



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



## **Appearances**

For Government: Nicholas Temple, Esq., Department Counsel,  
For Applicant: *Pro se*

08/12/2025

## Decision

GARCIA, Candace Le'i, Administrative Judge:

Applicant did not mitigate all of the financial considerations security concerns. Eligibility for access to classified information is denied.

## **Statement of the Case**

On April 12, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). The action was taken 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) implemented by DOD on June 8, 2017.

Applicant submitted a response to the SOR on April 30, 2024 (Answer) and requested a hearing before an administrative judge. The case was assigned to me on January 13, 2025. The Defense Office of Hearings and Appeals (DOHA) issued a notice on January 22, 2025, scheduling the matter for a hearing on February 4, 2025. I convened the hearing as scheduled.

I admitted in evidence without objection Government Exhibits (GE) 1 through 5 and Applicant Exhibits (AE) A through F. Applicant testified and called one witness, his

spouse. I granted Department Counsel's motion at the hearing to amend the SOR to conform to the evidence, pursuant to ¶ E3.1.17 of the Directive, by adding an allegation under Guideline F, numbered as SOR ¶ 1.f, as follows: "You are indebted to the federal government in the approximate amount of \$10,000 for unpaid taxes. As of February 4, 2025, the taxes remain unpaid." In turn, I granted Applicant's request for additional time to prepare his response to SOR ¶ 1.f. At Applicant's request, I also kept the record open until February 18, 2025, to allow him the opportunity to submit additional documentation.

DOHA issued another notice on February 5, 2025, scheduling the matter for a second hearing on February 24, 2025. I convened the second hearing as scheduled. I admitted in evidence without objection AE G. I also kept the record open until March 10, 2025, to allow Applicant the opportunity to submit additional documentation. He did not do so and the record closed on that date. DOHA received the transcript of the first hearing on February 19, 2025 (Tr. 1), and of the second hearing on March 7, 2025 (Tr. 2).

### **Findings of Fact**

Applicant denied the allegations numbered as SOR ¶¶ 1.a - 1.e in his Answer, and he denied SOR ¶ 1.f at both hearings.

Applicant is 54 years old. He was born in Ghana and immigrated to the United States in 1999. He became a naturalized U.S. citizen in 2013. He is married and he has two children, ages 15 and 12. (Tr. 1 at 10, 94, 120, 122-130; GE 1)

Applicant obtained a bachelor's degree in 1998 from a university in Nigeria. From around 2000 to 2013, he took courses in a master's program at a university in the United States but he did not earn a master's degree. He has also earned various certifications. He has primarily worked for various DOD contractors since approximately 2011. He held only part-time employment from October 2015 to October 2017 and from September 2019 to November 2019. He was also unemployed from December 2018 to August 2019, December 2019 to November 2021, and October 2022 to February 2024. Since February 2024, he has worked part time as a driver for a food-delivery service company. In 2024, he applied for employment with a DOD contracting company that was sponsoring him for a security clearance, and the company's offer of employment was contingent on him obtaining a clearance. He was first granted a clearance in approximately 2018. (Tr. 1 at 5-8, 10-11, 29-43, 48-50, 67-68, 78-80, 82-83, 85-86, 93-99; GE 1-2)

The SOR alleges Applicant has five delinquent consumer debts totaling approximately \$28,507 and he owed \$10,000 in federal income taxes. His delinquent debts are established by his admissions during his August 2022 background interview and April 2024 response to interrogatories, and by credit bureau reports (CBRs) from November 2021 and November 2023. (GE 2-4) His outstanding taxes are established by his admissions during both hearings and by an excerpt of an Internal Revenue Service (IRS) tax account transcript. His July 2024 CBR reflects a freeze had been placed on his credit report and no delinquent debts are reported on his February 2025 CBR. (GE 5; AE A)

Applicant and his spouse attribute Applicant's financial issues primarily to his periods of underemployment and unemployment, as previously discussed. Although he received approximately \$10,000 in unemployment benefits over five to six months in early 2021, he was otherwise primarily supported by his spouse during these periods. He used credit cards to pay for living expenses. Since 2023, his spouse was unemployed and receiving disability benefits due to her recent involvement in an on-the-job accident. (Tr. 1 at 19, 33-43, 47-50, 55-56, 58, 60-61, 63-68, 72-74, 78-82, 93, 97-121; GE 2)

Applicant resolved the debt in SOR ¶ 1.e, a charged-off credit card for \$1,221, in August 2022. He testified he settled the debt for \$300. The November 2023 CBR reflects this debt carries a zero balance and notes it was "settled for less than full balance." (Tr. 1 at 19, 45-46, 59, 62, 74-76, 115; GE 2, 4; AE G)

SOR ¶¶ 1.a and 1.c are credit cards with the same creditor, placed for collection with the same collection agency, in the approximate amounts of \$9,836 and \$6,138, respectively. Applicant indicated during his background interview that he contacted the collection agency to make payment arrangements, but it wanted more than he was able to pay. He stated in his Answer that he again attempted to contact the collection agency but various entities were purporting to own these debts so he did not make any payments because he was unsure if these were fraudulent companies. He did not understand at the time that his debts could be sold to different companies for collection attempts. (Tr. 1 at 43-64, 100-101, 113; GE 2-4; AE G)

Applicant provided documentation reflecting he entered a payment arrangement with a law firm in April 2024 to resolve SOR ¶ 1.c through an initial payment of \$100 due that month, followed by 46 monthly payments of \$210. He did not provide documentation to show he made any payments in accordance with that arrangement. He stated he did not make payments toward these debts because he did not have the financial means to do so, but he intends to pay them. These debts remain unresolved. (Tr. 1 at 43-64, 100-101, 113; GE 2-4; AE G)

SOR ¶¶ 1.b and 1.d is an overdraft account and a credit card with the same creditor, placed for collection with the same collection agency, in the approximate amounts of \$6,764 and \$4,548, respectively. Applicant indicated during his background interview that he did not contact the creditor for these debts because he believed they had both fallen off his CBRs. He testified that an attorney contacted him on behalf of the creditor. In August 2022, he entered an agreement to settle both debts for \$9,099, through an initial, one-time payment of \$100 that same month, followed by monthly payments of \$165. He stated in his Answer he was resolving both debts through a monthly payment plan of \$100, and he testified he made payments totaling approximately \$700 to \$800 but stopped doing so when he became unemployed. He intends to resume payments once he has the financial means to do so. He did not provide documentation to corroborate his claims of payment toward these debts and they remain unresolved. (Tr. 1 at 19, 45-46, 53-54, 61-62, 65-74, 100-101, 115; GE 2-4; AE G)

Applicant acknowledged he owed between \$8,000 and \$10,000 in federal income taxes, which he believed he incurred during his period of employment from approximately 2015 to 2016 because his employer did not deduct taxes from his pay. He stated he made

around two to three payments of \$350 toward his outstanding taxes and he asked the IRS for a deferment due to his unemployment and underemployment. He understood his legal obligation to timely file and pay his income tax returns and taxes. He provided an incomplete IRS tax account transcript reflecting he made two payments of \$250 in September 2018 and October 2018, but he did not provide any further documentation. A January 2020 entry on the transcript reflects, “Balance due account currently not collectible - due to hardship.” The transcript also reflects that interest and penalties for late payment of his taxes have continued to accrue, with such charges being assessed in 2020, 2021, and 2022. (Tr. 1 at 83-110; Tr. 2 at 5-9; AE G)

As of the date of the hearing, Applicant earned approximately \$1,500 to 2,000 monthly as a driver for a food-delivery service company and his spouse received approximately \$4,800 monthly in disability pay. During his background interview, he indicated he earned approximately \$140,000 annually and his spouse earned \$105,000 annually. He has never received financial counseling, but his bank offered him such counseling in approximately 2024. He stated he keeps a budget and he described his financial situation as “bad.” (Tr. 1 at 81) Various family members have entrusted him with their money. He received a certificate of appreciation in recognition of his outstanding leadership and commitment to his church. (Tr. 1 at 26-27, 62-63, 76-110, 115-119, 121-130; Tr. 2 at 7-8; GE 2; AE B, C, D, E)

## Policies

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(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.”

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 Exec. Or. 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 Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## Analysis

### **Guideline F: Financial Considerations**

The security 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 security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

Applicant has a history of not being able to pay his debts. He has also failed to pay approximately \$10,000 in federal income taxes. AG ¶¶ 19(a), 19(c), and 19(f) are established.

Conditions that could mitigate the financial considerations security 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;
- (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; and
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Conditions beyond Applicant's control contributed to his debts. The first prong of AG ¶ 20(b) applies. For the full application of AG ¶ 20(b), he must provide evidence that he acted responsibly under his circumstances. He paid SOR ¶ 1.e in 2022 before the issuance of the SOR and I find that allegation in his favor under AG ¶ 20(b).

Applicant has not made any payments toward the debts in SOR ¶¶ 1.a and 1.c and he has not provided any documentation to support his claims that fraudulent companies were purporting to own these debts. He also did not provide documentation to corroborate his claims of payment toward the debts in SOR ¶¶ 1.b and 1.d. Although his outstanding taxes are reflected as not collectible as of January 2020, his last two payments toward them occurred in 2018, they remain unpaid, and interest and penalties have continued to accrue on them. He has not received financial counseling and he acknowledged that his financial situation is bad. He needs more time to establish he has his finances under control. I find that these financial issues continue to cast doubt on his reliability, trustworthiness, and judgment. AG ¶¶ 20(a), 20(b), 20(c), 20(d), 20(e), and 20(g) do not apply except as noted above.

### **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 the facts and circumstances surrounding this case. 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 eligibility and suitability for a security clearance. I conclude Applicant did not mitigate all of the financial considerations security concerns.

### **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.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	Against Applicant

### **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's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Candace Le'i Garcia  
Administrative Judge