



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-00839

Appearances

For Government: John C. Lynch, Esq., Department Counsel
For Applicant: *Pro se*

05/23/2025

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines F (Financial Considerations) and E (Personal Conduct). Clearance is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on April 18, 2023. On June 13, 2024, the Defense Counterintelligence and Security Agency (DCSA) sent her a Statement of Reasons (SOR) alleging security concerns under Guidelines F and E. The DCSA acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (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), which became effective on June 8, 2017.

Applicant answered the SOR in an undated document and requested a decision on the written record in lieu of a hearing.

On April 14, 2025, Department Counsel submitted the File of Relevant Material (FORM). The FORM included an amendment to the SOR, adding subparagraphs 2.b through 2.d, alleging additional false statements. Applicant received the FORM on April 14, 2025, and did not respond. The case was assigned to me on May 21, 2025.

Findings of Fact

Applicant is a 46-year-old employee of a defense contractor. She has a high-school education. She is not married. She has two children, ages 24 and 28. She has never held a security clearance.

The SOR alleges 19 delinquent debts, falsification of her SCA, and falsifications to a private employer that resulted in her termination. In Applicant's answer to the SOR as amended, she admitted all the delinquent debts alleged in SOR ¶¶ 1.a through 1.r. She did not admit or deny the telecommunications debt alleged in SOR ¶ 1.s, but stated that she currently has service with the provider alleged in SOR ¶ 1.s. She admitted the allegation in SOR ¶ 2.a that she falsified her SCA but stated her response that her failure to disclose her delinquent debts in her SCA was due to an oversight. Appellant denied the additional allegations of falsification in SOR ¶¶ 2.b through 2.d. Her admissions are incorporated in my findings of fact.

The delinquent debts alleged in the SOR are reflected in credit reports from April 2023 (FORM Item 5), June 2024 (FORM Item 6), May 2024 (FORM Item 7), and April 2025 (FORM Item 8). The evidence concerning the delinquent debts is summarized below.

SOR ¶ 1.a: apartment lease placed for collection of \$4,106. Applicant and a former partner jointly leased an apartment. When the relationship ended, Applicant could not afford to pay the rent. She moved out and made no further lease payments.

SOR ¶¶ 1.b through 1.r: various credit-card and consumer debts totaling about \$14,000, charged off or referred for collection. Applicant admitted these debts. She provided no evidence of actions to resolve any of them.

SOR ¶ 1.s: telecommunications account placed for collection of \$169. In Applicant's response to the SOR, she stated that she has a current account with this provider. She provided no documentation supporting her response or reflecting the status of the account.

In Applicant's answer to the SOR, she stated that the delinquent debts were "the result of a hardship during a personal transition and separation" and that she was actively working to resolve her delinquent debts and communicating with her creditors about payment options. When she was interviewed by a security investigator in June 2023, she attributed the delinquent debts to breaking up of a 15-year-old relationship in which most of the credit cards and other financial obligations were solely in her name. (FORM Item

11 at 7) She has provided no evidence showing when the break-up occurred, the circumstances that caused it, or who initiated it. Most of the delinquent debts alleged in the SOR were charged off or referred for collection in April 2023 or earlier. (FORM Items 5 through 8)

When the security investigator asked her why she did not disclose her delinquent debts in her SCA, she said that she did not recall any questions about delinquent debts in the SCA. She also told the investigator that she was unsure why she did not disclose them. (FORM Item 11 at 3)

Applicant was employed as a legal assistant at a law firm from June 2021 to December 2022. In her SCA, she stated that she left this position because she had “another opportunity.” In her SCA, she answered “No” to the questions whether she had ever been fired, quit after being told she would be fired, or left by mutual agreement. (FORM Item 3 at 10-11)

The law firm provided evidence that she was fired. (FORM Item 9) On the morning of January 16, 2023, she sent an e-mail to her employer saying, “I won’t be in this morning I am still not feeling well, this morning I’m currently on my way to hospital. I’ll keep you posted.” On the morning of January 17, she sent another email saying, “I have a really bad headache this morning and completely lost my voice. I had intention [of] calling I must have overslept. This morning I’ll be getting tested, my symptoms are worsening.” On the evening of January 17, she sent a third email saying, “Tomorrow morning I need to have a medical procedure done, if I have any sick time I will need to take rest of week. I am going to have to stay at least 24 hours and won’t be s (sic) me to return till Monday.”

On January 24, 2023, Applicant’s employer sent her a letter stating, “Effective immediately, your employment at [law firm] is terminated. This is because you were due back to work on Monday, 1/23/23 but you did not show up or call in to the office on Monday or today, Tuesday, 1/24/23.” (FORM Item 9)

In Applicant’s response to the amended SOR, she stated, “While I was out sick **prior** to the dates in question I did communicate with my supervisors via email. This was to ensure a smooth workflow and to address any urgent matters that arose during my absence. It’s possible I may have mistaken some specific dates. If there are discrepancies it was unintentional.” (Emphasis added.)

During Applicant’s security interview in June 2023, she told the investigator that on January 16, 2023, when she told her former employer that she was sick, she had already accepted a job with another law firm. She admitted that she did not tell her former employer that she had accepted another job. She admitted that she falsely told her former employer that she was scheduled for a medical procedure, but that she planned to be absent from work to use up her sick leave so that she would not lose it. (FORM Item 11 at 2)

When the security investigator asked Applicant why she did not disclose being fired in her SCA, she explained that she was not fired because she left her employment

voluntarily. She claimed that she informed her employer by email that she intended to leave her job. She did not provide a copy of the email. (FORM Item 11 at 2)

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* at 531. Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record." See ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019). It is "less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n*, 383 U.S. 607, 620 (1966). "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. 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* 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).

Applicant's admissions and the documentary evidence in the FORM establish two disqualifying conditions under this guideline: AG ¶ 19(a) ("inability to satisfy debts") and AG ¶ 19(c) ("a history of not meeting financial obligations").

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; and

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.

AG ¶ 20(a) is not established. Applicant's delinquent debts are recent and numerous. She provided no evidence of the circumstances that caused the breakup of her relationship that left her responsible for the debts.

AG ¶ 20(b) is not fully established. Applicant's breakup with her partner may have been a circumstance largely beyond her control, but she has provided no evidence of when it occurred or the reasons for the breakup. She has provided no documentary evidence of actions to resolve her delinquent debts.

Guideline E, Personal Conduct

The security concern under this guideline is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. . . .

The following disqualifying conditions under this guideline are potentially applicable:

AG ¶16(a): deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities; and

AG ¶ 16(d): credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of . . . :untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information.

AG ¶ 16(a) is established for Applicant's failure to disclose her delinquent debts in her SCA. Her explanation to the security investigator that she did not recall seeing any questions about debts in the SCA is not credible.

On the other hand, Applicant's explanation for her failure to disclose that she had been fired from a job is credible. While her explanation to her employer for her absence from work was false, the evidence indicates that she had accepted another job without telling her employer and believed that she had voluntarily terminated her employment. Accordingly, I conclude that AG ¶ 16(a) is not established for Applicant's failure to disclose in her SCA that she had been fired.

AG ¶ 16(d) is established for Applicant's false statement to a former employer about the reasons for not coming to work. Her conduct reflects questionable judgment, unreliability, and lack of candor.

The following mitigating conditions are potentially applicable:

AG ¶ 17(a): the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; and

AG ¶ 17(c): the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

AG ¶ 17(a) is not established for Applicant's failure to disclose her delinquent debts in her SCA. She did not disclose them until she was confronted with the evidence during her security interview. It is not established for her false statements to her employer. She did not disclose the facts until she received the amended SOR.

AG ¶ 17(c) is not established. Applicant's omission of her delinquent debts was arguable infrequent, but it was recent and did not happen under unique circumstances. Her falsification was not "minor." Falsification of a security clearance application "strikes at the heart of the security clearance process," and it undermines the integrity of the security-clearance process. See ISCR Case No. 09-01652 (App. Bd. Aug. 8, 2011).

Whole-Person Analysis

Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. An administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all the 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 and E 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 her 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 Guidelines F and E and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by her delinquent debts and her lack of candor during the security-clearance process.

Formal Findings

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

Paragraph 1, Guideline F (Financial Considerations): AGAINST APPLICANT

Subparagraphs 1.a-1.s: Against Applicant

Paragraph 2, Guideline E (Personal Conduct): AGAINST APPLICANT

Subparagraphs 2.a-2.c: Against Applicant

Subparagraph 2.d: For Applicant

Conclusion

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

LeRoy F. Foreman
Administrative Judge