



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



Appearances

For Government: Tara R. Karoian, Esq., Department Counsel
For Applicant: *Pro se*

08/25/2025

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 April 25, 2024. On November 27, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) alleging security concerns under Guideline F. Applicant answered the SOR on December 23, 2024 (Answer) and elected to have his case decided on the written record in lieu of a hearing. He included documents with his Answer, which I labeled as Applicant Exhibit (AE) A through AE G for ease of reference. The case was assigned to me on June 6, 2025.

The Government's written case was submitted on February 21, 2025. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on March 2, 2025, and did not respond nor did he submit additional evidence.

Evidence

Government Exhibit (GE) 1 and GE 2 consist of the SOR and Applicant's Answer. GE 3 through GE 7 are admitted in evidence without objection. As stated above, documents Applicant included with his Answer are referred to as AE A through AE G in the decision.

Findings of Fact

In his Answer, Applicant admitted the allegations in SOR ¶¶ 1.a – 1.c, and 1.e – 1.f, and denied the allegation in SOR ¶ 1.d. His admissions are incorporated in my findings of fact. After thorough review of the evidence, I make the following additional finding of facts.

Applicant is 55 years old. He was born in Nicaragua, arrived in the United States in 1985, enlisted in the U.S. Army on active duty in April 2001, and became a naturalized U.S. citizen in November 2005. He was honorably discharged from the Army in November 2015, and enlisted in the Army Reserve a month later. Applicant said he voluntarily stopped participating in his reserve drill assignments due to financial hardship. In March 2017, he was discharged from the Army Reserve with a general (under honorable conditions) character of service. (GE 3, 8)

Applicant married in 2001 and divorced in 2004. He married a second time in December 2006, but he separated from his wife July 2017, and they currently live apart. Applicant and his wife have a 14 year-old son who resides with his wife in a different state. No information was provided concerning Applicant's current financial support of his wife and son, but during his background interview in June 2024, he said he was not paying alimony or child support at the time. (GE 3, 8)

Applicant enrolled in college in November 2015 after leaving the Army. He supported himself through college with 100% disability pay he receives from the Department of Veterans Affairs (VA) and his federal education benefits. He said he tried working but quickly realized he was unable to work while attending college as a full-time student, and he decided to focus solely on his education. He completed his bachelor's and master's degrees from the same college in December 2020 and December 2022, respectively. The record is unclear on whether he began working after he completed college in 2022. (AE A)

In about 2017, Applicant said the Defense Finance and Accounting Service (DFAS) notified him that he was indebted to the federal government for \$44,000 due to an overpayment of funds he received when he was discharged from the Army. Shortly after receiving notice of the debt, he said DFAS began garnishing his disability pay. He said he "barely had enough money to pay essential necessities" for the next two-to-three years and that it caused him to become delinquent on many of his debts. (AE A) In a letter dated July 3, 2024, DFAS confirmed that Applicant no longer had a recent or active

account in “Out-of-Service Debt and Claims,” confirming his overpayment debt had been paid in full. (GE 6; AE G)

Applicant did not provide documentation or information about his current earnings, savings, checking, money-market, or other financial accounts; nor did he provide documentation or information about his monthly household expenditures. It is unknown whether he contributed to the Thrift Savings Plan (TSP) while serving in the Army, or whether he contributed to a 401(k) retirement plan or individual retirement account (IRA). The record is also void of any financial counseling and budgeting information. (GE 8)

The SOR alleges five delinquent debts totaling about \$31,000. As indicated above, Applicant admitted four of the alleged debts, and denied the debt in SOR ¶ 1.d. The evidence regarding the allegations in the SOR is summarized below:

SOR ¶ 1.a (\$10,766 charged off): Applicant admitted this debt, which is an individual account opened in 2007. The account was charged off in about 2022 after becoming 150 days past due. (GE 4) Applicant said he used this credit card for his daily needs but that he did not have income and could not pay the debt. (GE 8) In a January 2025 letter, he said he reviewed his credit reports from the three major credit bureaus, and no delinquent account was found for this debt, and he plans to seek legal advice regarding delinquent debts that have been charged off and no longer appear in his credit bureau reports. (GE 4, 8; AE A - D) This debt is unresolved.

SOR ¶ 1.b (\$5,299 charged off): Applicant admitted this debt, which is an individual account opened in May 2016. The account was charged off in about May 2018 after becoming 180 days past due. The last payment he made on the debt occurred in December 2017. Applicant said he did not recall the specifics of this debt, and that it was no longer reflected in any of his credit reports. Similar to his comments in SOR ¶ 1.a, Applicant plans to seek legal advice regarding delinquent debts that have been charged off and no longer appear in his credit bureau reports. (GE 3 – 5, 8; AE A – D) This debt is unresolved.

SOR ¶ 1.c (\$4,791 charged off): Applicant admitted this debt, which is an individual account opened in September 2014. The creditor charged off this debt after becoming 180 days past due in about 2022, and filed suit against the Applicant for collection of the debt. Applicant settled the debt out of court for \$7,728 in May 2023. He has paid \$267 monthly since settlement, and provided proof he is current on payments. (GE 3 – 6; AE A, E, F) This debt is being resolved.

SOR ¶ 1.d (\$3,193 charged off): Applicant denied this debt, which is an individual account opened in 2006. Applicant said he did not recognize this debt and he contacted the creditor to learn more details. He said the account was opened during a time he was serving in the Army, and forward deployed to the Middle East. (GE 4, 5, 8; AE A – D)

SOR ¶ 1.e (\$445 charged off): Applicant admitted he owed this debt to the federal government for another DFAS overpayment issue. (SOR Answer; GE 4) He said the account has been paid and he provided a letter from DFAS dated July 3, 2024, which says: "There is not a recent or active debt for you in Out-of-Service Debt and Claims." (AE G) This debt is resolved.

SOR ¶ 1.f (\$6,748 charged off): Applicant admitted this debt, which is an individual account first opened in November 2008. The account was charged off in about August 2018 after becoming 180 days past due. The last payment he made on the debt occurred in June 2018. Similar to his comments in SOR ¶¶ 1.a and 1.b above, Applicant plans to seek legal advice regarding delinquent debts that have been charged off and no longer appear in his credit bureau reports. (GE 4, 5, 8; AE A – D) This debt is unresolved.

In June 2024, Applicant informed the DOD investigator that his current financial situation was good, he pays his bills on time, and that he has not created new debts he cannot afford to repay. He said he spends his income on his mortgage and other living expenses. (GE 8)

Applicant's current employment status is unknown. He made several significant purchases between 2019 and 2024, as evidenced by his October 2024 credit bureau reports. In 2019, he purchased a car with a loan of about \$45,800 and he paid the full balance in April 2022. In April 2022, he purchased another car with a loan of about \$49,000 and paid the full balance in August 2022. More recently in September 2024, he purchased a car with a loan of about \$45,600 and per the loan terms, he pays \$805 per month for 71 months. In September 2022, he also opened a credit card account with a credit limit of \$20,000. The highest balance of the account, reported in October 2024, exceeded the credit limit at \$20,262. He pays \$492 per month on the debt. (GE 5, 7)

Policies

This case is adjudicated 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), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These 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(c),

the entire process is a conscientious scrutiny of a number of 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 national security eligibility will be resolved in favor of the national security.”

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See also EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The trustworthiness concern for financial considerations 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.

The guideline notes several conditions that could raise trustworthiness 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's admissions and the evidence in this FORM establish the above disqualifying conditions, and AG ¶¶ 19(a) and 19(c) are applicable.

Conditions that could mitigate the financial considerations trustworthiness concerns are provided under AG ¶ 20. The following 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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (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;
- (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.

AG ¶¶ 20(a), 20(c), and 20(d) are not fully established. Applicant's delinquent debts are recent, ongoing, and three significant debts in SOR ¶¶ 1.a, 1.b, and 1.f remain unresolved. He has not produced evidence of recent financial counseling, contacts with creditors as to these debts, payments, payment plans, or any other evidence of efforts made to resolve these delinquent debts. He is credited with taking steps to resolve the debt in SOR ¶ 1.c and providing proof of its resolution. Though he established a payment plan only after the creditor in SOR 1.c filed suit, he has established a track record of paying and is credited with consistently complying with the terms of the agreement. AG ¶ 20(d) is established for the debts alleged in SOR ¶¶ 1.c and 1.e, which are resolved in Applicant's favor.

AG ¶ 20(b) is not fully established. Applicant attributed his financial situation to the garnishment of his disability pay because of a \$44,000 debt for the overpayment of funds he received at his discharge from the Army. DFAS started garnishing his disability pay in 2017 and concluded its recoupment of funds at an unknown time. Though the recoupment of funds under the circumstances were undoubtedly surprising and not under Applicant's control, Applicant failed to provide sufficient evidence about his finances at that time to properly evaluate. It is noteworthy that Applicant's financial situation around that time permitted him to purchase three cars between 2019 and 2024, each with a loan amount above \$45,000. He was also able to secure a \$20,000 credit limit on a new credit card in 2022, and by October 2024, he had made purchases exceeding the limit. In short, there is no indication that Applicant acted responsibly as to the debts in SOR ¶¶ 1.a, 1.b, and 1.f. He most recently stated he intends to get legal advice on what he should do about these debts because all had been charged off and no longer appear in his credit bureau reports. There is insufficient evidence to establish that Applicant has taken meaningful steps to sufficiently address these debts. His evidence is insufficient to mitigate financial considerations security concerns for the debts alleged in SOR ¶¶ 1.a, 1.b, and 1.f.

AG ¶ 20(e) is established for the debt alleged in SOR ¶ 1.d. Applicant disputed this debt after he spoke with the creditor and understood that the debt was incurred during the period he was forward deployed to the Middle East with his Army unit. AG ¶ 20(e) is established and SOR ¶ 1.d is decided for Applicant.

There is insufficient evidence to determine that Applicant's financial problems will be resolved within a reasonable time. I am unable to find 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 judgment. I find that financial considerations security concerns remain a concern here.

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 this case is decided on the written record, I had no opportunity to question Applicant about any of the security concerns in the case, nor did I have an opportunity to observe his demeanor and thereby assess his credibility.

Therefore, after weighing the disqualifying and mitigating conditions under Guideline F and evaluating all evidence in the whole-person context, I conclude Applicant failed to mitigate the security concerns raised in this case.

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**

Subparagraphs 1.a, 1.b, 1.f: Against Applicant

Subparagraphs 1.c, 1.d, 1.e: For Applicant

Conclusion

It is not clearly consistent with the national interest to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Gatha LaFaye
Administrative Judge