



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



Appearances

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

07/11/2025

Decision

HALE, Charles C., 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 on January 11, 2024. On August 5, 2024, the Department of Defense (DoD) sent him 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 August 29, 2024, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on September 24, 2024, and the case was assigned to me on April 2, 2025. On April 16, 2025, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled

for June 12, 2025. I convened the hearing as scheduled. Government Exhibits (GE) 1 through 4 were admitted in evidence without objection. Applicant testified and submitted Applicant Exhibits (AE) A-V, which were admitted without objection. I held the record open until July 9, 2025, to enable either side to submit additional evidence. No additional evidence was received. DOHA received the transcript (Tr.) on July 1, 2025.

Findings of Fact

Applicant admitted SOR ¶¶ 1.a through 1.j, which consists of seven debts that have been charged off and three debts that are listed as being placed in collection. Applicant's total debt alleged is \$27,927. He included with his Answer as mitigation his enrollment in a debt relief program with a debt resolution company, DRC-A, which occurred fourteen days after the SOR was issued. His admissions are incorporated into the findings of fact.

Applicant is a 34-year-old audio-video (AV) technician. He is single and has no children. He has never held a security clearance. He has worked for his security clearance sponsor since October 2023. He also does freelance work as an audio engineer. After graduating with his bachelor of arts degree in 2016, he worked as an audio technician at an amusement park but was laid off due to the COVID-19 pandemic. He applied for and received unemployment payments for four months. He also received COVID-19 stimulant checks. During the interim, between audio video technician positions, he worked for a medical company making COVID-19 quick tests and as a night associate at a major home supply store. He found work as an AV technician for a church in 2020. He resigned from the position in 2023. He had been making about \$52,000 a year. He is making \$65,000 a year in his current position. On August 19, 2024, he hired DRC-A to help him address his debts. On DRC-A's estimated monthly income sheet he reported a monthly income of \$4,050. (GE 1; AE E; Answer; Tr. 16, 36-39, 42.)

Applicant is an hourly employee making \$32 an hour and he makes an additional \$275 a month as an audio engineer at his church. He also makes a little extra money streaming, approximately \$50 every two months. He has about \$200 in savings. He filed his 2024 Federal income tax return about a month late because he did not have enough money to pay what he owed. He testified he had the tax return done on time but waited to file until he could pay the \$1,200 that he owed. (Tr. 18, 71-73.)

Applicant purchased a 2019 Ford Edge in July 2022, and his car monthly payment was \$670. The Edge was repossessed about five days after he resigned from his position in 2023. He was paying about a \$280 a month in car insurance for the Edge. After Applicant's Edge had been repossessed (SOR ¶ 1.a), he was gifted a 2014 Toyota RAV4 by a member of his church. He had been using rental cars to get work for several months. (GE 2; AE F - AE V; Tr. 28, 64-66.) He drove the RAV4 for about 10 months. The monthly car insurance on the RAV4 was about a \$175 a month. The Saturday before his hearing he traded in the RAV4, which had 148,000 miles on it and no major mechanical problems, and purchased a new car, a 2025 Honda Civic Sport. His monthly payment for the Civic will be \$811, and he will have a \$325 monthly car insurance payment. He stated he got a

really good deal the on the RAV4 he traded in, and he had improved his gas mileage from 26 mpg to 35 mpg. He testified that based on his research, since the RAV4 was paid off he was not improving his credit score, and he could help his credit score by having a car payment. (Tr. 21-25, 28, 54-56, 64-66, 70.)

Applicant increased his monthly costs for operating a vehicle by \$1,000 and he acknowledged he had not done the math on how the increases would impact him given his other financial obligations. He did not know what the state's personal property tax would be on the 2025 vehicle or what his 2014 vehicle's personal property tax would have been. At the time of transaction, he had over \$26,000 in debts, which includes the Edge that had been repossessed. (GE 2, GE 3, GE 4; Tr. 21-25, 54-56, 63-65, 70.)

Applicant enrolled seven of the ten debts, SOR ¶¶ 1.a through 1.g, with DRC-A. As part of his contract with DRC-A he makes semi-monthly payments of \$222. His student loan debt (approximately \$26,000) was in a deferred status when DRC-A established his payment plan, and he did not inform DRC-A of his student loan debt. He is now making payments on the student loans of \$425 a month, in addition to his semi-monthly payments to DRC-A. He admitted he had "missed a couple payments" to DRC-A. He explained he missed these DRC-A payments because the contract was switched, which changed when he received his pay. He last missed a payment with DRC-A in April 2025. The debt relief company has not resolved any debts to date. (Tr. 21, 30, 66-68; Answer; AE A-E.)

In 2021 Applicant was struggling financially, but he was making his minimum payments on his debts. He testified he was feeling the pressure of meeting his financial obligations. He described suffering panic attacks and was hospitalized for fear of a heart attack. As a result, he began seeing a therapist. (Tr. 69-70.) This was when the credit card debt alleged in SOR ¶ 1.b became delinquent. He testified he sought the assistance of a second debt relief company (DRC-B). He stated he had not found the emails from DRC-B showing he had enrolled. He explained that DRC-B advised him to stop making payments and DRC-B would sue on his behalf when the creditor made contact and collect fines. The fine money, \$500, would be used to settle his accounts. He could not recall the actual name of DRC-B. (GE 2; Tr. 40-41, 45-46.) He used the money he saved by stopping his payments to his various creditors to:

I was using it to make ends meet. You know, using it on gas, using it on making sure that I wasn't trying to fall behind on anything important. You know, the rent, the insurance and stuff like that.... (Tr. 64.)

SOR ¶ 1.c involves a credit card account. Applicant opened the account but simply "fell behind on payments." He then stopped making payments based on the direction of DRC-B. (GE 2; Tr. 42, 45-47.) He fell behind on SOR ¶ 1.d, which was a credit card account he opened to cover a major dental procedure. (GE 2; Tr. 43-44, 69.) SOR ¶¶ 1.e-1.g involve credit cards he opened in 2019, 2020, and 2021 respectively. Applicant opened the credit cards to cover his expenses. (GE 2, GE 3; Tr. 44-48.) He fell behind on these accounts when he stopped making payments based on the direction of DRC-B and has not made any recent payments. (GE 2; GE 3; GE 4 Tr. 47-50, 61-62.)

Applicant's debts alleged in SOR ¶¶ 1.h through 1.j are not part of his agreement with DRC-A. Applicant told the investigator during his security clearance interview that SOR ¶ 1.h involved a loan, which became delinquent in 2022. He fell behind on the account when he stopped making payments based on the direction of DRC-B and he has not made any recent payments. (GE 3, GE 4; Tr. 49-50, 61-62.) Applicant thought he had already paid off SOR ¶¶ 1.i and 1.j. He acknowledged having a credit card with the department store named in SOR ¶ 1.i. He testified he recalled "paying a good chunk of that off before [he] moved" to his current state of residency. He did not remember the SOR ¶ 1.j account but based on it being such a low amount, \$45, he was "surprised" he had not paid it off. (GE 2, GE 3; Answer; Tr. 50-52.)

Applicant has not received any type of financial counseling. He acknowledged he was "not the best with money" and agreed he needed financial counselling. (Tr. 30, 32-33, 56.) He has two credit cards in his name now and is making minimum payments. He estimated the balance on these credit cards is currently \$1,400. The minimum payment on one card is \$150 and the other is \$45. (Tr. 52, 54.) He is not sure of the status of his student loans. He understands that the COVID-19 loan repayment forbearance programs have ended. (GE 2; Tr. 21, 67-69.)

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).

Applicant's admissions and the documentary 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 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; and
- (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;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) consistent spending beyond one's means or frivolous or irresponsible spending, which may be indicated by excessive indebtedness, significant negative cash flow, a history of late payments or of non-payment, or other negative financial indicators.

AG ¶¶ 20(a), 20(b), and 20(d) are not fully applicable. Applicant's financial difficulties may have resulted in part from circumstances beyond his control, medical issues and periods of unemployment. However, by his own admission, he stopped payments on debts that were not delinquent, on the belief a debt relief company could pay them off through fines. The record reflects for eight months he had no car payments and then elected to accumulate additional debt by purchasing a car, rather than making payments on his current debts. Applicant has not acted responsibly under the circumstances, and this casts doubt on his current reliability, trustworthiness, and good judgment.

Applicant initial enrollment with a debt relief company, DRC-B, which is not documented, and subsequent withdrawal from that plan do not demonstrate that Applicant has adhered to a good-faith effort to resolve his debts. His current enrollment with DRC-A occurred fourteen days after the SOR was issued. He acknowledges missing an occasional payment with DRC-A. An applicant must initiate and adhere "to a good faith effort to repay overdue creditors or otherwise resolve debts" to receive full credit under AG ¶ 20(d). See ISCR Case No. 08-06058 at 5 (App. Bd. Sep. 21, 2009). Based on his recent enrollment with a debt relief company and inconsistent payment actions, AG ¶ 20(d) does not fully apply.

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.

In evaluating Applicant's eligibility for a security clearance, I consider the totality of his conduct and all relevant circumstances. Specifically, I have considered the recency of his purchase of a new vehicle, which increased his monthly debt payments by over \$1,000, while servicing over \$26,000 in debt. I considered his logic for filing his Federal tax return late. After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, and mindful of my obligation to resolve close cases in favor of national security, I conclude Applicant has not mitigated the security concerns based on financial considerations.

Formal Findings

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

Paragraph 1, Guideline F:

AGAINTS APPLICANT

Subparagraphs 1.a-1.j:

Against Applicant

Conclusion

I conclude that it is not clearly consistent with the national interest to grant Applicant eligibility for access to classified information. Clearance is denied.

Charles C. Hale
Administrative Judge