



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



In the matter of:)
)
) ISCR Case No. 24-02185
)
 Applicant for Security Clearance)

Appearances

For Government: Brian Farrell, Esq., Department Counsel
For Applicant: *Pro se*

06/05/2025

Decision

LAFAYE, Gatha, Administrative Judge:

Applicant failed to provide sufficient evidence to mitigate 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 (SCA) on July 31, 2023. On December 26, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) alleging security concerns under Guideline F. The DOD acted under Executive Order (EO) 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) effective within the DOD on June 8, 2017.

Applicant answered the SOR on January 30, 2025, and elected to have his case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on February 28, 2025, including documents marked as Government Exhibits (GE) 1 through GE 6. On March 7, 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 March 23, 2025, and responded by submitting a copy of his earnings statement from February 2025. The case was assigned to me on May 19, 2025.

Applicant submitted a personal statement and documentary evidence in mitigation with his Answer to the SOR. For ease of reference, I re-labeled documents submitted with his SOR Answer, a personal statement, two monthly expenses documents, and an unsigned fee agreement with a bankruptcy attorney, as Applicant Exhibit (AE) A. I also labeled the above-mentioned earnings statement as AE B, and admitted it in evidence without objection. GE 1 and GE 2 are already part of the administrative record and need not be admitted. GE 3 through GE 6 are admitted in evidence without objection.

Findings of Fact

In his Answer, Applicant admitted all allegations in the SOR, ¶¶ 1.a through 1.e. His admissions are incorporated in my findings of fact. After careful review of the evidence, I make the following additional findings of fact.

Applicant is a 43-year-old aircraft maintenance technician employed by a defense contractor since July 2023. He previously worked as an aircraft mechanic for a state-owned airline company from January 2023 to September 2023. Applicant said he was obliged to work for the state-owned company for two years due to his receipt of a \$10,000 relocation bonus after accepting the position. However, after working a few months, Applicant sought a new position with better work hours. He was hired by his current employer in July 2023, but was able to work full time for both companies for about three months. He resigned after it became apparent he could not manage working in two full-time positions. Applicant did not discuss how he used the extra money he earned while working in two full-time positions. (GE 3, 6)

Applicant earned his high school diploma in June 2000. He married in 2009 and he and his wife have three children, ages seven, three and two. Applicant worked in a variety of technical positions between 2011 and early 2017. He worked as a commercial truck driver, an operations technician for an energy company, and a ramp agent for a commercial airline company. In May 2017, he enrolled in an online technical school that specialized in aviation maintenance. He earned an aviation maintenance certificate after completing the program in April 2021. He said he was unemployed from October 2017 through October 2021, and that this enabled him to complete his aviation certification program. He later acknowledged being employed between 2017 and 2019, sporadically doing work with a temporary staffing company. (GE 3, 6; AE A)

Applicant completed his first SCA in July 2023 and disclosed delinquent debts involving routine accounts, including debts in SOR ¶¶ 1.a and 1.d. He said he contacted creditors and was attempting to "set up payments." (GE 3)

In his October 2023 background interview, Applicant initially attributed his financial situation to not having a budget, and financial mismanagement. He said his wife was the primary caretaker of their three young children and she did not work outside of their home due to the high cost of childcare. (GE 6; AE A)

In his January 2025 Answer, Applicant attributed his financial situation to “finishing school on one income.” He said although he attempted to negotiate payment plans with creditors, his income and expenses made it impossible to repay his debts. To resolve the matter, he said he planned to file for chapter 7 bankruptcy to have his debts discharged for “a fresh financial start.” As evidence of his intent to file bankruptcy, he submitted a copy of a “chapter 7 - bankruptcy fee agreement” signed by the attorney, but not him. No bankruptcy action had been filed as of February 28, 2025, and Applicant did not present proof he filed a bankruptcy petition after that time. (GE 5, 6; SOR Answer; AE A)

Applicant said he now follows a strict monthly budget “to avoid future mismanagement” and included copies of his 2025 budget. Applicant’s budget shows total expenses of \$6,129, which exceed his income of \$5,200. Among the expenses listed are two car payments for a combined total of \$1,153 of the monthly budget. A separate draft budget, which indicated plans for his wife to return to work in May 2025, added \$1,800 per month for her salary, which left \$871 remaining after all bills were paid. It is unclear whether Applicant’s wife returned to work. No evidence was submitted concerning her employment or income-earning status. (AE A)

Applicant admitted all five debts alleged in the SOR, which collectively total about \$40,000. The largest debt alleged in SOR ¶ 1.a for \$23,770, was charged off in early 2022. The smallest debt alleged in SOR ¶ 1.e for \$259, was charged off in 2018. He said this debt was for “IVF” treatment and in he told the investigator during his background interview that he would contact the creditor and pay this debt. However, Applicant has not made any payments on these individual accounts since they were charged off. The remaining debts alleged in SOR ¶¶ 1.b for \$10,672, ¶ 1.c for \$5,113, and ¶ 1.d for \$700, are collection accounts. They were assigned in 2022, 2018, and 2023, respectively. The last activity reported on these accounts predate their assignment. Applicant admitted not taking action on any of the accounts, other than planning to file for bankruptcy. (GE 4, 6)

Applicant provided a copy of his earnings statement from February 2025. The pay document indicates he earns about \$42 per hour, about \$87,000 annually. He participates in the company’s 401k retirement plan and has a small loan he made through the company. (AE B)

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. 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.

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).

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

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

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

Applicant's admissions and the evidence in this FORM including his statements made during his background interview establish the above disqualifying conditions under this guideline.

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; and

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

AG ¶¶ 20(a) and 20(c) are not established. Applicant's delinquent debts are recent, ongoing, and unresolved and Applicant plans to resolve them through a chapter 7 bankruptcy action that he has not yet filed. There is no evidence he ever received financial counseling.

AG ¶¶ 20(b) and 20(d) are not established. Applicant initially attributed his financial situation to his mismanagement of funds due to his failure to establish a budget. In his answer, he attributed his financial situation to "finishing school on one income." His wife did not work outside of their home. He said he attempted to negotiate a payment plan with creditors, but that his income and expenses made it impossible to repay his debts. He planned to resolve the matter by filing for chapter 7 bankruptcy for a fresh financial start. It is evident Applicant communicated with a bankruptcy attorney but did not file a bankruptcy petition. Even if he had, the discharge of debts in bankruptcy does not preclude consideration of an Applicant's history of financial problems. His intent to file bankruptcy is not a substitute for a demonstrated track record of financial reform and rehabilitation.

Though Applicant may have faced initial challenges addressing his debts, he took minimal to no action to resolve his financial problems. He did not pay even the smallest delinquent debt of \$259 in the SOR despite saying he would during his background interview. There is no evidence he attempted to engage the services of financial advisors or that he actually communicated with creditors in an effort to resolve his debts. Taking minimal to no actions was not reasonable or responsible under the circumstances.

Applicant failed to provide sufficient evidence to mitigate financial considerations security concerns in this case. I am unable to find that he acted responsibly under the circumstances or that he made a good faith effort to pay his debts. His financial issues continue to cast doubt on his current reliability, trustworthiness, and good judgment.

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 relevant 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(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. I have incorporated my comments under Guideline F in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's suitability for a security clearance. I conclude Applicant failed to provide sufficient evidence to mitigate security concerns based on 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 F: **AGAINST APPLICANT**

Subparagraph 1.a – 1.e: Against Applicant

Conclusion

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.

Gatha LaFaye
Administrative Judge