



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



Appearances

For Government: Aubrey M. De Angelis, Department Counsel
For Applicant: *Pro se*

04/09/2025

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On January 15, 2023, Applicant submitted a security clearance application (e-QIP). On March 14, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a Statement of Reasons (SORs), detailing security concerns under Guideline F, Financial Considerations. Since no response was received from Applicant, a second SOR was issued on July 29, 2024. The action was taken under Executive Order 10865 (EO), *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 *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective within the DoD after June 8, 2017.

Applicant testified that he answered the SOR dated March 14, 2024, but for some unknown reason, the response was never received. (Tr. pp. 7-9.) Applicant answered the second SOR on August 31, 2024, and requested a hearing before an administrative judge. The case was assigned to me on January 28, 2025. The Defense Office of Hearings and Appeals issued a notice of hearing on February 19, 2025, and

the hearing was convened as scheduled on March 11, 2025. The Government offered six exhibits, referred to as Government Exhibits 1 through 6, which were admitted without objection. The Applicant offered four exhibits, referred to as Applicant's Exhibits A through D, which were admitted without objection. Applicant testified on his own behalf. DOHA received the transcript of the hearing (Tr.) on March 21, 2025.

Findings of Fact

Applicant is 40 years old. He is not married, has no children, and resides with his mother. He has a high school diploma and one year of college. He holds the position of Aircraft Structures Mechanic with a defense contractor. He is seeking to obtain a security clearance in connection with his employment.

Guideline F - Financial Considerations

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness and ability to protect classified information.

The SOR identified thirteen delinquent debts, consisting of medical debt and Federal taxes, totaling approximately \$18,377.15. In his answer to the SOR, Applicant denied allegations 1.a., 1.b., 1.c., 1.d., 1.e., 1.f., and 1.g., set forth under this guideline. However, he testified that although he denied most of the debts listed in the SOR, he only denied them because they are no longer listed on his credit report. He stated that he should have admitted them because they were his delinquent debts. (Tr. p. 32.) Credit reports of the Applicant dated February 1, 2023; November 8, 2023, and January 6, 2025, confirms the indebtedness listed in the SOR. (Government Exhibit 4, 5, and 6.)

Applicant began working for his current employer in March 2018. His current salary is approximately \$77,000, plus quarterly bonuses, with periodic overtime. He enjoys his job, but he wants to advance to a different program which requires a security clearance. A foot injury caused him to be on leave from November 2023 to April 22, 2024. During this period, he received medical and disability benefits. Prior to his current employment, Applicant worked several part-time jobs, had no medical benefits, and could not afford to pay his bills.

Applicant admitted that he has been financially irresponsible for a long time. He testified that when he started working for his current employer, he spoke to several employees who advised him to go "exempt" on his tax withholdings in order to receive more money in his paycheck. (Tr. p. 49.) Applicant knew that this would cause him to owe taxes at the end of the year, but he did not care. (Tr. p. 50.) Applicant's parents told him time and time again to make payments to the IRS to pay your taxes, but he

ignored their advice. (Tr. p. 51.) For tax years 2017 through 2023, when Applicant filed his annual income tax returns, he knew that he would owe money in taxes because of his exemptions. To make things worse, in February of every year, he was required to renew his “exempt” status, which he did every year until February 2025. At that time, he changed it from “exempt” for about a two-week period, and then changed it back to “exempt” that same month, when he learned that he was receiving two bonuses, in order to receive more money in his paycheck. (Tr. p. 54.)

Applicant stated that he has received numerous letters from the Internal Revenue Service (IRS) but he has not opened them. He knew that they would contain bad news and so he ignored them. He knows that he has been careless and irresponsible. About a year ago, he sent the IRS an Offer in Compromise to set up a payment arrangement to settle his delinquent taxes. He waited until the day before the hearing, to call the IRS to check on the status of his request. During his call to the IRS, he arrived at an agreement to make monthly payments of \$264 to start April 15, 2025, for taxes owed in the amount of approximately \$18,377.15, for tax years 2014, 2015, 2018, 2019, 2020, 2021, and 2022. (Tr. pp. 62-65, and Applicant’s Exhibit D.)

To help this payment process along, Applicant explained that in May 2025, he plans to borrow \$8,000 from his 401k. He will pay it back through automatic deductions from his weekly paychecks. He already has two other loans from his 401k that he is currently paying back, but since one of the loans will be paid off in May, he will be allowed to obtain another loan. He will use the money from this loan to help pay his delinquent taxes. He currently has about \$26,000 in his 401k, about \$1,000 in his savings, and about \$1,000 in his checking. (Tr. pp. 67-69.)

Applicant admitted that he has a serious addiction to spending money on expensive sports shoes, jerseys and hats. He is a serious collector, but recently started a little side job where he cleans, restores, and re-glues, high-end designer tennis shoes. Business is not great because people do not want to pay the cost of his services. Applicant testified that he plans to contact his medical provider to obtain counseling and therapy for his addiction. (Tr. p. 60-62.)

Applicant stated that he is disappointed in himself for getting into debt. He apologized to his parents for not listening to them when they encouraged him to pay his taxes. (Tr. pp. 73-74.) His father is returning to El Salvador at the end of the month. Applicant wanted to help his father find a place in the U.S., but he cannot afford to do so. (Tr. pp. 63-64.)

The following delinquent debts are of security concern:

1.a. Applicant is indebted to a creditor for an account that was placed for collection in the approximate amount of approximately \$21,799. This is a medical debt that Applicant incurred when he had to have emergency surgery. Applicant did not

have medical insurance. He did not pay the debt. It has been removed from his credit report. (Tr. p. 31 and Applicant's Exhibit B.)

1.b. Applicant is indebted to a creditor for an account that was placed for collection in the approximate amount of approximately \$2,107. This is a medical debt that Applicant incurred when he had to have emergency surgery. Applicant did not have medical insurance. He did not pay the debt. It has been removed from his credit report. (Tr. p. 31.)

1.c. Applicant is indebted to a creditor for an account that was placed for collection in the approximate amount of \$681. This is a medical debt Applicant incurred. This debt was removed from Applicant's credit report because it was an old debt. Applicant may have initially made a payment of \$40 or \$50 towards the debt. (Tr. p. 31.)

1.d. Applicant is indebted to a creditor for an account that was placed for collection in the approximate amount of \$360. This is a medical debt Applicant incurred. The debt was removed from Applicant's credit report because it was an old debt. Applicant may have initially made a payment of \$40 or \$50 towards the debt. (Tr. p. 31.)

1.e. Applicant is indebted to a creditor for an account that was placed for collection in the approximate amount of \$305. This is a medical debt Applicant incurred. The debt was removed from Applicant's credit report because it was an old debt. Applicant may have initially made a payment of \$40 or \$50 towards the debt. (Tr. p. 31.)

1.f. Applicant is indebted to a creditor for an account that was placed for collection in the approximate amount of \$121. This is a medical debt that Applicant incurred when he had to have emergency surgery. Applicant did not have medical insurance. He did not pay the debt. It has been removed from his credit report. (Tr. p. 31.)

1.g. Applicant is indebted to a creditor for an account that was placed for collection in the approximate amount of \$100. This was a medical debt that Applicant incurred when he had to have emergency surgery. Applicant did not have medical insurance. He did not pay the debt. (Tr. p. 41, and Government Exhibit 3.) The debt has been removed from his credit report. (Tr. p. 31 and Applicant's Exhibit B.)

1.h. Applicant is indebted to the Federal Government for delinquent taxes in the approximate amount of \$26.30 for tax year 2014. Applicant stated that he uses a tax preparer who is a friend of his mother's to prepare his income tax returns. He stated that he was not aware that he owed back taxes for tax year 2014, until he checked the IRS website in 2023, when he completed DOHA interrogatories. In response to his

interrogatories dated October 2023, he stated that he owed back taxes for tax years 2014, 2015, 2018, 2019, 2020, and 2021. (Tr. pp. 46-47)

1.i. Applicant is indebted to the Federal Government for delinquent taxes in the amount of approximately \$1,410.48 for tax year 2015. Applicant stated that he uses a tax preparer who is a friend of his mother's to prepare his income tax returns. He stated that he was not aware that he owed back taxes for tax year 2015, until he checked the IRS website in 2023, when he completed DOHA interrogatories. In response to his interrogatories dated October 2023, he stated that he owed back taxes for tax years 2014, 2015, 2018, 2019, 2020, and 2021. (Tr. pp. 46-47, and Applicant's Exhibit D.)

1.j. Applicant is indebted to the Federal Government for delinquent taxes in the amount of approximately \$1,016.04 for tax year 2018. In 2017, Applicant deliberately filed exempt to avoid paying taxes. He currently owes a total of \$18,377.15 in Federal back taxes to the IRS. He recently made arrangements with the IRS to start paying off the debt in April 2025. (Applicant's Exhibit D.)

1.k. Applicant is indebted to the Federal Government for delinquent taxes in the amount of approximately \$4,111.36 for tax year 2019. In 2017, Applicant deliberately filed exempt to avoid paying taxes. He currently owes a total of \$18,377.15 in Federal back taxes to the IRS. He recently made arrangements with the IRS to start paying off the debt in April 2025. (Applicant's Exhibit D.)

1.l. Applicant is indebted to the Federal Government for delinquent taxes in the amount of approximately \$3,997.49 for tax years 2020. In 2017, Applicant deliberately filed exempt to avoid paying taxes. He currently owes a total of \$18,377.15 in Federal back taxes to the IRS. He recently made arrangements with the IRS to start paying off the debt in April 2025. (Applicant's Exhibit D.)

1.m. Applicant is indebted to the Federal Government for delinquent taxes in the amount of approximately \$5,297.54 for tax years 2021. In 2017, Applicant deliberately filed exempt to avoid paying taxes. He currently owes a total of \$18,377.15 in Federal back taxes to the IRS. He recently made arrangements with the IRS to start paying off the debt in April 2025. (Applicant's Exhibit D.)

Applicant also recently learned that he owes Federal delinquent taxes in the amount of approximately \$1,407.08 for tax year 2022. He plans to start paying off that debt in April 2025. (Applicant's Exhibit D.)

Policies

When evaluating an applicant's suitability for a security clearance, 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 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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. 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, 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 clearance 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 as to 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 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. 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. Three are potentially applicable in this case:

- (a) inability or unwillingness 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 long history of not addressing his financial obligations, specifically his medical debts and Federal taxes for tax years 2014, 2015, 2018, 2019, 2020, 2021, and 2022. His actions or inactions both demonstrate a history of not addressing his debt and/or an inability to do so. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under the Financial Considerations guideline are potentially applicable under AG ¶ 20:

- (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), and the individual acted responsibly under the circumstances;

(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 has ignored his delinquent debts for many years. The medical debt listed in the SOR is no longer reflected on his credit report as owing because it is old debt, and not because he has paid it off. He stated that he made one or two payments of \$40 or \$50, but for the most part, most of the debts remained owing. In addition, although he has had full-time employment since 2017, he deliberately filed "exempt" to avoid paying taxes, and now owes approximately \$18,377.15, in Federal taxes. The day before the hearing, he contacted the IRS and set up a payment plan that he plans to follow. He has not yet made his first payment towards resolving any of his tax liability. Applicant's history of financial irresponsibility and inaction for so long casts doubt on his current reliability, trustworthiness, or good judgment. Applicant now appears to want to resolve his debt, but he has a lot of work to do to achieve this. At this time, Applicant has not shown sufficient good judgment, reliability, responsibility, or trustworthiness, to be eligible for access to classified information. None of the mitigating conditions are applicable.

There is insufficient evidence in the record to show that Applicant has made a good-faith effort to resolve his debts. Overall, Applicant shows little to no progress towards resolving his debts. He owes a significant amount of money to the Federal Government that he has not started to pay. There is insufficient evidence in the record to show that he has carried his burden of proof to establish mitigation of the Government's security concerns under Guideline F. Accordingly, guideline F is found against the Applicant.

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. In the event that Applicant follows through with his commitment to show financial responsibility, sometime in the future he may be found eligible to properly protect and access classified information, but not at this time.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I conclude Applicant has not mitigated the Financial Considerations security concern.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:

AGAINST APPLICANT

Subparagraphs 1.a., through 1.m.

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 or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson
Administrative Judge