



Date: May 19, 2025

In the matter of:

Applicant for Security Clearance

ISCR Case No. 24-00808

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Andrea M. Corrales, Esq., Deputy Chief Department Counsel

FOR APPLICANT

Rochelle Chernikoff, Personal Representative

The Department of Defense (DoD) declined to grant Applicant a security clearance. On September 25, 2024, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline F (Financial Considerations) of the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective June 8, 2017) (SEAD 4) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On March 19, 2025, Defense Office of Hearings and Appeals Administrative Judge Darlene D. Lokey Anderson denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Discussion

The SOR alleged that Applicant carried delinquent federal tax balances of approximately \$600 for tax year 2015 and \$62,000 for tax year 2016, and that he had multiple liens entered against him for various delinquent state tax balances totaling approximately \$25,000. In response to the SOR, Applicant denied the 2015 federal tax balance on the basis that it was paid earlier in the year and admitted all of the remaining allegations with explanation. Finding that Applicant had also

since paid the state tax liens, the Judge resolved all allegations except for the 2016 federal tax balance favorably. The Judge found adversely to the \$62,000 federal tax balance, noting that Applicant had made no payments towards resolving the debt and only recently filed an appeal to have the debt reconsidered, with no resolution as of the close of the record. Citing that Applicant's debts were ignored for many years, the Judge concluded that "his history of financial irresponsibility and inaction for so long casts doubt on his current reliability, trustworthiness, or good judgment." Decision at 8.

The Appeal Board does not review cases *de novo* and our authority to review a case is limited to matters in which the appealing party has raised a claim of harmful error. Directive ¶ E3.1.30. Citing the Judge's conclusion that Applicant "needs more time to diligently work towards resolving his remaining back taxes to show the Government that he can be financially responsible," Applicant contends that the Judge failed to "incorporate[] available measures at this time to manage any minor residual risk to national security." Appeal Brief (quoting Decision at 8). Applicant requests that the case be remanded for consideration of "continued eligibility with appropriate mitigation measures to manage any remaining risk to national security" – i.e., conditional security eligibility. *Id.*

Appendix C of SEAD 4 provides authority to grant conditional security eligibility, "despite the presence of issue information that can be partially but not completely mitigated, with the provision that additional security measures shall be required to mitigate the issue(s)." Applicant did not request conditional eligibility at hearing and nothing in the record supports a conclusion that the Judge erred in not granting it. Moreover, although Appendix C provides authority to grant conditional security eligibility,¹ our review of the record below reflects no evidence of proposed additional security measures or the efficacy thereof. Accordingly, Applicant has not established that the granting of an exception under Appendix C is merited.

Conclusion

Applicant has not established that the Judge committed harmful error. Our review of the record reflects that the Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, which is sustainable on this record. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Dept. of Navy v. Egan*, 484 U.S. 518, 528 (1988). "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." AG ¶ 2(b).

¹ DIR. FOR DEF. INT. (INT. & SEC.), Memorandum (Jan. 12, 2018) ("Effective immediately, authority to grant clearance eligibility with one of the exceptions enumerated in Appendix C is granted to any adjudicative, hearing, or appeal official or entity now authorized to grant clearance eligibility when they have jurisdiction to render the eligibility determination.").

Order

The decision in ISCR Case No. 24-00808 is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Jennifer I. Goldstein

Jennifer I. Goldstein
Administrative Judge
Member, Appeal Board

Signed: Allison Marie

Allison Marie
Administrative Judge
Member, Appeal Board