



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



Appearances

For Government: William Miller, Esq., Department Counsel
For Applicant: *Pro se*

02/27/2025

Decision

WESLEY, ROGER C. Administrative Judge

Based upon a review of the case file, pleadings, exhibits, and testimony, Applicant did not mitigate financial consideration concerns. Eligibility for access to classified information or to hold a sensitive position is denied.

Statement of the Case

On September 17, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a statement of reasons (SOR) to Applicant detailing reasons why under the financial considerations guideline the DCSA CAS could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DoD) Directive 5220.6 *Defense Industrial Personnel Security Clearance Review Program*, (January 2, 1992) (Directive); and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017.

Applicant responded to the SOR on September 30, 2024, and requested that his case be resolved on the written record without a hearing. Applicant received the File of Relevant Material (FORM) on December 9, 2024, and elected not to respond to the FORM. This case was assigned to me on February 18, 2025. The Government's case consisted of seven exhibits that were admitted without objection as Items 1-7.

Summary of Pleadings

Under Guideline F, Applicant allegedly accumulated eight delinquent debts exceeding \$77,000. Allegedly, Applicant's delinquent debts have not been resolved and remain outstanding.

In Applicant's response to the SOR, she admitted the allegations with explanations and clarifications. She claimed a surplus resulted from the sale of her repossessed vehicle (covered by SOR ¶ 1.a). She also claimed to be working with a financial counselor to resolve her debts. She further claimed she arranged \$200 bi-monthly payments to address her debts. She claimed, too, that she upholds the highest ethical standards while facing financial challenges over the last few years. She claimed to understand the importance of maintaining financial stability in relation to national security. Finally, she claimed her dedication to ensuring her financial obligations are met, with the help and advice of her counsel as needed.

Findings of Fact

Applicant is a 31-year-old employee of a defense contractor who seeks a security clearance. Allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

Background

Applicant never married and has no children. (Item 3) Applicant earned a bachelor's degree in December 2015 and a master's degree in December 2018. She reported no military service. (Item 3)

Since January 2022, Applicant has been employed by her current employer as a senior associate. (Item 3) Previously, she worked for other employers in various support positions. She reported periods of unemployment in 2020 and between 2013 and 2016. (Item 3) She is sponsored for a security clearance by her current employer, but has never held a security clearance.

Applicant's Finances

Applicant experienced periods of hard times after purchasing a home in March 2022 that was secured by a \$384,860 home mortgage. (Item 7) Since 2022, Applicant accumulated eight delinquent accounts exceeding \$77,000 that are reported as either delinquent or charged off. (Items 6-7) The SOR-listed delinquent debts are as follows: 1.a (a repossessed auto deficiency balance of \$28,397); 1.b (a credit card debt of \$11,666); 1.c (a credit card debt of \$9,917); 1.d (a utility debt of \$8,248); 1.e (a credit

union debt of \$5,237); 1.f (a credit card debt of \$4,903); 1.g (a security services debt of \$3,738); and 1.h (a mortgage deficiency balance of \$5,663). (Items 5-7)

To date, Applicant has made no documented payment progress in addressing her debt delinquencies. Under the terms of the debt relief agreement she arranged in January 2024, she agreed to bi-weekly payments of \$201 to cover four of her listed SOR delinquent debts, i.e., debts covered by SOR ¶¶ 1.b and 1.d-1.f. (Items 2 and 4) These debts total \$30,054 and leave unaddressed her remaining delinquent accounts covered by SOR ¶¶ 1.a, 1.c, and 1.g-1.h. (Item 4) None of her agreed \$201 scheduled bi-weekly payments (at odds with her claimed \$200 scheduled bi-monthly payments) have been documented by Applicant. Nor has she provided any payment or dispute documentation for any of her remaining delinquent debts.

The developed record is unclear as to how much monthly income Applicant currently earns. She reported a net monthly income of \$6,723, monthly expenses of \$900, and a monthly mortgage of \$2,265 in the personal financial statement she completed in February 2024. (Item 4) She omitted any mention of her remaining delinquent accounts in her statement and listed a monthly remainder of \$3,555, ostensibly more than enough to initiate and sustain monthly payments on her debts. (item 4)

Policies

By virtue of the jurisprudential principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), “no one has a ‘right’ to a security clearance.” 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.” *Egan*. at 527. Eligibility for access to classified information may only be granted “upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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, these guidelines are applied 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, reliable information about the person, past and present, favorable and unfavorable.

The AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual’s reliability, trustworthiness, and ability to protect classified information. These AGs include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could mitigate security concerns, if any. These guidelines must be

considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following ¶ 2(d) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent herein:

Financial Considerations

The Concern: Failure or inability 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 or 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 acts or otherwise questionable acts to generate funds. . . . AG ¶ 18.

Burdens of Proof

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 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 “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865, Feb. 20, 1960, § 7. See also Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

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. 95-0611 at 2 (App. Bd. May 2, 1996).

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 ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Security concerns are raised over Applicant’s accumulation of eight delinquent debts (exceeding \$77,000) that raise trust, reliability, and judgment concerns about her current and future ability to manage her finances safely and responsibly. These concerns are addressed below.

Financial concerns

Applicant’s accumulated delinquent debts warrant the application of two of the disqualifying conditions (DC) of the financial consideration guidelines. DC ¶¶ 19(a), “inability to satisfy debts,” and 19(c), “a history of not meeting financial obligations” apply to Applicant’s situation. Her admitted debt delinquencies require no independent proof to substantiate them. See Directive 5220.6 at E3.1.1.14; *McCormick on Evidence* § 262 (6th ed. 2006). Her admitted debt delinquencies are fully documented and raise judgment issues over the management of her finances. See ISCR Case No. 03-01059 (App. Bd. Sept. 24, 2004).

Financial stability in a person cleared to protect classified information is required precisely to inspire trust and confidence in the holder of a security clearance that

entitles the person to access classified information. While the principal concern of a security clearance holder's demonstrated difficulties is vulnerability to coercion and influence, judgment and trust concerns are implicit in cases involving delinquent debts.

Historically, the timing of addressing and resolving her eight debt delinquencies (SORs ¶¶ 1.a-1.i) are critical to an assessment of an applicant's trustworthiness, reliability, and good judgment in following rules and guidelines necessary for those seeking access to classified information or to holding a sensitive position. See ISCR Case No. 14-06808 at 3 (App. Bd. Nov. 23, 2016); ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015); ISCR Case No. 14-00221 at 2-5 (App. Bd. June 29, 2016).

Without any documented evidence of Applicant's resolving her current debt delinquencies or demonstrated good cause for why these debts have not been resolved to date, potentially available mitigating conditions are limited. Only mitigating condition (MC) 19(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," has limited application. Her reported periodic unemployment entitles her to only partial application of MC ¶ 19(b) without more information on the current status of her debts.

In the past, the Appeal Board has consistently imposed evidentiary burdens on applicants to provide documentation corroborating actions taken to resolve financial problems, whether the issues relate to back taxes or other debts and accounts. See ISCR Case No. 19-02593 at 4-5 (App. Bd. Oct. 18, 2021); ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 20, 2020). Afforded opportunities to do so, Applicant has provided insufficient information on the status of his debts.

Applicant's 2024 enrollment in a debt resolution program, while encouraging, omits many of her listed SOR debts and is not updated with any of the monthly payments called for by her debt resolution agreement. Applicant's expressed commitments to address her debts and stabilize her finances, while welcomed, without any follow up, represent no more than promises to resolve her still outstanding debts and are not viable substitutes for a track record of paying debts in a timely manner and otherwise acting in a responsible way. See ISCR Case No. 17-04110 at 4 (App. Bd. Sept. 26, 2019)

Whole-person assessment

Whole-person assessment of Applicant's clearance eligibility requires consideration of whether her history of accumulated delinquent accounts is fully compatible with minimum standards for holding a security clearance. While Applicant is entitled to credit for her work in the defense industry, her efforts are not enough at this time to overcome her repeated failures or inability to address her debts in a timely way. Overall trustworthiness, reliability, and good judgment have not been established.

Based on a consideration of all of the facts and circumstances considered in this case, it is too soon to make safe predictions that Applicant will be able to undertake documented good-faith efforts to mitigate the Government's financial concerns within the foreseeable future. More time is needed for her to establish the requisite levels of stability with her finances to establish her overall eligibility for holding a security clearance. I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude financial considerations security concerns are not mitigated. Eligibility for access to classified information is denied.

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:

Guideline F (FINANCIAL CONSIDERATIONS): AGAINST APPLICANT

Subparagraphs 1.a-1.h:	Against Applicant
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Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Roger C. Wesley
Administrative Judge