



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



In the matter of:

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ISCR Case No. 24-01532

Applicant for Security Clearance

Appearances

For Government: Daniel P. O'Reilley, Esq., Department Counsel
For Applicant: *Pro se*

07/08/2025

Decision

MURPHY, Braden M., Administrative Judge:

Personal conduct security concerns are not established. Applicant did not provide sufficient evidence to mitigate financial security concerns arising from his delinquent debts. Applicant's eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on October 31, 2023, in connection to his employment in the defense industry. On December 13, 2024, following a background investigation, the Defense Counterintelligence and Security Agency (DCSA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (Financial Considerations) and Guideline E (Personal Conduct). The DCSA took the action under Executive Order 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 National Security Adjudicative Guidelines (AG) effective within the DOD on June 8, 2017.

Applicant answered the SOR on December 18, 2024, with a narrative response and four attachments (three reference letters and a paystub). He elected to have his case decided by an administrative judge from the Defense Office of Hearings & Appeals

(DOHA) on the administrative (written) record, in lieu of a hearing. On March 19, 2025, Department Counsel submitted the Government's file of relevant material (FORM), including documents identified as Items 1 through 14. He was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation. (FORM at 1, 2, 6)

On or about April 2, 2025, Applicant emailed DOHA and provided a 66-page response, including a three-page narrative Response to the FORM, a March 2025 credit report and several more reference letters. He confirmed on April 8, 2025, that he had no further documents to submit. (FORM Response 1)

However, between April 9, 2025 and April 11, 2025, Applicant alternated between (a) suggesting in an email that, "I don't mind appearing before the [Administrative Judge] if it can be done by video conference, *i.e.*, Zoom or TEAMS;" (April 9); (b) stating that "I am not interested in the in-person decision unless it was done locally" [so] "then we can stick with the original request of the written record decision." (April 10); and (c) requesting to submit testimony by video as part of the written record; (April 10). Department Counsel requested that Applicant submit his "video testimony" in writing by email instead. On April 11, 2025, Applicant then did so, along with a photograph of his family at a graduation. (FORM Response 2)

The case was assigned to me on June 10, 2025. Upon review of FORM Response 2 and its reference to "video testimony," I emailed Applicant on June 30, 2025, and requested that he clarify whether or not he wanted a hearing. Later that day, he responded and confirmed that he did not want a hearing. (FORM Response 3)

The SOR and the answer (Items 1 and 2) are the pleadings in the case. Government FORM Items 3-14 are admitted into evidence without objection. Applicant's attachments with his Answer are admitted without objection, as are FORM Responses 1, 2, and 3.

Procedural Due Process Issue (Guideline E)

Paragraph 1 of the SOR alleges that Applicant deliberately falsified material facts on his October 2023 SCA concerning his financial record. Specifically, SOR ¶ 1.a concerned the following question on Item 3: (Emphasis added):

"Section 26: Financial Record For the following, Are you currently delinquent on any federal debt? You answered "No" and thereby deliberately failed to disclose your delinquent debts/charge off accounts as set forth in subparagraphs 2.a through 2.c, below.

On its face, and in reviewing the SOR and the evidence, there are several problems. First, SOR ¶¶ 2.a, 2.b, and 2.c concern three former bankruptcy filings, and not delinquent debts. Second, even if this were not the case, no "federal debt" is alleged in the SOR, so there is no indication of a "federal debt" that Applicant had a duty to

disclose. In answering SOR ¶ 1.a, Applicant denied the allegation and said he did not have any federal debt (student loans, tax debt to the IRS, or otherwise).

The Government acknowledges these errors in the FORM and concedes that SOR ¶ 1.a “should have referenced [SOR ¶ 2.f through 2.i].” (FORM at 2) Even if that were the case, however, those debts are all to private creditors, and none of them are “federal debts.” The Government could have amended the SOR, but did not do so.

The Guideline E allegation, as alleged, is legally insufficient on its face. Even an admission by Applicant would not establish any disqualifying conduct on his part. He was not sufficiently put on notice of either the proper question he allegedly answered falsely or of the information he allegedly failed to disclose when he prepared his SCA. For all these reasons, SOR ¶ 1.a is found for Applicant as a matter of law.

Findings of Fact

When he answered the SOR, Applicant admitted the Guideline F allegations at SOR ¶¶ 2.a-2.i, and he denied the allegations at SOR ¶¶ 2.g and 2.h. (He also denied the Guideline E allegation at SOR ¶ 1.a, discussed above). He provided explanations with each answer. His admissions are incorporated into the findings of fact. Additional findings follow.

Applicant is 48 years old. He and his wife have been married since 2002. They have three children, ages 20, 17, and 11. Since 2013, they have lived in a home owned by his father. Applicant earned a bachelor’s degree in 2004 and a master’s degree in 2015. In October 2023, he began working as a facilities representative for a defense contractor. Previously, he was a state employee (2017-2023), a salesman (2015-2017) and a county correctional officer (2013-2015). After high school, he served on active duty in the Navy for three years (1995-1998) and was discharged honorably. (Items 3, 4)

Applicant did not disclose any financial issues on his SCA. He was confronted with evidence of his bankruptcies and his debts during his background interview. (Items 3, 4) In his interrogatory response, he addressed the status of his debts and asserted that he had an excellent credit history. He said he needs his job to pay his current creditors and to address any legitimate debts. He said he is an active member of his church and local community and is a man of integrity. He said his debts resulted from the negative impact of the COVID-19 pandemic on his side jobs. (Item 5 at 8)

The Guideline F allegations in the SOR concern five bankruptcy petitions and four small delinquent debts. Applicant has filed for bankruptcy protection five times, between 2009 and 2018. SOR ¶¶ 2.a-2.e).

Applicant filed a chapter 7 bankruptcy petition in September 2009. It was discharged in December 2009. (Item 10) (SOR ¶ 2.a).

Applicant filed for bankruptcy protection under Chapter 13 in December 2012. The petition was dismissed in October 2014 for failure to make payments. (Item 9) (SOR ¶

2.b) He then re-filed under Chapter 13 in December 2014, but that petition was again dismissed for failure to make payments, in July 2015. (Item 8) (SOR ¶ 2.c)

Applicant refiled a Chapter 13 bankruptcy petition a month later, in August 2015. That petition was dismissed in January 2018, for failure to make payments. (Item 7) (SOR ¶ 2.d) The same month, Applicant refiled his bankruptcy petition, this time under Chapter 7. That most recent bankruptcy petition was discharged in May 2018. (Item 6) (SOR ¶ 2.e)

The SOR also alleges four delinquent debts, totaling a combined \$20,519. The largest debt by far is SOR ¶ 2.f, a charged-off auto account with a balance of \$16,824. Applicant bought a truck near the end of the COVID-19 pandemic, with the hopes of resuming a side business in landscaping. The business plan did not materialize and the truck began having mechanical issues. He believes it should have been covered under warranty but it was not. He voluntarily returned the truck, and was told it would be resold and he would be kept informed. He admits the account but contests the amount owed. (Item 2) Credit reports list the account as having been charged off in the amount of \$31,210 with the balance due of \$16,824 still owed as of March 2025. (Item 4 at 4; Item 5 at 8; Item 11 at 1, Item 12 at 12; FORM Response credit report at 8-9). The account is unresolved.

SOR ¶ 2.g (\$1,788) is a charged-off loan account with creditor O. (Item 11 at 2; Item 12 at 2) Applicant denied this debt and alleged it was fraudulent. He said during his background interviews that he did not recognize the account. (Item 3, Item 4 at 5, 6) He said in his Answer that he had another account, with Creditor O, a loan account that has been paid. This is verified by credit reports. (Item 11 at 3) However, the account at SOR ¶ 2.g remains listed on credit reports from March 2025, even though Applicant says he contests it. (Item 11 at 2; FORM Response credit report at 35) The account is unresolved.

SOR ¶ 2.h (\$1,213) is a charged-off account with a tire company. Applicant denies the debt, asserting that it is his father's account and debt, while acknowledging that he is only an authorized user on the account. (Item 2; Item 5 at 8) In his FORM Response, he cites an account with the same debt collector, an account (also with a tire company) that has been paid, with a prior balance due of \$432. (FORM Response at 12) That account is also listed on other credit reports. (Item 12 at 5; Item 11 at 7) But the account at SOR ¶ 2.h appears to be different. (Item 12 at 3) Applicant provided no documentation to show that the account is his father's responsibility or that he has addressed it.

SOR ¶ 2.i (\$694) is a debt owed to a medical provider due to a judgment entered against Applicant in 2023. While he contests the debt, Applicant also acknowledged the court proceeding and the judgment, which he said he paid through a garnishment. (Item 2) The Government conceded in the FORM that this account is resolved. (FORM at 3)

Applicant provided a personal financial statement (PFS) with his interrogatory response in May 2024. He calculated his and his wife's joint monthly income at \$5,769. He listed \$4,080 in monthly expenses and \$925 in debt payments, for a net remainder of

\$74. He also asserted that some of his other, older loans, have been paid in full. (Item 5 at 8-9)

Curiously, among the debts Applicant lists is a federal student loan account, with creditor M. (Item 5 at 8) As of March 2025, he owes \$145,147 in federal student loans. (original balance of \$128,696). No balance is owed and the account is listed as “never late.” This is likely due to various COVID pandemic-related forbearances. However, the amount owed continues to increase, likely due to the interest accrued. (FORM Response credit report at 16) He did not list this large federal debt on his PFS. (Item 5 at 9)

Several references wrote letters commending Applicant and attesting to his character. His pastor said he is honest, trustworthy, ethical, and a man of deep integrity. Two state employees said Applicant went out of his way to help local citizens with pandemic-related employment claims. Representatives of a local business and a local bank said Applicant pays his bills on time. (Answer; FORM Response 1)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.” *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

The adjudicative guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of several variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision. The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable security decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to

classified information. Decisions include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline for financial considerations is set out, in relevant part, 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. . . .

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant filed for bankruptcy in 2009, and then several more times between 2012 and 2018. After the first one, each successive bankruptcy was dismissed for failure to make payments and then quickly refiled, until his 2018 Chapter 7 petition, which was discharged. The debts in the SOR all post-date the most recent bankruptcy. AG ¶¶ 19(a) and 19(c) both apply.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. The following mitigating conditions under AG ¶ 20 are potentially applicable:

- (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, or 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) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant disavows responsibility for two debts, at SOR ¶¶ 2.g and 2.h, either due to "fraud" or because the debt is apparently his father's debt. Applicant documented neither assertion sufficiently to establish AG ¶ 20(e) does not apply.

The debt at SOR ¶ 2.i is resolved, as the Government acknowledges. The largest debt alleged (SOR ¶ 2.f) is the balance due on Applicant's truck following its likely resale after Applicant voluntarily returned it. A delinquent debt is not considered mitigated because the creditor has charged off the account. The creditor's choice to charge off the debt for accounting purposes does not affect the debtor's obligations to the creditor. ISCR Case No. 09-01175 at 2 and fn. 1. (App. Bd. May 11, 2010).

AG ¶ 20(a) does not apply. Applicant has several prior bankruptcy filings as well as some ongoing, unresolved delinquent debts. He has not established that his financial issues are being resolved or are sufficiently in the past that there is no issue as to his currently judgment, trustworthiness, and reliability.

AG ¶¶ 20(b) and 20(d) do not fully apply. Applicant's truck was voluntarily repossessed after his landscaping business did not materialize due to the pandemic, so there is some indication that the debt is due to circumstances beyond his control. But Applicant has not established sufficient documented evidence that the debt is either no longer his responsibly or that he is otherwise addressing the debt responsibly or is being addressed in good faith.

Guideline E, Personal Conduct

The personal conduct security concern is detailed as follows, 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 will normally result in

an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

(a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, cooperation with medical or psychological evaluation, or polygraph examination, if authorized and required; and

(b) refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

The personal conduct guideline notes several conditions that could raise security concerns under AG ¶ 16. The following is potentially applicable:

(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.

For the reasons set forth above, the falsification allegation at SOR ¶ 1.a, as worded, did not put Applicant on proper notice of either the proper question he allegedly answered falsely or of the information he allegedly failed to disclose when he prepared his SCA. AG ¶ 16(a) is not established and SOR ¶ 1.a is found for Applicant.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The 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.

Under AG ¶ 2(a), 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.

I considered the potentially disqualifying and mitigating conditions under all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F and E in my whole-person analysis. In this case, the totality of the evidence weights against granting of a clearance at this time. Applicant has several prior bankruptcies and several unresolved debts. In addition, while not alleged as delinquent debts, Applicant has an increasing student loan debt load which he has not addressed. Applicant needs to establish a track record of steady payments towards his creditors and towards financial stability to fully mitigate Guideline F security concerns.

The record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. The Guideline E personal conduct allegation is not established as a matter of law. However, given his total record. Applicant has not met his burden to mitigate the security concerns arising 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 E: FOR APPLICANT

Subparagraph 1.a: For Applicant

Paragraph 2, Guideline F: AGAINST APPLICANT

Subparagraphs 2.a-2.h: Against Applicant

Subparagraph 2.i: For Applicant

Conclusion

Considering all the circumstances presented, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Braden M. Murphy
Administrative Judge