¶ 1.c alleges Applicant is indebted to the state government for delinquent income taxes in the amount of \$3,515 for tax years 2019 through 2022. Applicant denied any indebtedness to the federal government, but said he owed \$3,515 to the state government, and that the debt was being paid by automatic levy of his pay for \$50 per pay period. (GE 5, 6)

SOR ¶¶ 1.d, 1.e, 1.j, and 1.j allege delinquent consumer debts. These debts are supported by evidence in three credit bureau reports and Applicant's response to interrogatories. (GE 5 – 9)

SOR ¶¶ 1.f and 1.g allege delinquent student loan debts that are in a collection status. These debts are supported by evidence in the 2024 credit bureau report. (GE 8)

Finally, SOR ¶ 1.k alleges Applicant filed Chapter 13 bankruptcy in December 2017, and that the action was dismissed in January 2018 for failure to comply with the court's order. This financial concern is supported by the Applicant's voluntary Chapter 13 bankruptcy petition and the bankruptcy court's dismissal of the case. (GE 10, 11) Applicant said he filed for Chapter 13 bankruptcy because he had difficulty paying bills on time, he had too much credit card indebtedness, a car loan, and house payments. Though he filed a joint bankruptcy action, he said his partner was unaware that he filed and he never informed her. The bankruptcy was dismissed when he was unable to keep up with payments. (GE 6, 10, 11)

Policies

This case is adjudicated under Executive Order (EO) 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), which became effective on June 8, 2017.

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 to be used 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, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), 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 ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

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 the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. 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 of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See also EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The trustworthiness concern 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.

The guideline notes several conditions that could raise trustworthiness concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts;

(c) a history of not meeting financial obligations; and

(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.

Applicant has a history of financial problems, including filing for Chapter 13 bankruptcy, delinquent federal and state income taxes, and delinquent consumer debts. AG ¶¶ 19(a), 19(c), and 19(f) are applicable, except as to the duplicate debt in SOR ¶ 1.i.

Conditions that could mitigate the financial considerations trustworthiness concerns are provided under AG ¶ 20. The following 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;

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

(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 established for SOR ¶ 1.k, a Chapter 13 bankruptcy action, which was filed in December 2017 and dismissed shortly thereafter in January 2018. This action court was taken over seven years ago and under unusual circumstances. Although Applicant filed a joint bankruptcy action for him and his partner, he never informed her about it, and the bankruptcy, ultimately, was not pursued. This matter is mitigated by time.

AG ¶¶ 20(a), 20(c), and 20(d) are not fully established for the remaining consumer and student loan debts. Applicant's delinquent debts are recent, ongoing, and remain unresolved. He has not produced evidence of recent financial counseling, contacts with creditors as to these debts, payments, payment plans, or any other evidence of efforts made to resolve these delinquent debts.

AG ¶ 20(b) is not fully established. Applicant attributed his financial situation to his inability to pay debts, including multiple credit card debts, a car payment, and having a home he admitted he could not afford. Though he was not making payments on his debts in 2023, he expressed a belief that he could pay his debts in full in six months by creating a payment plan and prioritizing payments. Though the timing is unclear, he said other matters created financial pressures. He had temporarily separated from his partner, and was taking care of their children without her financial assistance. He also mentioned that his partner is currently unemployed and has \$0 monthly income. Despite some problems, Applicant's evidence is insufficient to establish that his delinquent debts were largely beyond his control and that he acted responsibly in addressing them. His evidence is insufficient to mitigate financial considerations security concerns under AG ¶ 20(b).

AG ¶ 20(g) is not established for the federal income tax debts for SOR ¶¶ 1.a and 1.b; it is established for the state income tax debt for SOR ¶ 1.c. Applicant was unable to support the assertion that he is not indebted to the federal government for the alleged delinquent taxes. His statements alone, without substantive proof of payoff, are insufficient to establish mitigation.

AG ¶ 20(g) is established for SOR ¶ 1.c. The government's evidence in SOR ¶ 1.c relies on Applicant's statements alone to establish his state income tax debt, without offering more evidence to establish the details or context of the debt. Regardless, Applicant provided satisfactory proof that he is resolving the debt through a state-mandated payment of \$50 per pay period, and as of September 2024, Applicant had already paid \$1,900 towards the full resolution of the debt.

Overall, there is insufficient evidence to determine that Applicant's financial problems will be resolved within a reasonable time. I am unable to find he acted responsibly under the circumstances or that he made a good-faith effort to pay his debts. His financial issues continue to cast doubt on his current reliability, trustworthiness, and judgment. I find that financial considerations security concerns remain unresolved in this case.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense 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 have incorporated my comments under Guideline F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because this case is decided on the written record, I had no opportunity to question Applicant about any of the security concerns in the case, nor did I have an opportunity to observe his demeanor and thereby assess his credibility.

After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all evidence in the whole-person context, I conclude Applicant failed to mitigate the security concerns raised in this case.

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: Against Applicant

Subparagraph 1.c: For Applicant

Subparagraphs 1.d – 1.h, 1.j: Against Applicant

Subparagraphs 1.i, 1.k: For Applicant

Conclusion

It is not clearly consistent with the national interest to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Gatha LaFaye
Administrative Judge