



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



In the matter of:

Applicant for Security Clearance

)
)
)
)

ISCR Case No. 24-01365

Appearances

For Government: George A. Hawkins, Esq., Department Counsel

For Applicant: *Pro se*

09/05/2025

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Clearance is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on December 21, 2023. On October 9, 2024, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline F. 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 on December 19, 2024, and requested a decision on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on March 31, 2025. A complete copy of the file of relevant material (FORM) was sent to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. He received the FORM on April 15, 2025, and did not respond. The case was assigned to me on August 19, 2025.

Findings of Fact

In Applicant's answer to the SOR, he admitted the allegations in SOR ¶¶ 1.a, 1.b, and 1.g through 1.j. His admissions are incorporated in my findings of fact.

Applicant is a 43-year-old production inspector employed by a defense contractor since December 2017. He worked as an assembler for the same defense contractor from July 2006 to April 2008 and from June 2013 to August 2014. He worked as a state employee from September 2014 to December 2017. He married in June 2006 and divorced in May 2018. He has two children. He received a bachelor's degree in May 2004. He has never held a security clearance.

SOR ¶ 1.a alleges that Applicant failed to file federal income tax returns as required for tax years 2017, 2019, 2020, 2021, and 2022. When Applicant was interviewed by a security investigator in September 2023, he stated that he did not file his tax returns because he was "sidetracked" with work and his home life, and that he was working with a tax professional to set up a payment plan. (GX 4 at 3) In his answer to the SOR, he stated that he had established a payment plan for his tax debt. However, he provided no evidence that the past-due returns had been filed.

SOR ¶ 1.b alleges that Applicant failed to file state income tax returns as required for tax years, 2019, 2020, 2021, and 2022. Applicant admitted this allegation and stated that he received a state tax refund for tax year 2023. However, he provided no evidence that he had filed the past-due returns for 2019, 2020, 2021, and 2022.

SOR ¶ 1.c alleges a federal tax debt for delinquent taxes in the amount of \$5,106 for tax year 2023. The debt is reflected in the Internal Revenue Service (IRS) tax transcript for tax year 2023. (GX 4 at 16) Applicant denied this debt in his answer to the SOR and stated that he had not received any correspondence regarding it. However, in his answer to SOR ¶ 1.a, he stated that he had established a payment plan to resolve his tax debt. He submitted evidence of a payment plan providing for payments of \$100 per month, with the first monthly payment due in November 2024. In response to DOHA interrogatories in December 2024, he submitted a personal financial statement that reflects net monthly income of \$3,285, monthly expenses of \$3,448, and debt payments of \$63.57 on a credit-card debt and \$100 toward his federal income tax liability. However, he provided no evidence that he made the agreed payments.

SOR ¶¶ 1.d, 1.e, and 1.f allege state tax liens filed against Applicant in 2012 for \$1,528; \$4,550, and \$1,948. Applicant denied these debts in his answer to the SOR and

stated that he had not received any correspondence regarding them. The tax liens are documented in GX 9. He provided no evidence of efforts to resolve them.

SOR ¶¶ 1.g alleges a cellphone bill placed for collection of \$1,348. When Applicant was interviewed by a security investigator in September 2023, he admitted this debt. It was incurred when he changed cellphone providers, knowing that he owed a balance to his former provider. (GX 4 at 4) In his answer to the SOR, he admitted that he had taken no action to resolve this debt. He promised that he would resolve it by the end of 2025. It is not resolved.

SOR ¶ 1.h alleges a collection account for \$635. In Applicant's answer to the SOR, he provided documentary evidence that he had accepted an offer to settle the debt for \$448.98, to be paid in seven monthly payments of \$63.57. However, he did not provide evidence that he made any of the agreed payments.

SOR ¶ 1.i alleges a telecommunication bill placed for collection of \$333. This debt was for unreturned equipment. In Applicant's answer to the SOR, he provided evidence that he resolved this debt by taking advantage of a debt-forgiveness promotional offer to forgive past-due debts for debtors who opened a new account. This debt is resolved.

SOR ¶ 1.j alleges a debt to an insurance company placed for collection of \$111. It is reflected in a credit report from June 2024. (GX 7) In Applicant's answer to the SOR, he admitted this debt and promised to pay it by the end of 2025. He provided no evidence of payments.

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 evidence in the FORM establish the following disqualifying conditions under this guideline:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(c): a history of not meeting financial obligations; and

AG ¶ 19(f): failure to file or fraudulently filing annual federal, state, or local income tax returns or failure to pay annual federal, state, or local income tax as required.

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;

AG ¶ 20(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;

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

AG ¶ 20(g): the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

AG ¶ 20(a) is not established. Applicant's delinquent debts are recent, numerous, and were not incurred under circumstances making recurrence unlikely.

AG ¶ 20(b) is not established. Applicant's tax problems alleged in SOR ¶¶ 1.a-1.f were not due to circumstances largely beyond his control. Rather, they were due to his inattention to an important duty. He submitted no evidence of circumstances largely beyond his control that caused the delinquent consumer debts alleged in SOR ¶¶ 1.g-1.j.

AG ¶ 20(c) is not established. Applicant obtained counseling for the federal tax problems, but he provided no evidence that they were being resolved or under control. He provided no evidence of financial counseling for the delinquent consumer debts in SOR ¶¶ 1.g-1.j.

AG ¶ 20(d) is established for the cellphone debt alleged in SOR ¶ 1.i, which Applicant resolved. It is not established for the other debts alleged in the SOR. He provided no evidence that he complied with the payment arrangement for his federal tax debt alleged in SOR ¶ 1.c. He provided no evidence of efforts to resolve the state tax debts alleged in SOR ¶¶ 1.d, 1.e, and 1.f. He provided no evidence of actions to resolve the consumer debts alleged in SOR ¶¶ 1.g, 1.h, and 1.j.

AG ¶ 20(g) is not established. Applicant entered into an agreement to resolve the federal tax debt alleged in SOR ¶ 1.c, but he provided no evidence that he was complying with that agreement. He provided no evidence of efforts to resolve the state tax debts alleged in SOR ¶¶ 1.d, 1.e, and 1.f.

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 in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). 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 by his financial problems.

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.h:	Against Applicant
Subparagraph 1.i:	For Applicant
Subparagraph 1.j:	Against 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