



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



## **Appearances**

For Government: Andrew H. Henderson, Esq., Department Counsel  
For Applicant: *Pro se*

05/12/2025

## Decision

HALE, Charles C., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). The Guideline F concerns are not mitigated. Eligibility for access to classified information is denied.

## **Statement of the Case**

Applicant submitted a security clearance application (SCA) on May 31, 2024. On December 11, 2024, the Department of Defense (DoD) sent her 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 (June 8, 2017).

Applicant answered the SOR on January 21, 2025, and requested a decision on the written record without a hearing. Department Counsel submitted the Government's written case on January 30, 2025, including Items 1-8. A complete copy of the file of

relevant material (FORM) was received by Applicant on February 5, 2025, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. She elected to not respond. The case was assigned to me on May 7, 2025.

The SOR and Answer in Item 1 are the pleadings in the case. FORM Items 2 through 8 are admitted into evidence without objection.

### **Findings of Fact**

Applicant is 59 years old. She earned her associate's degree in 1993. She is thrice divorced, most recently in 2010. She has two adult children. She admits five of the SOR allegations with explanations and denies SOR ¶ 1.d. (Item 2; Item 3.)

Applicant admits SOR ¶¶ 1.a-1.c and 1.e-1.f. In her SCA, she listed her delinquent car loan, SOR ¶ 1.a, and her 2021 Chapter 7 Bankruptcy, SOR ¶ 1.e. She offered no documentation to support the statements made in her Answer and relied on the Government's evidence for support.

During Applicant's July 2024 personal security interview (PSI) she discussed with an investigator her financial delinquencies. The SOR ¶ 1.a debt involves a car loan taken out in September 2021 and charged off in March 2024, with a balance due of \$19,700. She told the investigator she pays just over \$100 every other week on the debt and that she had been making timely payments. The November 2024 credit report lists the last paid date as March 19, 2024. She fell behind on this loan because she elected to cover insurance expenses for her son and daughter. She described her rationale in describing her son's situation during her PSI and her daughter's situation in her Answer. This debt is unresolved. (Answer; Items 2-5.)

The investigator noted SOR ¶ 1.b, a debt of \$2,098, as a charge off from the credit report used during the PSI, and Applicant believed it was covered in her 2021 bankruptcy. In her Answer she stated it was settled through a debt relief program. The November 2024 credit report lists nothing past due and the account condition as "Legally paid in full for less than full balance." The last payment date listed is May 19, 2023. This debt is resolved. (Answer; Items 2-3, 5.)

The SOR ¶ 1.c account with a wireless service carrier was opened in 2005 and is listed as "seriously past due" on the November 2024 credit report in the amount of \$1,414. In her Answer Applicant stated she thought the balance would be paid off by the new wireless service carrier with whom she had contracted. She indicated in her Answer she would begin making \$50 payments once she received an invoice from the creditor. This debt is unresolved. (Answer; Items 2-3, 5.)

Applicant in her Answer explained the delinquent SOR ¶ 1.d account, in the amount of \$379, arose when she cosigned a loan with her partner. He possessed the vehicle and had since traded it in. She believed her bankruptcy had released her from the

debt. She states she will contact the creditor, and that this debt will be paid. The November 2024 credit report lists it as a joint account and the delinquency counter reflects one 30-day delinquency and 30 days past due. This debt is unresolved. (Answer; Item 5.)

Applicant admits she has been through bankruptcy twice (SOR ¶¶ 1.e, 1.f). She explains in her Answer her that the 2009 bankruptcy was with her husband and tied to a farming operation that her husband and his brother were involved in at the time. The farm operation was being handled by a special court that allowed debtors five or six years to resolve their farm debts. However, they were not able to make the payments to the special court. She and her husband filed for Chapter 7 Bankruptcy jointly. In their Chapter 7 Bankruptcy filings they listed their estimated liabilities at \$2,091,934. She stated an attorney advised all three to file personal bankruptcy to avoid being liable for the farm debt. (Answer; Item 6.)

The Chapter 7 Bankruptcy filing in April 2021 discharged over \$107,000 in unsecured obligations. The Order of Discharge was issued in September 2021. Applicant in her PSI stated that after her last divorce she made a "series of bad financial decisions," which included taking out loans and using credit cards meet to make her daily living expenses. She cited the challenges of a single parent raising two children and being unable to work full-time for different periods throughout her employment history. She also volunteered that following her divorce, she was in a long-term relationship with someone who, for a period of time, was helping with her expenses. However, he was subsequently put on disability status, after which Applicant again had to be solely responsible for the care of her children, financially and otherwise. She was not making enough money to cover all the expenses herself. (Answer; Item 2, Item 7.)

Applicant states she loves her job supporting servicemembers. She notes her family's history of patriotic service. She affirms under no circumstances would she violate the trust placed in her by her employer and the U.S. Government. (Answer.)

## 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 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The following disqualifying conditions are potentially applicable in AG ¶ 19:

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

Applicant's debts are documented in his credit reports and security clearance interview. The above disqualifying conditions apply.

The following mitigating conditions are potentially applicable in 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
- (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 for SOR ¶¶ 1.a, 1.c, 1.e, or 1.f. Applicant's delinquent debts are recent, numerous, and ongoing, which cast doubt on her current reliability, trustworthiness, and judgment.

AG ¶ 20(b) is not established for SOR ¶¶ 1.a, 1.c, 1.e, or 1.f. Applicant's divorce and underemployment are mitigating conditions largely beyond her control. However, she did not provide evidence to support her assertions that her former spouse had not fulfilled his legal obligations. She did not provide sufficient evidence showing that she was in a payment plan or attempted to establish payment plans for SOR ¶¶ 1.a and 1.c. She has filed for Chapter 7 Bankruptcy twice, most recently in April 2021. Insufficient time has elapsed since her most recent discharge of her debts in bankruptcy in September 2021 to establish a track record of financial stability, living within her means, and satisfying her debts. While the 2009 bankruptcy may have been triggered by a farming business, no

supporting evidence was provided to explain the circumstances involving the \$2 million in liabilities. She failed to show she acted responsibly under the circumstances.

AG ¶ 20(b) is established for SOR ¶¶ 1.b and 1.d. The record reflects Applicant did negotiate a resolution of the debt in SOR ¶ 1.b. The record supports that the SOR ¶ 1.d debt was a joint debt, which had only been delinquent for 30 days at the time of the November 2024 credit report. There is insufficient evidence to show that she has an inability to satisfy this debt.

### **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 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 Guideline F and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the concerns raised by her financial considerations.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards establishment of a track record of satisfying her debts and documenting her actions she may well be able to demonstrate persuasive evidence of her security clearance worthiness in the future.

### **Formal Findings**

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.b, 1.d:	For Applicant
Subparagraphs 1.a, 1.c, 1.e, 1.f:	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.

Charles C. Hale  
Administrative Judge