



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



Appearances

For Government: Troy Nussbaum, Esq., Department Counsel
For Applicant: *Pro se*

09/15/2025

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 October 13, 2023. On November 18, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) alleging security concerns under Guideline F. Applicant answered the SOR on about November 26, 2024 (Answer) and elected to have his case decided on the written record in lieu of a hearing. The case was assigned to me on August 1, 2025.

The Government's written case was submitted on April 1, 2025. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was given an opportunity to file objections and to submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on April 15, 2025, and did not respond, nor did he make any documentary submissions. Government Exhibits (GE) 1 and GE 2 consist of the SOR and Applicant's Answer. GE 3 through GE 8 are admitted in evidence without objection.

Findings of Fact

In his Answer, Applicant admitted all SOR allegations (SOR ¶¶ 1.a through 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 40 years old. He attended high school from August 1999 through April 2003, passed the state's high school proficiency examination, and presumably received his General Education Development (GED) certificate. He enrolled in college in August 2007, and earned a bachelor's degree in December 2009. He married in April 2010, divorced in December 2017, and married a second time in July 2021. He has a 10-year-old stepson with his wife, who is a Brazilian citizen and a permanent resident of the United States. (GE 3) Applicant said he and his wife do not reside in the same household, nor do they share finances as a married couple. (GE 7 at 9)

Applicant has worked as a financial analyst for a defense contractor since September 2023. He previously worked as a senior accountant for a private company from December 2021 to September 2023, and as a staff accountant for another company from January to September 2020. He worked as a senior accountant for his current employer from September 2020 through December 2021, before returning to the company to work in his current position. He was laid off in January 2020, after working as a senior accountant for the company for about seven years. (GE 3)

Applicant completed his SCA in October 2023, and in Section 26 – Financial Record, he listed two credit card debts as being delinquent since 2017, and each debt totaled about \$15,000. He said he successfully settled one debt for about \$14,000, but that he took "no action" on the second debt due to "loss of income," and the debt was charged off by the creditor. (GE 3 at 52-53)

The evidence related to the financial considerations security concerns alleged in this SOR is summarized below:

The debts alleged in SOR ¶¶ 1.a (\$11,374), 1.b (\$6,026), and 1.c (\$3,144), are all individual credit card debts that were assigned for collection in about March 2020. None of the debts have been charged off. Applicant explained that in 2016, he separated from his first wife, their financial obligations required both of their incomes, and he was unable to pay all debts but said he paid their debts as best he could. Applicant said he also sought to settle all three of the alleged debts, which are held by the same creditor and managed by the same debt collection company. He said he had a fourth debt with a different creditor that he was able to settle in 2019 after the creditor sued. Regarding the debts alleged in SOR ¶¶ 1.a through 1.c, he stated:

I have attempted to settle the indebted amounts with [the collection company] after the lawsuit with [the creditor's] indebted amounts in [SOR ¶¶ 1.a, 1.b, and 1.c] but was unable to come to a fair settlement like the settlement I made [with a different creditor] in 2019. (GE 4, 5, 7; Answer)

In SOR ¶ 1.d, Applicant admitted he filed for Chapter 7 bankruptcy in April 2011, and that the court discharged his debts in August 2011. He explained that he was involved in a minor car accident in 2010, and he was fully covered by car insurance up to \$25,000 for bodily injuries. His insurance company was unable to settle the case, which left him financially exposed to costs beyond the value of the insurance policy. Additionally, he said that his student loan payments started in about 2010 after he finished college, he was working in a low-paying job at the time, and that filing for bankruptcy allowed him to repay his student loan obligations as he sought better employment opportunities in his field as an accountant. (GE 8; Answer)

Applicant provided a personal financial statement dated August 20, 2024, which was included with his response to interrogatories. (GE 7 at 9) Applicant's monthly gross income was \$8,333, or about \$100,000 annually. His monthly expenses totaled about \$1,475, and his monthly debts totaled about \$1,672, which left discretionary funds of about \$2,500 per month after expenses and taxes. He also reported a car valued at about \$5,600 as his sole asset. He denied owning real estate, having a bank savings account, stocks/bonds, or other miscellaneous assets. (GE 8) In his response to interrogatories, however, he explained that he "withdrew from [his] 401(k) and did not make sure to withhold enough money for taxes," while explaining his underpayment of income taxes in tax year 2020. (GE 7 at 8, GE 3 at 51) It is unclear whether he has funds remaining in the 401(k) retirement plan he references here.

Applicant vacationed to several international destinations from 2019 to 2023. In 2019, he vacationed in Japan for about six weeks from March to May, and towards the end of the year, he vacationed in Mexico for about a week in November. In November 2022, he vacationed in Spain and Germany for two weeks, and in April 2023, he returned to Europe, vacationing in Greece and Germany for about two weeks. (GE 3)

Applicant's most recent credit bureau reports show he has about eight active credit card accounts with balances, which he "pays as agreed" and is current on all accounts. (GE 4, 5) It is noteworthy that a few of Applicant's higher-balance credit cards exceed the credit limit. For example, Applicant opened a credit card account in December 2021 (CC1) with a credit limit of \$11,900. The balance of CC1 in June 2024 was \$12,184, with a listed payment of \$406 monthly. (GE 5) Another credit card account (CC2) has a credit limit of \$15,000. The balance on CC2 in September 2024 was \$15,232, with a listed payment of \$357 monthly. The balances for the remaining six credit card accounts were either at or just below the credit limit in September 2024. (GE 4)

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 the FORM establish the above disqualifying conditions. 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; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

AG ¶¶ 20(a), 20(c), and 20(d) are not established for SOR ¶¶ 1.a through 1.c. Applicant's delinquent debts are recent, ongoing, and remain unresolved. He has not presented evidence of recent financial counseling, contacts with creditors, payments, payment plans, or any other evidence of recent efforts he has made to resolve these

debts after his failed attempts to settle them in about 2019. He has also failed to establish that he initiated and is adhering to a good-faith effort to repay these debts. Applicant has about \$2,500 of discretionary funds remaining each month, which establishes that he is financially able to pay the delinquent debts alleged in SOR ¶¶ 1.a through 1.c.

AG ¶¶ 20(a) and 20(c) are established for SOR ¶ 1.d. Applicant sufficiently explained the circumstances surrounding his Chapter 7 bankruptcy filing. The matter is mitigated by time and the challenging financial circumstances created after his car accident, his insurance company's inability to settle the lawsuit within the limits of the policy, and his minimal earnings during that period as he sought post-graduation employment in his field as an accountant.

AG ¶ 20(b) is not established to mitigate SOR ¶¶ 1.a through 1.c. Applicant could have experienced financial challenges in his efforts to pay the alleged debts for a short time after he and his wife separated, and he is credited with attempting to settle the debts with the creditor in the early stages of the process. However, Applicant's evidence is insufficient to establish that his financial problems were beyond his control after he was unable to settle the three alleged debts with the creditor, or that he acted responsibly under the circumstances. It is noteworthy that Applicant's financial situation in 2019 and beyond permitted him to vacation for six weeks in Japan, a week in Mexico, two weeks in Spain and Germany in 2022, and another two weeks in Greece and Germany in 2023. His evidence is insufficient to mitigate financial considerations security concerns for the debts alleged in SOR ¶¶ 1.a through 1.c.

I am unable to find that Applicant acted responsibly under the circumstances or that he made a good-faith effort to pay his debts in SOR ¶¶ 1.a through 1.c. His financial issues continue to cast doubt on his current reliability, trustworthiness, and judgment. I find that financial considerations security concerns remain unresolved.

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. I would have also inquired about his eight open credit card accounts, two with balances above the credit limit, and six with balances at or near the credit limit. 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.c:	Against Applicant
Subparagraphs 1.d:	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