



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



In the matter of:

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Applicant for Security Clearance)

ISCR Case No. 24-00335

Appearances

For Government: Erin Thompson, Esq., Department Counsel

For Applicant: *Pro se*

04/30/2025

Decision

GOLDSTEIN, Jennifer, 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 17, 2023, Applicant completed an Electronic Questionnaires for Investigations Processing or security clearance application (SCA). (Government Exhibit (GE) 1) On March 7, 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 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. Applicant provided a response to the SOR on April 29, 2024 (Answer). On February 25, 2025, the case was assigned to me. On March 7, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing on April 8, 2025. The hearing was held as scheduled using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel proffered six exhibits (GE 1-6) into evidence without objection and one Hearing Exhibit (HE I). Applicant presented 31 pages of documents into evidence, marked as Applicant Exhibit (AE) A, which I admitted into evidence without objection. The record was left open until April 22, 2025, for Applicant to submit additional documentation. On April 17, 2025, DOHA received a copy of the transcript. Nothing further was received, and the record closed as scheduled.

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 all allegations in SOR ¶¶ 1.a through 1.n. The SOR alleged that Applicant was indebted on 14 delinquent accounts in the total amount of \$39,020. His admissions are accepted as findings of fact. (Answer)

Applicant is 55 years old. He works for a government contractor as an information technology (IT) business coordinator. He has completed some college courses but has not yet earned a degree. He is twice divorced and has two adult and two minor children with his second wife. They all reside with his ex-wife. Applicant lives with and cares for his father, who is in his 90's. He has a public trust position through another Federal agency. (Tr. 21-25, 47)

In 2021, Applicant was working for a government contractor in the Middle East and was injured on the job. His injuries included post-traumatic stress disorder (PTSD) and hearing loss. He was out of work for about seven months. In October 2021, he returned to work. However, in February 2022, he resigned because he could not do his job due to his medical condition. He remained unemployed for five or six months. He got a settlement from the contractor, which helped him resolve some of his delinquent debts. (Tr. 47-50)

Applicant has experienced financial struggles in the past. He filed Chapter 7 bankruptcy in July 2010. At that time, he was making about \$40,000 per year. His second oldest child required major medical surgery, which was costly. After insurance, he still had large medical debts. The bankruptcy discharged his debts, but he lost his house. (GE 4 at 3; Tr. 54-56)

Applicant's personal financial statement submitted as part of his answer to interrogatories displayed a net remainder of \$1,965 per month after monthly expenses were met in October 2023. (GE 5) He testified that he now makes more money and estimated that he has \$2,500 monthly after he pays his bills. (Tr. 50-53)

Applicant sought the help of a credit-consolidation firm in August 2024. He documented payments to the firm beginning November 1, 2024. He makes a monthly payments of \$254 to the firm, and the firm works with the creditor to either make payments or negotiates a lump-sum payoff on his behalf. (AE A; Tr. 28-29) He claims that he participated in online financial literacy classes that covered budgeting, saving, credit, and investing. He testified that all of his debts are currently "up to date." (Tr. 20)

The status of the SOR debts is as follows:

SOR ¶ 1.a alleges an account placed for collection in the amount of \$846 remains delinquent. It was for a credit-card debt. It had been delinquent since at least December 2022. However, he testified that he satisfied this debt on March 21, 2025. The record contains no documentation to substantiate this claim. (GE 2 at 2; Tr. 26)

SOR ¶ 1.b alleges an account placed for collection in the amount of \$536 remains delinquent. This debt is for a charged-off credit card. It had been delinquent since at least April 2023. Applicant's credit-consolidation firm reflects that this debt was resolved for \$268 and that the payments on this debt were completed. It is resolved. (GE 2 at 2; AE A at 10; Tr. 28-31)

SOR ¶ 1.c alleges a credit-union account placed for collection in the amount of \$308 remains delinquent. It had been delinquent since at least May 2023. On December 27, 2024, Applicant resolved this debt for \$308.45. (GE 2 at 2; AE A at 30; Tr. 32-33)

SOR ¶¶ 1.d and 1.f allege debts placed for collection in the amounts of \$245 and \$280. Both debts are owed to the same creditor. He testified that he satisfied both debts but did not submit documentation to substantiate his claim. He also discussed that he has two separate unalleged debts in the amounts of \$657 and \$630 owed to the same creditor that are being resolved through his credit-consolidation plan. (AE A at 10, 14, 16-17, 26; GE 2 at 2; Tr. 33-38)

SOR ¶¶ 1.e, 1.j, and 1.k allege three accounts placed for collections by the same creditor in the amounts of \$6,047, \$5,584, and \$8,728, respectively. Applicant testified that these debts are all being resolved through the credit-consolidation firm. He reflected that the creditor consolidated the debts listed in SOR ¶¶ 1.j and 1.k. His repayment plan reflects two accounts with negotiated settlements of \$6,638 and \$3,308. Payments to this creditor are made monthly by the credit-consolidation firm, out of the money he pays them monthly. He testified that he has made his payments to the firm in accordance with the agreement. (GE 2 at 3; AE 16-20, 26; Tr. 38-41)

SOR ¶ 1.g alleges an account placed for collection by an insurance company in the amount of \$209 remains delinquent. It had been delinquent since at least March 2022. Applicant produced a screenshot of a receipt showing this debt as “paid collection” with a zero balance. It is resolved. (GE 3; AE A at 9; Tr. 41-42)

SOR ¶ 1.h alleges a delinquent credit-card account placed for collection in the amount of \$79 remains delinquent. This debt was assigned for collection in June 2020. Applicant testified that he paid this debt “the other day.” It took him a while to locate the creditor. The record contains no documentation to substantiate this claim. (GE 3 at 3; Tr. 43)

SOR ¶ 1.i alleges an account placed for collection in 2017 in the amount of \$300 remains delinquent. It was for a credit card that was charged off in approximately February 2018. The account reflects a zero balance. (GE 1 at 39, GE 2 at 3, GE 3, GE 4)

SOR ¶ 1.l alleges an account placed for collection in the amount of \$4,563 remains delinquent. The debt was for a loan with a high interest rate. This debt had been delinquent since at least October 2022, but Applicant negotiated a settlement agreement with a collection agent for this debt. On December 27, 2024, Applicant paid \$3,509, which resolved this debt. (GE 2 at 4; AE A at 22; Tr. 43-44)

SOR ¶ 1.m alleges an account placed for collection for the balance due on a repossessed vehicle in the amount of \$5,295. Applicant testified that he negotiated a settlement for \$1,572 and resolved it in the weeks prior to the hearing. The record does not contain documentation substantiating his claim. (GE 3 at 5; Tr. 44-45)

SOR ¶ 1.n alleges Applicant is indebted to his county division of child support services in the amount of \$6,000. He indicated this debt is the result of “not working” but that he has negotiated a payment agreement. He claims he is current on all child support obligations. He said he resolved the delinquency in December 2024, when he received a settlement for a workplace injury. He testified that he pays \$1,113 per month for his two minor children. The record does not contain documentation supporting his testimony. (GE 1 at 36; Tr. 46-48)

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

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.

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.

AG ¶ 19 includes two 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."

"[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 record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c). He has at least one debt that has been delinquent since 2017 and others that have become delinquent since then. Additional inquiry about the possible applicability of mitigating

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

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).

Applicant sustained an injury at work and had periods of unemployment while recovering from his injury. That was a circumstance largely beyond his control, and it affected his ability to resolve his debts. Applicants are not required to be debt-free, nor are they required to have a plan for immediate or simultaneous repayment of debts. An

applicant must demonstrate that he acted responsibly given his circumstances and develop a reasonable plan for repayment of debts, accompanied by concomitant conduct that evidences a serious intent to effectuate the plan. See ISCR Case No. 08-06567 (App. Bd. Oct. 29, 2009).

Applicant has been employed since at least fall of 2022. Despite having a growing income, Applicant did not begin to address his delinquencies until after he received the October 2023 interrogatories despite having a monthly net remainder of \$1,965 at that time. He finally took action to resolve some of his debts beginning August 2024, when he contracted with the credit-consolidation firm. Payments to the firm were documented beginning November 2024. Since December 2024, he documented that he resolved \$4,862 owed to five (SOR ¶¶ 1.b, 1.c, 1.g, 1.i, and 1.l) of his 14 creditors. He has a plan to resolve another three debts amounting to \$20,359 through the credit-consolidation firm (SOR ¶¶ 1.e, 1.j, and 1.k). He did not document the resolution or a plan to resolve SOR ¶¶ 1.a for \$846; 1.d for \$245; 1.f for \$280; 1.h for \$79; 1.m for \$5,295, and 1.n for \$6,000 for delinquent child support. He claimed to have resolved these debts, but his uncorroborated testimony was insufficient to demonstrate resolution. “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)). Given his long history of financial delinquencies, including his prior Chapter 7 bankruptcy, I cannot find that he met his burden to establish financial problems are unlikely to recur or that he acted responsibly under the circumstances without documentation to support his claims. AG ¶¶ 20(a) and 20(b) do not fully mitigate the SOR debts.

AG ¶ 20(c) provides mitigation in cases where the applicant has participated in financial counseling, and there are clear indications that the problem is being resolved or is under control. He testified that he participated in financial counseling, but he did not establish that there are clear indications that the problem is under control. He has only spent a few months addressing his debts, and, while he claimed to have resolved SOR ¶¶ 1.a for \$846, 1.d for \$245, 1.f for \$280, 1.h for \$79, 1.m for \$5,295, and 1.n for \$6,000 for delinquent child support, he did not document payments. He did not meet his burden to establish AG ¶ 20(c).

AG ¶ 20(d) requires a good-faith effort to repay overdue creditors or otherwise resolve debts. Applicant failed to support his claims that he made a good-faith effort to resolve his debts because he did not support his claims with documentation. A finding that he made a good-faith effort would not be supported by the record at this time. SOR ¶¶ 1.a, 1.d, 1.f, 1.h, 1.m, and 1.n are unresolved. He did not meet his burden to present evidence to support full application of AG ¶ 20(d).

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. His financial delinquencies at the close of the record appear to be ongoing. While his delinquencies were due to circumstances beyond his control, he waited until August 2024, months after receiving the SOR, to address his debts despite returning to work in late 2022.

This decision should not be construed as a determination that Applicant cannot obtain a security clearance in the future. With more documentation of the 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

Subparagraph 1.a:

Against Applicant

Subparagraphs 1.b – 1.c:

For Applicant

Subparagraph 1.d:

Against Applicant

Subparagraph 1.e:	For Applicant
Subparagraph 1.f :	Against Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	Against Applicant
Subparagraph 1.i:	For Applicant
Subparagraphs 1.j – 1.l:	For Applicant
Subparagraphs 1.m – 1.n:	Against Applicant

Conclusion

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

Jennifer Goldstein
Administrative Judge