



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 25-00161

Appearances

For Government: Cynthia Ruckno, Esq., Department Counsel
For Applicant: *Pro se*

08/18/2025

Decision

Hale, Charles C., Administrative Judge:

Applicant presented insufficient evidence of the progress, if any, that he has made to resolve his past due Federal and state income tax returns or his personal debts. Under these circumstances, he failed to mitigate the financial considerations security concerns. His application for a security clearance is denied.

Statement of the Case

On February 20, 2025, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations, explaining why it was unable to find it clearly consistent with the national interest to grant security clearance eligibility. The DoD took the action 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 National Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017.

On March 10, 2025, Applicant answered the SOR and requested a decision based on the evidence in file rather than a hearing. On March 24, 2025, Department Counsel

prepared a File of Relevant Material (FORM), setting forth the Government's arguments against Applicant's security clearance worthiness. The FORM contains seven attachments, identified as Item 1 through Item 7.

Applicant received a copy of the FORM on April 15, 2025. He was given 30 days to file a response. He did not file a response. The case was assigned to me on August 5, 2025. FORM Items 1 and 2 are pleadings in the case. I admitted Items 3 through 7 into evidence without objection.

Findings of Fact

Applicant is 34 years old. He is unmarried and has two children. He graduated high school in 2009. He has been attending community college since August 2023. He completed his security clearance application (SCA) in February 2024, and he was interviewed by a DoD investigator during the course of his security clearance investigation in April 2024. This is Applicant's first application for a security clearance. (Item 3, Item 7.)

Applicant has worked as a warehouse associate since November 2023. Prior to that he worked as a delivery driver from February 2018 until October 2023. After receiving an arrest for driving under the influence in January 2021, he lost his commercial driver's license, which caused him to lose his employment as a delivery driver. He was employed as a specimen processor from September 2014 to October 2018. (Item 3, Item 7.)

SOR ¶¶ 1.a and 1.c: You failed to timely file, as required, Federal and state income tax returns for at least tax years 2016, 2017, 2018, 2020, 2021, 2022, and 2023. As of the date of this Statement of Reasons, the tax returns remain unfiled. Applicant admits both allegations and states in his Answer he is in the process of gathering all of his "[W-2s] to have all of [the] missing years filed this year." (Answer.) He noted his failure to file his Federal and state tax returns for tax years 2016 through 2023 on his SCA. (Item 3.) His IRS transcripts that he submitted in response to Government interrogatories show no Federal tax returns filed for tax years 2018, 2021, and 2022. He did request an extension to file his 2018 Federal tax return. (Item 4 at 9,13-15, 17.) His Federal tax returns for tax years 2019 and 2020 were filed late. (Item 4 at 15, 16.) No records were provided for Federal tax years 2016, 2017, and 2023. No state specific tax information was included in the record.

SOR ¶ 1.b: You failed to file an accurate Federal income tax return for tax year 2019. As of the date of this Statement of Reasons, you have not filed a corrected return. Applicant admits this allegation and states in his Answer he is in the process of gathering all of his "[W-2s] to have all of [the] missing years filed this year." (Answer; Item 7.)

SOR ¶ 1.d: You are indebted to [a creditor] for an account placed for collection in the approximate amount of \$657. As of the date of this Statement of Reasons, the account remains delinquent. Applicant admits the allegation. He states he will be setting up a payment plan to settle his outstanding balance. A writ of summons

was issued in October 2024 and a trial date was listed for January 2025. There is no supporting documentation to show that this debt is being paid or resolved. (Item 4 at 8, Item 5 at 2, Item 6 at 3.)

SOR ¶ 1.e: You are indebted to [insurance company] for an account placed for collection in the approximate amount of \$300. As of the date of this Statement of Reasons, the account remains delinquent. Applicant admits the allegation. He states he will be setting up a payment plan within 30 days to settle his balance. The last activity date reflected on his January 2025 credit report was January 2024. The 2025 credit report notes the information was being disputed by Applicant. There is no supporting documentation to show that this debt is being paid or resolved. (Item 5 at 2.)

SOR ¶ 1.f: You are indebted to [a creditor] on an account that has been charged off in the approximate amount of \$93. As of the date of this Statement of Reasons, the account remains delinquent. Applicant admits the allegation and states he has a payment plan set up, and that the debt is almost paid off. The last activity date listed on his January 2025 credit report was February 2024, and the balance remains \$93. (Item 5 at 2.)

Applicant adds generally that he is in the process of settling his debts and financial obligations. He notes being granted his security clearance would greatly increase his financial income, which would make it easier for him to “overcome” his “financial hardships.” (Answer.) He told a DoD investigator in his April 2024 interview that his failure to file his Federal and state taxes was due not receiving all of his W-2 forms. He told the investigator he planned to file and pay his taxes by the end of 2025. (Item 7 at 4.)

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

Applicant's admissions and the documentary evidence in the record establish the following disqualifying conditions under this guideline:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(b): unwillingness to satisfy debts regardless of the ability to do so; and

AG ¶ 19(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.

The following mitigating conditions are potentially applicable:

AG ¶ 20(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;

AG ¶ 20(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; and

AG ¶ 20(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) and AG ¶ 20(b) are not established for SOR ¶¶ 1.a, 1.b, or 1.c. Applicant's unfiled Federal and state tax returns, which he attributed to missing his W-2s, are recent and did not occur under circumstances making them unlikely to recur. He appears to have ignored the problem for several years until his security clearance was in jeopardy. He has not demonstrated he has acted responsibly.

AG ¶ 20(a) and AG ¶ 20(b) are not established for SOR ¶¶ 1.d through 1.f, Applicant's consumer debts. The last activity on each debt is in early 2024. His has been continuously employed since 2014. He has offered no evidence to support his statements of payments. He has not shown that he acted responsibly under the circumstances and that his financial problems are unlikely to recur and do not cast doubt on his current reliability, trustworthiness, or good judgment.

AG ¶ 20(g) is not established for SOR ¶¶ 1.a or 1.c. Applicant admitted he had not filed his Federal and state tax returns for the years in question and presented insufficient evidence to support his statement that he would be filing his tax returns in 2025. The Federal tax account transcripts in the record reflect no tax return filed for the years alleged, aside from tax year 2020 that was filed late. Applicant's repeated failure to fulfill his legal obligations does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. See, e.g., ISCR Case No. 15-08782 at 3 (App. Bd. Apr. 5, 2017).

AG ¶ 20(g) is not established for SOR ¶ 1.b. Applicant offered insufficient evidence he had made arrangements to correct his 2019 Federal tax return.

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 Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003). 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 financial 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**

Subparagraph 1.a-1.f: **Against Applicant**

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.

Charles C. Hale
Administrative Judge