



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



In the matter of:

Appearances

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

08/06/2025

Decision

BLAZEWICK, Robert B., Chief Administrative Judge:

Applicant did not mitigate the security concerns under Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

On August 15, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F. Applicant responded to the SOR on September 10, 2024 (Answer) and requested a decision on the written record in lieu of a hearing. The Government's written case was submitted on December 19, 2024. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on February 20, 2025, and he did not respond. The case was assigned on May 30, 2025. The Government exhibits included in the FORM are admitted in evidence without objection.

Findings of Fact

The SOR alleges Applicant has six delinquent debts totaling \$30,540: two delinquent student loan accounts for \$19,615 (SOR ¶ 1.a) and \$9,456 (SOR ¶ 1.b), and four Department of Treasury debts for \$1,211 (SOR ¶ 1.c), \$1,211 (SOR ¶ 1.d), \$1,193 (SOR ¶ 1.e), and \$854 (SOR ¶ 1.f). He admitted the student loan debts and denied the Treasury debts. All the allegations are supported by Applicant's 2021 and 2024 credit bureau reports (CBR), except that the debt alleged in SOR ¶ 1.a is reported on the 2021 CBR with a total balance of \$16,615, not \$19,615. There is no evidence supporting a balance of \$19,615 for that debt. (Items 7, 8)

Applicant is 50 years old. He graduated high school in 1994. He served in the U.S. Navy from 1995 to 1998 and received an honorable discharge. He has been married since 2006 and has three adult children. He was unemployed from December 2019 to August 2021 in order to be a "traveling spouse" with his wife when her employer stationed her overseas. He had been with his prior employer for about 22 years but was ultimately fired when he stopped showing up for work. (Item 4)

In his 2021 security clearance application (SCA), Applicant reported that he owed about \$5,500 in health insurance premiums. He had tried to cancel his health insurance in 2019 in anticipation of his move overseas but was not permitted to because it was outside the "open enrollment" period. He stated that he had made about \$4,300 in payments toward the debt. In his 2022 subject interview (SI) with a government investigator, he explained that in 2019, he tried to take a leave of absence from his employer in order to move overseas for his wife's job. His employer declined to grant his request, so Applicant stopped going to work and moved overseas. After a period of time, he was officially fired. He found out later than his insurance premiums continued to be charged to him in the period from when he stopped attending work until he was fired, resulting in the debt reported on his SCA. He stated that he paid \$4,000 initially and another \$300-\$400 in spring 2021. He stated that the Treasury debts on his CBRs are the debts pertaining to his health insurance. (Items 4-5)

While discussing his finances in his SI, Applicant was confronted with the two delinquent student loans. He acknowledged them, explaining they were associated with college courses he took from 1999 to 2002. He stated that he paid about \$17,000 and still owes the Department of Education. He told the investigator that he is not currently making payments on the loans, and he does not recall when he last made a payment. He planned to start making payments once he started working. (Item 5)

In his March 2024 response to interrogatories, Applicant reported that he had not paid any of the debts, he was not aware of them, and that he was unemployed and could not afford additional payments beyond what is taken from his tax refunds. He also submitted a budget showing a negative net monthly remainder of \$650. Applicant's 2021 CBR lists all six alleged debts as well as two additional, unalleged Treasury debts. His 2024 CBR lists the debts alleged in SOR ¶¶ 1.c and 1.d with higher balances than in 2021, as well as the same two unalleged Treasury debts that were listed in 2021, with unchanged balances. In his Answer, he provided a document from the Department of Treasury showing that his 2024 tax refund had been involuntarily applied to these four

Treasury debts listed on the 2024 CBR. SOR ¶¶ 1.c and 1.d each had \$942.43 applied to them. (Item 6; Answer)

Policies

This case is adjudicated under Executive Order 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) implemented by the DOD on June 8, 2017.

"[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 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. 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.

Applicant's admissions and the evidence in the FORM 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 Government did not establish a balance of \$19,615 for SOR ¶ 1.a, but did establish a balance of \$16,615 for that debt.

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

Applicant gave little explanation as to why he has not paid his delinquent student loans, but by his own admission they remain delinquent, and he cannot remember the last time he made a payment. There is no evidence that they arose due to circumstances unlikely to recur or beyond his control. They remain an ongoing concern that casts doubt on his current reliability, trustworthiness, and good judgment. None of the mitigating conditions apply to SOR ¶¶ 1.a and 1.b.

Applicant incurred his Treasury debts due to being charged for insurance premiums after he tried unsuccessfully to take a leave of absence from his employer. He stopped going to work, all the while being charged for insurance premiums, at which point his employer formally fired him. While the circumstances that led to these debts are unlikely to recur, there is insufficient evidence that they are resolved (see below) and thus they remain an ongoing concern that casts doubt on his current reliability, trustworthiness, and good judgment. Furthermore, not only was Applicant's period of unemployment voluntary and thus not a condition largely beyond his control but incurring the premiums after he stopped going to work were a logical result of the seemingly haphazard way in which he left his employment, and something that likely could have been avoided if he had handled the matter differently. See ADP Case No. 17-00263 at 4 (App. Bd. Dec. 19, 2018). AG ¶¶ 20(a) and 20(b) are not established for SOR ¶¶ 1.c-1.f.

Applicant submitted one document in support of his denials of the four Treasury debts. The document only applies to two of the alleged debts, SOR ¶¶ 1.c and 1.d. The document reflects involuntary payments made toward the two debts for less than the balances reflected on the most recent CBR. There is no further evidence showing that those debts are now fully resolved, and Applicant clearly did not initiate the payments made toward these debts. He did not provide evidence pertaining to the \$4,300 payments he claimed to have made when he completed his SCA and in his SI, nor any explanation as to why, if he paid \$4,300 of a \$5,500 debt, he would still owe the Treasury \$4,469 (SOR ¶¶ 1.c-1.f combined). There is no evidence that SOR ¶¶ 1.e and 1.f are resolved. AG ¶ 20(d) is not established for SOR ¶¶ 1.c-1.f.

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 security concerns raised under Guideline F, financial considerations.

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:	Against Applicant (\$16,615 only)
Subparagraphs 1.b-f:	Against Applicant

Conclusion

I conclude 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.

Robert B. Blazewick
Chief Administrative Judge