



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



Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel
For Applicant: *Pro se*

04/21/2025

Decision

MURPHY, Braden M., Administrative Judge:

Applicant did not provide sufficient evidence to mitigate financial considerations security concerns over his delinquent debts. Applicant's eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on November 12, 2022, in connection with his employment in the defense industry. On February 27, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, Financial Considerations. The DCSA CAS issued the SOR under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (AG) effective within the DOD on June 8, 2017.

Applicant answered the SOR on April 1, 2024, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The case was assigned to me on December 10, 2024. On February 5, 2025, following consultation with the parties, DOHA issued a notice scheduling the hearing for March 5, 2025. The hearing was to take place virtually through an online platform.

The hearing convened as scheduled. Department Counsel submitted Government's Exhibits (GE) 1 through 6. Applicant's Answer to the SOR, with several attachments, was marked as Applicant's Exhibit (AE) A. Applicant also testified. All of the exhibits were admitted without objection. I left the record open until March 14, 2025, to allow Applicant the opportunity to submit additional information. He did not submit any more documents by that date, and the record closed. DOHA received the hearing transcript (Tr.) on March 17, 2025.

Findings of Fact

Applicant admitted the debts at SOR ¶¶ 1.a -1.g, 1.k, and 1.l. He denied the debts at SOR ¶¶ 1.h, 1.i, and 1.j. with explanations and two narrative statements. His admissions are incorporated into the findings of fact. Additional findings follow.

Applicant is 41 years old. He completed his general equivalency degree (GED) in 2006. He has never married but has a 14-year-old son. He has been employed by a defense contractor as a security officer since June 2022. Most of his jobs since 2013 have been in the security field. From mid-2019 to late 2020, he worked for a charity organization. He spent several months in 2021 working at a distribution center of a large retailer. His most recent period of unemployment was in 2013, but there have been subsequent periods of sporadic, part-time work. He also said he did not work in January and February 2021 because he was ill. He held an interim clearance before the SOR was issued. (GE 1, GE 2; Tr. 10, 14, 24-31, 36, 60-64)

Applicant did not disclose any delinquent debts on his SCA but disclosed them and discussed them at length during his subsequent background interviews. His interview summaries include handwritten notes from Applicant detailing his efforts to settle and resolve his various debts. In May 2023, he responded to an interrogatory about his finances from DOD but provided little new information to update his financial status. (GE 1, GE 2, GE 3)

The 12 SOR debts total about \$26,267. They are established by credit reports in the record, from December 2022, August 2023, and April 2024. (GE 4, GE 5, GE 6)

Applicant asserted in his interviews and his testimony that his debts were due to circumstances beyond his control, such as employment instability and a lack of sufficient income. He has attempted to reach out to his creditors, and believes one of them has been paid. He was unclear on when he fell behind on the debts in the SOR. He likes his

job and wants to gain eligibility for a clearance. (GE 2; Tr. 24-35) The current status of the debts is as follows:

SOR ¶ 1.a (\$6,942) is an auto account that has been charged off. (GE 4, GE 5) The balance owed is now \$7,393. (GE 6) Applicant explained in his interview and testimony that the car had mechanical trouble. He reported the problem to the dealer and had them repossess the car. He discussed a settlement of \$3,000 with the creditor but it was not finalized. (GE 2; Tr. 37-40) The debt is unresolved.

SOR ¶ 1.b (\$6,011) is an auto financing account placed for collection by a credit union. (GE 4, GE 5, GE 6) Applicant was making payments on the account until he lost his job in about 2018. Once he stopped paying, the creditor demanded a \$1,000 payment to restart payments, which he could not afford, so they repossessed the vehicle. He has had no contact with the creditor since then. (GE 2; Tr. 40-43) The debt is unresolved.

SOR ¶ 1.c (\$1,715) is an account for past-due rent placed for collection by an apartment complex. (GE 4, GE 5, GE 6) Applicant said he was told the complex had referred the debt to a collection agency, whom he then contacted, with no response. (AE A) He was working part time and was out of work when he got sick, so he could not afford the rent increase. He turned the key over in early June 2022 and still owed that month's rent even though he had moved out in May. He also believes the creditor added extra fees and charges. He has not contacted them to resolve the debt. (Tr. 43-45)

SOR ¶ 1.d (\$788) is an auto account placed for collection by a lender. (GE 4, GE 5, GE 6) Applicant provided correspondence he wrote to the creditor concerning his effort to settle the debt. (AE A) Applicant said he had a car loan he was paying on, when the car was wrecked. He thought he had sufficient "gap insurance" to cover any costs, but this debt was not covered, so he is responsible for it. In May 2023, he offered to pay \$40 a month for 10 months, but did not begin the payments because he never got confirmation of the agreement. (Tr. 45-47) The debt is unresolved.

SOR ¶¶ 1.e (\$617) and 1.f (\$467) are accounts placed for collection by the same lender. (GE 5, GE 6) Applicant said he told the creditor that his bank records showed the debts had been paid. (AE A) He provided no supporting documentation to verify this. He believes one of the two debts have been paid. (Tr. 48-51) These debts are not established as resolved.

SOR ¶ 1.g (\$382) is an account placed for collection by a cable TV provider. (GE 4, GE 5) Applicant provided correspondence he wrote to the creditor concerning his effort to settle the debt. (AE A) This was for the cable box from the apartment at SOR ¶ 1.c. He was not aware he had to return it so he left it there. When he went back to collect it, it was gone. He has not attempted to resolve the debt but said he could do so. (Tr. 51) The debt is unresolved.

The remaining SOR debts are medical debts. Applicant has suffered from a chronic medical condition since early adulthood. More recently, he also suffered an athletic injury

while volunteering with children. He also acknowledged that he often has poor eating habits, which make his condition worse. (Tr. 52-54)

SOR ¶¶ 1.h (\$7,905) and 1.j (\$407) are medical debts placed for collection. The creditors are unidentified. (GE 4) Applicant indicated that he reached out to the creditor hospital to resolve them. The athletic injury occurred in 2010, about 15 years ago. His coverage was denied. He has not heard anything from this creditor on these debts for some time. They are not listed on more recent credit reports. (Tr. 56-58)

SOR ¶ 1.i (\$470) is a medical account placed for collection. (GE 4) Applicant asserted that he spoke to the collection agency and said he had made the full payment. (AE A) He did not provide supporting documentation, but he said he paid it off in \$50 monthly installments, ending in late 2023. (Tr. 54-56) This debt does not appear on more recent credit reports and is likely resolved.

SOR ¶ 1.k (\$316) is a medical account placed for collection. (GE 4) Applicant provided correspondence he wrote to the creditor concerning his effort to settle the debt. (AE A) He did not provide supporting documentation and did not hear back from them. (Tr. 58-59) This debt does not appear on more recent credit reports

SOR ¶ 1.l (\$247) is a medical account placed for collection. (GE 4) Applicant said he spoke to the collection agency and proposed a payment plan, to begin in January 2024. (AE A; Tr. 34-35) He said he was remiss in failing to follow up on the payments. (Tr. 58-60)

Applicant is an hourly full-time employee, earning \$26 an hour, often with 8 hours of overtime. He earns about \$2,800 a month, which is enough to make ends meet. He has not had formal credit counseling but he gets financial advice on bill-paying and budgeting from a family member. (Tr. 30-31, 60-66)

Applicant closed his testimony by expressing a willingness to address his debts, smallest ones first, as best he can. He understood why he was there, and he wants to get his clearance and keep his job. (Tr. 66-67, 72)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.” *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

The adjudicative 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 several 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 access to classified information 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining 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 that an applicant may deliberately or inadvertently fail to 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.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline for financial considerations is set out, in relevant part, 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. . . .

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual 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 applicable in this case:

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

Applicant incurred delinquent debts in recent years, including repossession, medical debts, past-due rent, and other accounts. His debts are attributable to sporadic employment and a limited income stream, which led him to fall behind on his accounts. The SOR debts are established by the Applicant's credit reports, his admissions, and his testimony. AG ¶¶ 19(a) and 19(c) apply.

The following mitigating conditions under AG ¶ 20 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, or 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 debts are ongoing and unresolved. They continue to cast doubt on his judgment, trustworthiness, and reliability. AG ¶ 20(a) does not apply.

Applicant's debts are attributable to a variety of circumstances, among them limited income, employment instability, medical issues, and generally becoming financially overextended. His employment instability and medical issues are circumstances beyond his control. AG ¶ 20(b) therefore has some application. However, for full application, he must establish that he is acting responsibly under the circumstances. Applicant has made

some efforts to pursue his creditors and address his debts, but he provided no real concrete examples that he has taken any action to pay, settle, or resolve them. Without more such evidence, AG ¶ 20(b) does not fully apply.

By the same token, Applicant has not shown enough of a documented track record of steady payments to his creditors to establish good-faith, responsible efforts. He expressed a sincere desire to address his debts, one by one, in the future. This is a good plan. But he needs to do more to put it into effect to establish good faith. AG ¶ 20(d) does not apply.

Applicant has not pursued formal credit counseling. He has received some financial advice on how to do a budget from a family member, and he has been able to make ends meet, but he has not shown that his finances and debts are being resolved and are under control. AG ¶ 20(c) does not fully apply.

Applicant did not establish that any of the mitigating conditions fully apply to mitigate the security concern demonstrated by his delinquencies.

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 the 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(a), 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 condition under all the facts and circumstances surrounding this case. Applicant's debts remain largely unresolved, and he has not yet undertaken a good-faith effort to address them. If he does that in the future, he may demonstrate eligibility for access to classified information at a later date. But as of now, he has not met his burden of showing that he has mitigated the financial security concerns shown by his history of delinquent debts. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a

security clearance. I conclude he did not provide sufficient evidence to mitigate the security concerns arising under Guideline F, 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

Subparagraphs 1.a-1.h:	Against Applicant
Subparagraph 1.i:	For Applicant
Subparagraphs 1.j-1.l:	Against Applicant

Conclusion

Considering all the circumstances presented, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Braden M. Murphy
Administrative Judge