



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



In the matter of:

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ISCR Case No. 24-01168

Applicant for Security Clearance)

Appearances

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

01/15/2025

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On January 4, 2024, Applicant submitted a security clearance application (e-QIP). On August 5, 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 action was taken under Executive Order 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 *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 answered the SOR on a date uncertain, and requested a hearing before an administrative judge. The case was assigned to me on October 4, 2024. The Defense Office of Hearings and Appeals issued a notice of hearing on October 16, 2024, and the hearing was convened as scheduled on November 7, 2024. The

Government offered three exhibits, referred to as Government Exhibits 1 through 3, 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. The record remained open until close of business on November 8, 2024, to allow the Applicant to submit additional supporting documentation. Applicant submitted one Post-Hearing Submission, referred to as Applicant's Post-Hearing Exhibit A, which was admitted without objection. DOHA received the transcript of the hearing (Tr.) on November 25, 2024.

Findings of Fact

Applicant is 30 years old. He and his girlfriend reside together, with their recently born baby boy. Applicant has a high school diploma. He holds the position of Heavy Equipment Mechanic. 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 ten delinquent debts totaling in excess of \$34,267, which includes consumer collections and charge-offs, and a medical account. Applicant admits each of the allegations except the debt set forth in 1.d. of the SOR, which is a medical account that he believes his employer should be responsible to pay. Credit reports of the Applicant dated January 18, 2024; and September 18, 2024, confirm the indebtedness listed in the SOR. (Government Exhibits 2 and 3.)

Applicant applied for a security clearance in January 2024, and began working full time for his current employer, a defense contractor in about February 2024. His salary on this job is about \$60,000 annually. In August 2024, his security clearance was suspended pending the outcome of this hearing. Before this employment, he worked for several years for another company in the maintenance department.

Applicant explained that his financial problems began in 2021, or 2022, when he and he and his then girlfriend moved out of state for new employment opportunities. Once out of state, the job he found did not pay as much as he had previously been earning, and the opportunities were not better. After about six months or so, he returned with hopes of getting his old job back. He was not rehired, as by then his previous employer had filled his position. At that point, Applicant was forced to live on his unemployment benefits of \$900 every two weeks, and he has fallen farther behind on his bills. (Tr. p. 35.)

Applicant stated that to address his debts, he has contacted his creditors via the collection agencies, and has inquired about setting up payment plans to resolve his debts. Two weeks ago, he contacted and hired a credit counseling company, "Credit Sage", to provide additional help in resolving his debts. (Applicant's Exhibit A.)

The following delinquent debts set forth in the SOR are of security concern:

1.a. Applicant is indebted to a credit union in the amount of \$18,678 for an account that was charged off. Applicant acknowledged that he opened this account in September 2019 and last made a payment on the account in May 2022. He stopped making the monthly payments because he moved out of state. Two to three weeks ago, Applicant set up a payment plan to resolve the debt. He will pay \$100 monthly now and when he gets back to full-time employment, he will arrange to increase his monthly payment. (Tr. pp. 33-34.) Applicant has made one payment so far under this agreement. (Applicant's Post-Hearing Exhibit A.) His second payment is scheduled to be due the day after the hearing. (Applicant's Exhibit B.) The debt remains owing.

1.b. Applicant is indebted to a creditor in the amount of \$9,829 for an account that was charged off. This was for tools that Applicant needed for work. The account was opened in May 2018, and no payment has been made since September 2021. (Tr. p. 36.) The creditor wanted \$5,000 down to start a payment plan. Applicant cannot currently afford this plan but plans to address the debt when he gets back to work full time. (Tr. p. 37.) The debt remains owing.

1.c. Applicant is indebted to a creditor for a loan in the amount of \$3,302 for an account that was charged off. The loan was opened in July 2017 and last paid in September 2021. Applicant acknowledged that he took out the loan and that it was his. Applicant's credit counselors have disputed the debt and it was removed from Applicant's credit reports. (Tr. p. 38, and Applicant's Exhibit D.) The debt is no longer owing.

1.d. Applicant is indebted to a creditor in the amount of \$1,416 for a medical account that was placed for collection. Applicant explained that he was hurt on his job and he was taken to the hospital for emergency medical care. He stated that he was told by his supervisor that his employer would cover the medical expenses. Applicant has made no contact with the creditor or the facility where he was treated. There is no documentation in the record to show that Applicant does not owe the debt. (Tr. pp. 39-46.) The debt remains owing.

1.e. Applicant is indebted to a creditor in the amount of \$1,262 for an account that was placed for collection. This was a credit card that Applicant opened. He stated that his credit counselors are currently working on setting up a payment plan for him to follow. (Tr. p. 46-47.) The debt remains owing.

1.f. Applicant is indebted to a creditor in the amount of \$948 for an account that was placed for collection. This account was opened around 2020. Applicant used it to purchase new tires. He stopped making payments in 2022. He has tried and will

continue to try to set up a payment plan with the creditor. (Tr. p. 48.) The debt remains owing.

1.g. Applicant is indebted to a creditor in the amount of \$898 for an account that was placed for collection. This was for car insurance. Applicant contacted the creditor about the bill because he believes that he cancelled the policy. The creditor does not agree that the policy was cancelled. Applicant is trying to find the email to show that the policy was cancelled. If he does not find it, he will pay them what he owes them. (Tr. pp. 48-50.) The debt remains owing.

1.h. Applicant is indebted to a creditor in the amount of \$774 for an account that was placed for collection. Applicant does not recall what this debt was for, but he acknowledges that it is his debt. He has not paid the debt. The debt remains owing. (Tr. p. 53.)

1.i. Applicant is indebted to a creditor in the amount of \$315 for an account that was placed for collection. This is a cash advance application opened in September 2021, and last paid in October 2021. Applicant has not addressed this debt as of yet. He stated that he believes the debt is small and he plans to resolve it with his next check. (Tr. pp. 50-51 and Applicant's Exhibit C.) The debt remains owing.

1.j. Applicant is indebted to a creditor in the amount of \$147 for an account that was placed for collection. Applicant does not recall what this debt was for, but he acknowledges that it is his debt. He stated that he plans to pay it off with his next check. (Tr. pp. 53-54, and Applicant's Exhibit C.) The debt remains owing.

Applicant is now in a new relationship. He and his girlfriend recently had their first child. They have been living together for the past three or four months. His girlfriend works full time in medical billing and contributes to the household expenses by purchasing the groceries. Since she is currently on maternity leave, she brings home about 60 percent of her regular pay. Applicant does not know the amount she earns annually.

Applicant testified that even while earning his full salary of \$60,000 annually, at the end of the month, after paying his regular monthly expenses, such as the mortgage, car insurance, utilities, internet etc., (since his girlfriend buys the groceries) he does not have any discretionary monies left to pay his delinquent debts. He has about \$400 in his savings account, and not much in his checking account. He is also currently paying his credit counseling service \$100 to start the program and \$24 monthly for as long as it takes to get the debts resolved. (Tr. pp. 55-60.)

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. Two are potentially applicable in this case:

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

Applicant has a history of financial hardship. His actions or inactions both demonstrated a history of not addressing his debt and 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 incurred delinquent debt that he cannot afford to pay. He has recently directed his focus at resolving his delinquent debts. However, he is just starting the process. Applicant's financial irresponsibility and inaction is recent and casts doubt on his current reliability, trustworthiness, or good judgment. Applicant needs time to show the Government that he can and will continue to properly resolve his financial delinquencies with regular systematic payments and consistency. None of the mitigating conditions are applicable.

There is insufficient evidence in the record to show that Applicant's delinquent debts have been resolved. In the last two or three weeks he set up a payment plan and made his first payment to one of his creditors. Another debt was disputed by his credit counseling company and removed from his credit report. Overall, Applicant shows little progress towards resolving his debts. He still owes a significant amount of money to his creditors that he obviously cannot afford to pay or has ignored for some time. There is insufficient evidence in the record to show that the Applicant has carried his burden of proof to establish mitigation of the government security concerns under Guideline F.

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 to be sufficiently reliable to properly protect and access classified information. At this time, he is not eligible for a security clearance.

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. and 1.b	Against Applicant
Subparagraph 1.c	For Applicant
Subparagraphs 1.d. through 1.j	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