



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



In the matter of:

ISCR Case No. 24-00773

Applicant for Security Clearance

Appearances

For Government: Erin P. Thompson, Department Counsel
For Applicant: *Pro se*

07/11/2025

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On December 5, 2022, Applicant submitted a security clearance application (e-QIP). (Item 3.) On May 31, 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. (Item 1.) 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 *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, effective within the DoD after June 8, 2017.

Applicant responded to the SOR (Answer) on August 15, 2024. (Item 2.) She requested that her case be decided by an administrative judge on the written record. Department Counsel submitted the Government's written case on March 6, 2025. A

complete copy of the File of Relevant Material (FORM), containing six Items was received by Applicant on March 25, 2025. She was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. Applicant submitted a response to the FORM dated April 20, 2025. Department Counsel had no objection to Applicant's response, and it was marked and admitted into evidence as Applicant's Exhibit A. DOHA assigned the case to me on July 1, 2025. Items 1 through 6 will hereinafter be referred to as Government Exhibits 1 through 6.

Findings of Fact

Applicant is 37 years old. She is married and has no children. She has an associate's degree, and no prior military service. She is employed by a defense contractor as an Aircraft Maintenance Technician. She is seeking to obtain a security clearance in connection with her employment. Applicant began working for her current employer in January 2022.

Guideline F - Financial Considerations

The Government alleged that Applicant is ineligible for a clearance because she 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 her reliability, trustworthiness and ability to protect classified information.

The SOR alleges that the Applicant failed to file Federal income tax returns for tax years 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022. Applicant admits the allegation set forth in the SOR. (Government Exhibit 2.)

Applicant explained that since she married her husband in 2015, she has not filed her Federal income tax returns. (Government Exhibit 3.) She stated that she did not know how to file her taxes jointly with her husband, who was already behind in his tax return filings. She was also unsure how to file her returns for the years she had missed, and stated that she intended to file them when she learned how to accomplish the task. (Government Exhibit 6.) Time passed without addressing the issue. She claims that in 2016, she was laid off from her job, which caused some financial difficulties with her household bills, and contributed to her difficulties in filing her tax returns. (Government Exhibit 4.) She also claims that she then became a dependent under her husband, and she assumed that he would catch up with his tax filings. In any event, the situation snowballed over time, and when the SOR was issued on March 6, 2025, she still had not filed her Federal income tax returns for any of the years in question. Applicant stated that she intends to hire a tax attorney or an accountant to prepare her returns. (Government Exhibit 4.)

Applicant claims that she has now filed her Federal income tax returns for tax years 2017 through 2024. (Applicant's Response to the FORM.) She provided tax transcripts for the past 3 years, tax years 2022, 2023, and 2024. She stated that she was told by the Internal Revenue Service (IRS) representative that her tax returns for all previous years have been received, but are still being processed, and that it may take anywhere from 8 to 16 weeks to complete their processing. Applicant stated that she is currently waiting to receive documentation from the IRS for penalties and or payments that may be due. If she owes anything, she plans to pay those debts. (Applicant's Response to FORM.) Applicant did not address the status of her Federal tax returns for tax years 2015 or 2016.

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. One is potentially applicable in this case:

(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 repeatedly failed to file her Federal income tax returns, for eight years, from 2015 to 2024, as required by law. The evidence is sufficient to raise the above disqualifying condition.

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

(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.

Applicant provides no reasonable excuse for repeatedly failing to file her Federal tax returns over an eight year period from 2015 to 2022. She procrastinated for eight years and ignored her legal responsibility to file her Federal income tax returns. She claims that she was laid off from work, but there is no evidence in her e-quip to substantiate any lay-off or period of unemployment. (Government Exhibit 1.) If she was laid off, it was not for such a substantial period that it impacted her ability to file her income tax returns.

In her response to the FORM, Applicant claims that she has now filed the Federal income tax returns in question, for tax years 2015 through 2024. (Applicant's Exhibit A.) However, even if she has now filed them, she has demonstrated a long pattern of irresponsibility, and the mitigation value at this point is minimal. She is still waiting to find out the penalties and interest, or any tax liability that she may owe. She has only provided evidence of three tax year filings, namely for tax years 2022, 2023, and 2024. She has not carried her burden of proof to establish mitigation of the security concerns alleged in the SOR. Applicant's inaction for so long reflects a pattern of unreliability, untrustworthiness, and poor judgment. None of the mitigation conditions set forth above are applicable here. Accordingly, Applicant does not meet the requirements to access classified information.

An Applicant's failure to comply with Federal and/or State tax laws suggests that she has a "problem with complying with well-established governmental rules and systems," and "a person who fails repeatedly to fulfill his or her legal obligations does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information." ISCR Case No. 14-04437 at 3-4 (App. Bd. Apr. 15, 2016).

Failure to meet financial obligations may indicate unwillingness to abide by rules and regulations, thereby raising questions about an applicant's ability to protect classified information. ISCR Case No. 17-04110 at 3 (App. Bd. Sep. 26, 2019) citing Directive, Encl. 2 App. A Section 18). Guideline F is found against the 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.

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.

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 concerns.

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

Subparagraph 1.a.

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 national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson
Administrative Judge