



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



In the matter of:)
)
) ADP Case No. 25-00524
)
Applicant for Public Trust Position)

Appearances

For Government: Rhett Petcher, Esq., Department Counsel
For Applicant: *Pro se*

03/30/2026

Decision

HYAMS, Ross D., Administrative Judge:

Applicant refuted the sole financial considerations trustworthiness concern. Eligibility for access to sensitive information is granted.

Statement of the Case

On April 17, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing a trustworthiness concern under Guideline F (financial considerations). Applicant answered the SOR on May 8, 2025, and requested a hearing before an administrative judge. The case was assigned to me on January 5, 2026.

The hearing convened on February 18, 2026. Department Counsel submitted Government Exhibits (GE) 1-6, which were admitted in evidence without objection. Applicant did not submit any documentary evidence at the hearing. After the hearing concluded, I held the record open for 30 days to allow Applicant to submit documentation. He submitted Applicant's Exhibits (AE) A-E, which were admitted without objection, and the record closed after his submission.

Findings of Fact

Applicant denied the single SOR allegation. Based on my review of the pleadings, evidence submitted, and testimony, I make the following findings of fact.

Applicant is 58 years old. He graduated high school in 1985 and has attended some college. He was married in 2008 and divorced in 2025. He has worked as a maintenance electrician for a government contractor since 2024. (Tr. 13-15; GE 1)

Under Guideline F, the SOR alleges in ¶ 1.a that Applicant owes a debt to a lender for a charged-off account in the amount of \$25,915. This account appeared on his 2024 and 2025 credit reports in the record. (GE 3-5)

It appears that Applicant was unaware of this debt in his May 2024 background interview with a government investigator, and he denied that he was responsible for this loan in an interrogatory response in February 2025. In his response, he stated this entry must be the result of fraud or mistake. (GE 2, 6)

Applicant testified that he had a mortgage with the same lender, but the house was sold in 2020, and the mortgage was satisfied. The credit reports in the record support this assertion. He testified that he never had a second mortgage, and the debt alleged is an error or fraud. The January 2025 credit report shows a different loan amount than the other credit reports in the record. (Tr. 15-34; GE 2-5)

Applicant testified he had previously contested the entry unsuccessfully. He was told at the hearing that he needed to provide documentation of his prior disputes and of any new efforts to dispute the debt with the credit reporting agencies. (Tr. 15-34)

Post hearing, Applicant submitted documentation showing that in August 2025, he contested this debt as fraudulent with Equifax, who removed some of the unfavorable information from his Equifax credit report but did not remove the debt. Applicant disputed the debt again with TransUnion. His documentation showed that on February 18, 2026, they found in his favor on the dispute and deleted this debt from his credit report. He also provided new copies of his credit report from TransUnion, Experian, and Credit Karma, and the alleged debt no longer appeared on these credit reports. (AE A-D)

Applicant testified that he has no other delinquent debts, he has few monthly financial obligations, and he is current on all his other debts and expenses. The new credit reports in the record support his claims. (Tr. 15-34; AE A-D)

Policies

This case is adjudicated under 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 public trust position, 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 a public trust position.

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 any doubt concerning personnel being considered for sensitive information 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 trustworthiness decision.

A person who seeks access to sensitive 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 degree of trust and confidence in individuals to whom it grants access to sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of 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 conditions that could raise trustworthiness concerns under AG ¶ 19. The disqualifying conditions that are relevant here include:

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

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; 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 submitted sufficient evidence supporting his assertion that he was not responsible for the alleged debt with this lender. The record shows that he previously had a mortgage with the same lender, but it was satisfied in 2020. The record shows that he had no knowledge of the debt during his 2024 background interview, and he denied it in Government interrogatories in 2025. He had previously contested the debt, and in his most recent dispute TransUnion validated his claims and they deleted it. This debt no longer appears on his credit report. Applicant has refuted the single Guideline F allegation.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a public trust position 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 public trust position 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.

In the hearing, I had the chance to observe Appellant's demeanor and assess his credibility. I found his testimony and explanations to be credible and supported by the record as a whole. Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility for a public trust position. He successfully refuted the sole trustworthiness concern under Guideline F, financial considerations. Eligibility for access to sensitive information is granted.

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:	FOR APPLICANT
Subparagraph 1.a:	For Applicant

Conclusion

It is clearly consistent with the national interest to grant Applicant eligibility for a public trust position. Eligibility for access to sensitive information is granted.

Ross D. Hyams
Administrative Judge