



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



In the matter of:)
)
) ADP Case No. 25-00547
)
Applicant for Public Trust Position)

Appearances

For Government:
John Renehan, Esquire, Department Counsel

For Applicant:
Pro se

05/01/2026

Decision

ROSS, Wilford H., Administrative Judge:

Applicant did not mitigate the trustworthiness concerns under Guidelines F (Financial Considerations), E (Personal Conduct), or J (Criminal Conduct). Eligibility for access to sensitive information is denied.

Statement of the Case

On April 25, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines F, E, and J. The action was taken 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) implemented by the DOD on June 8, 2017.

Applicant responded to the SOR in writing (Answer) on May 21, 2025, and requested a hearing before an administrative judge. Department Counsel was prepared to proceed on August 14, 2025. The case was assigned to me on September 10, 2025.

The Defense Office of Hearings and Appeals (DOHA) issued an initial Notice of Hearing on September 16, 2025. A subsequent Notice of Hearing was issued on November 19, 2025. I convened the hearing as scheduled on January 26, 2026. The Government offered Government Exhibits 1 through 4, which were admitted without objection. Applicant testified on his own behalf. He asked that the record remain open until March 1, 2026, for the receipt of additional documentation. He submitted Applicant Exhibit A in a timely fashion, and it is admitted without objection. DOHA received the transcript of the hearing (Tr.) on February 9, 2026. The record closed on March 1, 2026. The hearing and decision were delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a Federal government shutdown due to a lapse in federal funding.

Findings of Fact

Applicant is 27 years old, married, and has four children. He is a high school graduate and works as a records clerk for a defense contractor. He requires access to personally identifiable information (PII) for his work. He served in the Marine Corps from June 2016 to June 2020 and received an Honorable Discharge. (Government Exhibit 1 at Sections 12, 13A, 15, 17, and 18; Tr. 61-62.)

Paragraph 1 (Guideline F, Financial Considerations)

The Government alleges in this paragraph that Applicant is ineligible for a position of public trust because he is financially overextended and therefore potentially unreliable, untrustworthy, or at risk of having to engage in illegal acts to generate funds. Applicant admitted all the allegations.

Based on the available documentary evidence Applicant is alleged to owe approximately \$31,007 in past-due or charged-off debts. The Government provided credit reports of Applicant dated October 1, 2024; and April 3, 2025, supporting the existence of the debts. (Government Exhibits 3 and 4.) The debts were admitted by Applicant in his responses in Section 26 of his Electronic Questionnaire for Investigations Processing, dated August 13, 2024. (Government Exhibit 1.) The debts are also supported by his admissions to an authorized investigator from the Office of Personnel Management (OPM) during interviews on October 29, 2024; and November 2, 2024. (Government Exhibit 2.)

Applicant states that the majority of his past-due debts occurred because of various personal issues and expenses that included the illness and death of his mother-in-law, the illness and death of his mother, and the costs of a premature child. He admits having minimal savings and living paycheck to paycheck. However, his financial situation is improving due to his wife's recent employment and his receiving disability from the Department of Veteran's Affairs. (Tr. 31-32, 36-39, 56, 85-88.)

The current status of the debts alleged in the SOR is as follows:

1.a. Applicant admitted that he owed Credit Union A \$8,944 for a charged-off debt. He made a payment arrangement with this creditor a short time before the hearing. The record was left open for a sufficient time so that Applicant could submit additional evidence showing that the initial payment had been made on the settlement agreement. He elected not to submit any additional information. This debt is not resolved. (Applicant Exhibit A at 4; Tr. 24-30, 34-35.)

1.b. Applicant admitted that he owed Credit Union A \$8,061 for a charged-off debt. He made a payment arrangement with this creditor a short time before the hearing agreeing to twelve monthly payments to pay the reduced debt. The record was left open for a sufficient time so that Applicant could submit additional evidence showing that the initial payment had been made on the settlement agreement. He elected not to submit any additional information. This debt is not resolved. (Applicant Exhibit A at 2; Tr. 30-35.)

1.c. Applicant admitted that he owed a creditor \$8,060 for a past-due debt. The debt consisted of the cost of breaking the lease to an apartment, and for damages to the apartment. No recent payments have been made on this debt, and he has no current plans to make payments. This debt is not resolved. (Tr. 39-43.)

1.d. Applicant admitted that he owed a creditor \$2,385 for a past-due mobile phone debt. No recent payments have been made on this debt, and he has no current plans to make payments. This debt is not resolved. (Tr. 43-45.)

1.e. Applicant admitted that he owed Credit Union A \$2,019 for a charged-off debt. He made a payment arrangement with this creditor a short time before the hearing agreeing to twelve monthly payments to pay the reduced debt. The record was left open for a sufficient time so that Applicant could submit additional evidence showing that the initial payments had been made on the settlement agreement. He elected not to submit any additional information. This debt is not resolved. (Applicant Exhibit A at 6; Tr. 35-36, 45-47.)

1.f. Applicant admitted that he owed this creditor \$1,199 for a charged-off debt. He stated that he believes this debt was in connection with new brakes for his car. According to Applicant, the mechanic tricked him into signing up for a credit card and put the cost of the brakes on it. He has not made any payments on this debt; and has no intent on making payments, because he believes this is a fraudulent debt. This debt is not resolved, but is under dispute. (Tr. 47-50.)

1.g. Applicant admitted that he owed this creditor \$339 for a past-due debt in connection with an internet box that was not returned. Applicant testified that he still has the box. No payments have been made on this debt, and he has no plans to make payments. This debt is not resolved. (Tr. 50-51.)

Paragraph 2 (Guideline E, Personal Conduct)

The Government alleged in this paragraph of the SOR that Appellant is ineligible for a public trust position because he has engaged in actions that involve questionable judgment, lack of candor, dishonesty, and unwillingness to comply with rules and regulations.

2.a. Applicant admitted that he was fired from Company One in about January 2024 for timecard fraud. The fraud occurred when he submitted a timecard showing him at work on a day that he did not appear. According to Applicant's testimony, he believed that everyone at the company's location was on a vacation day. He further stated that he did not ask for advice or permission, and was wrong about the vacation day. However, during an interview with an authorized investigator from (OPM) on October 29, 2024, he allegedly stated, "His [Applicant's] motivation was to see if he could get away with it." Applicant now denies saying that. In either event, Applicant's action was voluntary and wrong. (Government Exhibit 2 at 1-2; Tr. 62-77, 88-89.)

2.b. Applicant admitted that he was terminated from Company Two in about January 2022 for excessive late days. He stated that he was tardy arriving at work four times because he had to take care of his children. He admitted this conduct. Based on the circumstances, I find that this conduct did not involve questionable judgment or an unwillingness to comply with rules and regulations. This allegation is found for Applicant. (Government Exhibit 2 at 2; Tr. 77-79.)

2.c. The Government alleges that this guideline also applies to the conduct described under subparagraph 3.a, below. Applicant admitted this allegation.

Paragraph 3 (Guideline J, Criminal Conduct)

The Government alleges in this paragraph that Applicant is ineligible for a public trust position because he has engaged in criminal conduct that creates doubt about a person's judgment, reliability, and trustworthiness.

3.a. Applicant admitted that he was arrested in approximately August 2021 and charged with Petit Larceny and Contributing to the Delinquency of a Minor. This incident occurred when Applicant was stopped leaving a grocery store and accused of shoplifting by not scanning a product at the self-check-out lane. At the time he had his infant child with him. Applicant maintains that the incident was an innocent mistake and he was not attempting to steal. Police were called and he was taken into custody. He received a deferred adjudication for six months, which he successfully completed, and the charges were dismissed. (Government Exhibit 2 at 3-4; Tr. 79-85, 88-89.)

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 (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied 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 applicable guidelines in the context 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, "Any 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. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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 high 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. Finally, as emphasized in Section 7 of Executive Order 10865, "Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

Paragraph 1 (Guideline F, Financial Considerations)

The trustworthiness concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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.

AG ¶ 19 describes two conditions that could raise trustworthiness concerns and may be disqualifying in this case:

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

Applicant was alleged to have seven delinquent debts totaling approximately \$31,007 that he has not paid. AG ¶¶ 19(a) and (c) apply. The burden thereby shifts to Applicant to mitigate the adverse inference of his delinquent debts.

The guideline includes four conditions in AG ¶ 20 that could mitigate the trustworthiness concerns arising from Applicant's alleged financial difficulties:

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

Applicant has had financial issues for several years. They are the result of overspending. While he did have some personal issues that increased his indebtedness, he did not present sufficient evidence showing that he had behaved reasonably and responsibly under the circumstances. He made arrangements with one creditor to resolve three of the debts. However, he did not provide any documentation showing that he is even beginning to fulfill his obligations. Otherwise, he has not made any attempt to resolve any of the other debts. None of the mitigating conditions apply, except as to allegation 1.f. Based on all of the available evidence, Applicant has not mitigated the trustworthiness concerns of this guideline.

Paragraph 2 (Guideline E, Personal Conduct)

The trustworthiness concern under this guideline is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

The guideline notes several conditions that could raise trustworthiness concerns under AG ¶ 16. One is applicable in this case:

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information.

Applicant intentionally falsified his timecard at Company One. For that act of fraud, he was terminated. In addition, the Government alleges in this paragraph that the facts found under Paragraph 3, below, are also cognizable under this guideline. Based on the below factual findings, I find that the quoted disqualifying condition applies to that conduct as well.

I considered the following mitigating conditions under ¶ 17 and they do not apply to the facts of this case, except as to allegation 2.b:

(c) the offense was so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

Applicant has shown that the mitigating conditions do not apply to his conduct for all the reasons stated under Paragraphs 1 and 3. In both cases, timecard fraud and shoplifting, his conduct was intentional. He has not admitted this fact. Therefore, he has not acknowledged the behavior. None of the mitigating conditions apply to his conduct. This guideline is found against Applicant.

Paragraph 3 (Guideline J, Criminal Conduct)

The trustworthiness concerns relating to the guideline for criminal conduct are set out in AG ¶ 30, which states:

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.

AG ¶ 31 describes one condition that could raise trustworthiness concerns and may be disqualifying in this case:

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

Applicant was arrested for shoplifting in 2021. He received a deferred prosecution. His basic argument is that he decided not to fight it but accepted punishment.

The guideline includes four conditions in AG ¶ 32 that could mitigate the trustworthiness concerns arising from Applicant's alleged criminal conduct. Two have possible application to the facts of this case:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution,

compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Applicant was arrested for a relatively minor crime. However, despite the appearances and his acceptance of deferred prosecution, he continues to deny that he did anything wrong. Without that acceptance of responsibility mitigation cannot be sufficiently shown. Adverse inference is not overcome. This allegation is found against Applicant.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a position of public trust 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 a position of public trust 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 pertinent facts and circumstances surrounding this case. Applicant is not currently eligible for a public trust position because of his unresolved financial situation, his personal conduct and his criminal conduct. Paragraphs 1, 2, and 3 are found against Applicant.

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.e:	Against Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT

Subparagraph 2.a:	Against Applicant
Subparagraph 2.b:	For Applicant
Subparagraph 2.c:	Against Applicant

Paragraph 3, Guideline J:	AGAINST APPLICANT
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Subparagraphs 3.a:	Against Applicant
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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 position of public trust. Eligibility for access to sensitive information is denied.

WILFORD H. ROSS
Administrative Judge