



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



In the matter of: )  
)  
) ISCR Case: 18-02145  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Raashid S. Williams, Esquire, Department Counsel  
For Applicant: *Pro se*

July 9, 2019

**Decision**

CEFOLA, Richard A., Administrative Judge:

**Statement of Case**

On January 9, 2018, Applicant submitted a security clearance application (SF-86). On December 3, 2018, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations. (Item 1.) 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 *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective June 8, 2017.

Applicant answered the SOR on January 7, 2019. She requested that her case be decided by an administrative judge on the written record without a hearing. (Item 1.) On February 7, 2019, Department Counsel submitted the Government’s written case. A complete copy of the File of Relevant Material (FORM), containing six Items, was

mailed to Applicant on February 25, 2019, and received by her on March 1, 2019. The FORM notified Applicant that he had an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of her receipt of the FORM. Applicant failed to respond to the FORM. DOHA assigned the case to me on May 23, 2019. Items 1 through 6 are admitted into evidence.

## **Findings of Fact**

### **Guideline F – Financial Considerations**

Applicant is 49 years old. (Item 2 at page 7.) She is unmarried, and has no children. (Item 2 at page 26.)

1.a Applicant has offered evidence that she has filed her Federal Income Tax returns for tax years 2009, 2010, 2014 and 2015. (Item 1 at page 9.) This allegation is found for Applicant.

1.b. Applicant has offered evidence that she has filed her State A income tax return for tax year 2015. (Item 1 at pages 6~8.) This allegation is found for Applicant.

1.c. Applicant has offered evidence that she has filed her State B income tax return for tax years 2015~2017. (Item 1 at page 12.) This allegation is found for Applicant.

1.d.~1.h. Applicant has submitted documentation from the Internal Revenue Service (IRS) showing she owes delinquent taxes totaling about \$196,317 for tax years 2009~2012. (Item 1 at page 10.) She also submitted documentation from the IRS showing she has an “Installment Agreement” by which Applicant will make monthly payments of \$3,517 towards her tax delinquencies. (Item 1 at page 13.) However, Applicant has offered nothing showing she is making said payments. These allegations are found against Applicant.

1.i. and 1.j. Applicant has submitted documentation from the IRS showing she owes “\$0” delinquent taxes for tax year 2013. (Item 1 at page 11.) These allegations are found for Applicant.

1.k. and 1.l. Applicant has submitted documentation from the IRS showing she owes delinquent taxes totaling about \$12,507 for tax years 2014 and 2015. (Item 1 at page 11.) She also submitted documentation from the IRS showing she has an “Installment Agreement” by which Applicant will make monthly payments of \$3,517 towards her tax delinquencies. (Item 1 at page 13.) However, Applicant has offered nothing showing she is making said payments. These allegations are found against Applicant.

1.m. Applicant has submitted documentation from the IRS showing she owes “\$0” in delinquent taxes for tax year 2016. (Item 1 at page 11.) This allegation is found for Applicant.

1.n.~1.p. Applicant has submitted documentation from the IRS showing she owes delinquent taxes of about \$7,462 for tax year 2017. (Item 1 at page 11.) She also submitted documentation from the IRS showing she has an “Installment Agreement” by which Applicant will make monthly payments of \$3,517 towards her tax delinquencies. (Item 1 at page 13.) However, Applicant has offered nothing showing she is making said payments. These allegations are found against Applicant.

1.q. and 1.r. Applicant avers that she “will work on settling” these past-due debts to Creditor Q totaling about \$5,832. However, Applicant has offered nothing further in this regard. These allegations are found against Applicant.

### **Policies**

When evaluating an applicant’s suitability for national security eligibility, 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 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. 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, an “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 applying for national security eligibility seeks to enter 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of EO 10865, “[a]ny 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* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

## **Analysis**

### **Guideline F - Financial Considerations**

The security 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 four conditions that could raise security concerns and may be disqualifying in this case:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so;
- (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 significant tax delinquencies and other past-due debts. These facts establish prima facie support for the foregoing disqualifying conditions, and shift the burden to Applicant to mitigate those concerns.

The guideline includes seven conditions in AG ¶ 20 that could mitigate the security 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, 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;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;
- (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;
- (f) the affluence resulted from a legal source of income; and
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

None of these apply. Although Applicant has made arrangements with the IRS to pay her tax delinquencies, she has not provided anything showing Applicant is complying with those arrangements. Financial Considerations are found against 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.

According to AG ¶ 2(c), the ultimate determination of whether to grant national security eligibility must be an overall commonsense judgment based upon careful consideration of the applicable 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. Overall, the record evidence leaves me with questions and doubts as to Applicant's judgment, eligibility, and suitability for a security clearance. She has not met her burden to mitigate the security concerns arising under the guideline for financial considerations.

## 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.~1.c.:	For Applicant
Subparagraphs 1.d.~1.h.:	Against Applicant
Subparagraphs 1.i. and 1.j.:	For Applicant
Subparagraphs 1.k. and 1.l.:	Against Applicant
Subparagraph 1.m.:	For Applicant
Subparagraphs 1.n. and 1.r.:	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 Applicant national security eligibility and a security clearance. National security eligibility is denied.

---

Richard A. Cefola  
Administrative Judge