



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



## **Appearances**

For Government:  
Tara Karoian, Esquire, Department Counsel

For Applicant:  
Grant Couch, Esquire, Applicant's Counsel

03/17/2025

## Decision

CEFOLA, Richard A., Administrative Judge:

## **Statement of the Case**

On September 17, 2024, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guideline F (Financial Considerations). The SOR further informed Applicant that, based on information available to the government, DoD adjudicators could not make the preliminary affirmative finding it is clearly consistent with the national interest to grant or continue Applicant's security clearance.

Applicant answered the SOR on October 16, 2024, and requested a hearing before an administrative judge. (Answer.) The case was assigned to me on December 18, 2024. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on

January 13, 2025, scheduling the hearing for February 27, 2025. The hearing was convened as scheduled. The Government offered Exhibits (GXs) 1 through 4, which were admitted into evidence. Applicant testified on his own behalf and offered documents, which I marked Applicant's Exhibits (AppXs) A through L, which were admitted into evidence. The record was left open until March 26, 2025, for receipt of additional documentation. Applicant offered documents, which I marked AppXs M through R, which were admitted into evidence. DOHA received the transcript of the hearing (TR) on March 10, 2025.

### **Findings of Fact**

Applicant admitted to the allegations in SOR ¶¶ 1.a, through 1.e, and 1.h. He denied SOR allegations ¶¶ 1.f. and 1.g. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 52-year-old employee of a defense contractor. He is married and has two adult children. Applicant has a bachelor's degree in project management. He served in the U.S. Navy "22 years, 11 months," and retired as a Chief Petty Officer. Applicant attributes his past financial difficulties due to a "bout" with cancer in 2022–2023. (TR at page 4 lines 7~16, at page 11 line 19 to page 15 line 2, at page 20 lines 12~19, at page 21 line 23 to page 24 line 9, at page 42 line 15 to page 43 line 4, and AppX C.)

### **Guideline F - Financial Considerations**

1.a. Applicant initially admitted this alleged past-due debt in the amount of about \$25,222 to Creditor A, thinking it was for a repossessed motorcycle (which is in fact alleged as allegation 1.h, and will be discussed below). He is using the services of a fiscal intermediary to dispute this alleged debt as evidenced by documentation. (TR at page 15 line 14 to page 16 line 21, at page 34 line 16 to page 37 line 24, and AppX R.)

1.b. Applicant admits a past-due debt to Creditor B in the amount of about \$5,128. He is making monthly payments of \$213 towards this debt as evidenced by documentation. (TR at page 16 line 22 to Page 17 line 21, at page 38 lines 6~16, and AppX O.)

1.c. Applicant admits a past-due debt to Creditor C in the amount of about \$3,847. He has set up a payment plan by which Applicant will be making monthly payments of \$320 towards this admitted debt, as evidenced by documentation. (TR at page 17 line 22 to Page 18 line 15, at page 38 lines 17~22, and AppX N.)

1.d. Applicant initially admitted this alleged past-due debt in the amount of about \$1,292 to Creditor D. He is now using the services of a fiscal intermediary to dispute this alleged debt as evidenced by documentation. (TR at page 18 line 16 to page 19 line 4, at page 31 line 21 to page 34 line 15, and AppX R.)

1.e. Applicant admits a past-due debt to Creditor E in the amount of about \$729. This debt “was settled in full,” as evidenced by documentation. (TR at page 19 lines 5~16, and AppX Q.)

1.f. Applicant denies a past-due debt to Creditor F in the amount of about \$700. This debt has “a balance of \$0.00,” as evidenced by documentation. (TR at page 19 lines 17~24, and AppX P.)

1.g. Applicant denies a past-due debt to Creditor G in the amount of about \$361. This debt has been “PAID,” as evidenced by documentation. (TR at page 19 line 25 to page 20 line 7, and AppX M.)

1.h. Applicant admits a past-due debt to Creditor H in the amount of about \$12,026, as the result of a voluntary repossession of his motorcycle, which was purchased for \$51,057 before his cancer diagnosis. This debt has been discharged by the creditor, and an IRS Form 1099-C was sent to Applicant’s former address. He is awaiting receipt of a replacement Form 1099-C, and thereby will report it as income on an amended IRS income tax return. (TR at page 20 line 8 to page 21 line 22, at page 29 line 3 to page 31 line 21, at page 42 line 15 to page 43 line 11, and AppX B.)

## Policies

When evaluating an applicant’s national security eligibility, the administrative judge must consider the adjudicative guidelines (AG). 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 national security eligibility.

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 AG ¶ 2 describing 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 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.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who applies for access to classified information seeks to enter 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 protect or 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.

Section 7 of Executive Order (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 security concern relating to the guideline 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. 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 guideline notes several conditions that could raise security concerns under AG ¶ 19. Two is potentially applicable in this case:

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

Applicant had significant, admitted past-due indebtedness totaling about \$24,000. The evidence is sufficient to raise these disqualifying conditions.

AG ¶ 20 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 20 including:

- (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.

Applicant's financial problems can be directly attributed to his recent cancer. He has addressed all his admitted past-due indebtedness; and as such, is "on the road" to financial recovery. Applicant has demonstrated that future financial problems are unlikely. Mitigation under AG ¶ 20 has been established.

### **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 considered the potentially disqualifying and mitigating conditions in light of all facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were

addressed under those guidelines, but some warrant additional comment. Applicant served honorably in the U.S. Navy for more than 22 years (AppX F), and is well respected at his present civilian position (AppX L).

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the Financial Considerations security concerns.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of the Directive, are:

Paragraph 1, Guideline F: FOR APPLICANT

Subparagraphs 1.a~1.h: For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant national security eligibility for a security clearance. Eligibility for access to classified information is granted.

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Richard A. Cefola  
Administrative Judge