



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



Appearances

For Government: Troy Nussbaum, Esq., Department Counsel
For Applicant: *Pro se*

03/26/2025

Decision

GOLDSTEIN, Jennifer I., Administrative Judge:

This case involves 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 17, 2023. On December 19, 2023, the Department of Defense (DoD) sent her a Statement of Reasons (SOR) alleging security concerns under Guideline F. The DoD acted under Executive Order (Exec. Or.) 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) promulgated in Security Executive Agent Directive 4, National Security Adjudicative Guidelines (December 10, 2016).

Applicant answered the SOR on March 12, 2024, and requested a hearing. The case was assigned to me on December 11, 2024. The Defense Office of Hearings and

Appeals (DOHA) issued a notice on January 28, 2025, scheduling the hearing for February 13, 2025. Department Counsel requested a continuance, and the case was rescheduled for February 26, 2025, at the agreement of both parties. The hearing proceeded as rescheduled. Applicant's hearing was held using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered four government exhibits, (GE) 1-4; Applicant offered one exhibit, (AE) A; and all proffered exhibits were admitted into evidence without objection. On March 7, 2025, DOHA received a copy of the transcript. Applicant provided a post-hearing exhibit marked AE B, which was admitted without objection. The record closed on March 7, 2025, when the last exhibit was received.

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 answer to the SOR she denied all five debts listed in the SOR allegations. The five SOR debts total over \$35,310. The credit reports reflect the debts listed in on SOR. (GE 3, GE 4)

Applicant is 26 years old. She is a high school graduate and has obtained some professional certificates. She is unmarried and has two minor children — one infant and one having special needs — that require expensive childcare. Neither of their fathers provide financial support, despite a court order for one to pay \$905 per month. On March 14, 2022, Applicant was the victim of a shooting. She received medical treatment but was unable to work much that year as she recovered and had mobility restrictions. In April 2023, she began work for a contractor on a Navy base, but her employment was conditioned upon having a security clearance. She was terminated in January 2024, but subject to rehire if she obtains clearance eligibility. She was unemployed from January 2024 to October 2024. She supported herself and her children with unemployment compensation, her son's social security disability income, and working as a freelance food-delivery driver. She is currently employed as a certified medical assistant at a medical center, where she has worked since October 2024. She earns \$19 an hour and works 40 hours per week. She recently took unpaid maternity leave for eight weeks. (AE A at 1, 9; Tr. 16-17, 21-28, 43-44, 55)

SOR ¶ 1.a alleges that Applicant was indebted on a medical account placed for collections in the amount of \$1,196. This debt was assigned for collections as of October 2023. This was for a medical debt she incurred at age 20. She did not have health insurance coverage at that time. She testified that she contacted this creditor and pays \$10 when she can. She documented a \$10 payment she said was made to this creditor,

but the entry was not dated and the payment reflected it was “pending.” (GE 3 at 2, GE 4 at 2; AE A at 3, 7; Tr. 19, 30)

SOR ¶ 1.b alleges that Applicant was indebted on a delinquent account placed for collections in the amount of \$289. The original creditor was a cable company. This debt was incurred by her mother opening an account in Applicant’s name. Her mother failed to return the cable equipment, and the debt was attributed to Applicant. Applicant submitted a message from her mother substantiating Applicant’s claims. She also presented account statements from the creditor that show she currently has service with the same provider and has a zero balance. (GE 3 at 3, GE 4 at 2; AE B at 3-5; Tr. 31-34)

SOR ¶ 1.c alleges that Applicant was indebted on a delinquent credit union account placed for collections in the amount of \$180. This debt has been delinquent since at least February 2023. She made a \$10 payment on this debt on January 5, 2024, reducing the debt to \$170. However, she did not produce documentation of other payments to this creditor. (GE 3 at 3; AE A at 3, 5; Tr. 34-36)

SOR ¶ 1.d alleges that Applicant was indebted on a delinquent account placed for collections in the amount of \$13,582. This was for a vehicle loan for Applicant’s first car. Applicant later bought a sports car and gave the first car to a friend under the agreement that the friend would pay off the rest of the loan. Her friend failed to pay the note, as documented in a message from the friend. The vehicle was repossessed, and this is the remainder due after the vehicle was resold. She attempted to create a repayment agreement with this creditor to pay \$10 per month. She provided a receipt for a \$10 payment on January 5, 2024. However, the creditor was unwilling to take such small payments. She is not able to make larger payments currently. (GE 2, GE 4 at 3; AE A at 3, AE B at 2; Tr. 19, 36-49, 52)

SOR ¶ 1.e alleges that Applicant was indebted on a delinquent account placed for collections in the amount of \$20,063. This debt was also for an auto loan. The father of her child was driving the car and was in an accident. Her insurance company would not cover the accident since she was the only driver listed on the insurance. It has been delinquent since at least September 2023. She was issued a summons to appear on December 5, 2024, to answer a suit brought by this creditor for a total debt of \$25,170. However, they negotiated a payment agreement on March 7, 2025, for Applicant to pay this creditor \$100 per month until the debt is paid. The debt now totals \$25,952. She did not document any payments under this agreement. (GE 2, GE 4 at 3; AE A at 2, AE B at 1; Tr. at 18, 40-42)

Applicant intends to pay her debts when she is able. She testified that she utilizes a budget. She offered no evidence of participating in financial counseling. (Tr. 45)

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. . . .

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).

The documentary evidence admitted into evidence establish the following disqualifying conditions under this guideline: AG ¶ 19(a) (“inability to satisfy debts”); and AG ¶ 19(c) (“a history of not meeting financial obligations.”). The SOR debts total over \$35,310 and they have been delinquent for a few years, with the exception of the \$289 debt in SOR ¶ 1.b, which has been resolved.

The following mitigating conditions under AG ¶ 20 are relevant:

- (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.

Applicant is young and has had significant challenges beyond her control that have hindered her ability to resolve her delinquent debts. In the past five years, she has experienced periods of unemployment. She was shot. She does not get the court-ordered child support she is due. She has a child with special needs and childcare for him is costly. Additionally, she has an infant. Her mother and her friend both took advantage of her. These are all conditions beyond Applicant's control and she has learned from her experiences. She has acted responsibly by resolving one debt, SOR ¶ 1.b, which is mitigated. However, with respect to her remaining delinquencies, she failed to show a reasonable plan or good-faith efforts to resolve the remaining delinquent debts. While she negotiated a payment arrangement to pay the creditor in SOR ¶ 1.e \$100 per month, she also testified that she could not afford that payment and did not provide any proof of payments under that plan. She made a \$10 payment on her smallest debt a year ago, as discussed above under SOR ¶ 1.c, but has not had the ability to make subsequent \$10 payments to that creditor. She does not have the resources to meet her family's needs and resolve these past-due delinquencies at this time. Her debts alleged in SOR ¶¶ 1.a, and 1.c-1.e are not mitigated.

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). Applicant has had a series of events beyond her control that have impacted her ability to resolve her delinquencies. If she continues to utilize a budget and learns from her experiences with her mother and friend, she may one day be eligible for a security clearance. While she testified honestly that she intends to resolve her delinquencies, she did not meet her burden to show a plan to address her delinquent debts at this time. 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 did not mitigate the financial considerations security concerns.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of true reform and rehabilitation necessary to be eligible for a security clearance. The determination of an individual's eligibility and suitability for a security clearance is not a once in a lifetime occurrence, but is based on applying the factors, both disqualifying and mitigating, to the evidence presented. Under her current circumstances, a clearance is not warranted. In the future, she may well demonstrate persuasive evidence of her security worthiness.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F:

AGAINST APPLICANT

Subparagraphs 1.a, 1.c-1.e:
Subparagraph 1.b:

Against Applicant
For Applicant

Conclusion

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

Jennifer Goldstein
Administrative Judge