



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-00885

Appearances

For Government:
Cynthia Ruckno, Esquire, Department Counsel

For Applicant:
Pro se

08/27/2025

Decision

ROSS, Wilford H., Administrative Judge:

Statement of the Case

On October 2, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). 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 answered the SOR (Answer) on February 11, 2025. He requested his case be decided on the written record in lieu of a hearing. (Item 2.) On February 27, 2025, Department Counsel submitted the Department's written case. A complete copy of the file of relevant material (FORM), consisting of Items 1 to 9, was provided to Applicant, who received the file on March 10, 2025.

Applicant was given 30 days from receipt of the FORM to file objections and submit material in refutation, extenuation, or mitigation. He elected not to submit additional information. The case was assigned to me on July 1, 2025. Items 1 through 9 are hereby entered into evidence. Based upon a review of the pleadings and exhibits, national security eligibility for access to classified information is denied.

Findings of Fact

Applicant is 47 years old and married with one child. He has an associate degree. He has been employed by a defense contractor since August 2022 as a composite tech. This is his first application for national security eligibility. (Item 2 at Sections 12, 13A, 17, and 25.)

Paragraph 1 (Guideline F, Financial Considerations)

The Government alleges in this paragraph that Applicant is ineligible for clearance 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 under this guideline.

1.a. Applicant admitted in his Answer that he had not filed his State A income tax returns for tax years 2018, 2019, 2020, and 2021. He admitted during an interview with an authorized DoD investigator in June 2023 that his failure to file was because he and his wife knew they would owe money and didn't have it. He further stated that his wife was working with the State A tax authority on a resolution. (Item 3 at Section 26.)

Applicant submitted interrogatories to DOHA in September 2024. He stated that he had filed his 2018 and 2019 State A tax returns. He further stated that he did not know the status of his 2020 and 2021 State A tax returns. Finally, he stated that he had not filed his 2022 and 2023 State A tax returns. No documentation or further information was supplied regarding any of these statements. (Item 5 at 5-6, 12-13.)

1.b. Applicant admitted in his Answer that he had not filed his Federal income tax return for tax year 2018. This contradicts his interrogatory answers, in which he stated that he had filed the 2018 tax return. The interrogatory specifically asked him to supply

an IRS account transcript for that tax year. No such transcript or further information was supplied. (Item 3 at Section 26; Item 5 at 5-6, 11-12.)

1.c. Applicant admitted in his Answer that he had not filed his State B income tax returns for tax years 2022 and 2023. He confirmed that he had not filed these tax returns in his interrogatory answers stating, "Anticipate refund based on deductions. Will file this year [2024]." No State B tax returns or further information was supplied. (Item 3 at Section 26; Item 5 at 12-13.)

1.d. Applicant admitted that he is indebted to the Federal government for delinquent taxes in the amount of \$6,946 for tax year 2020. That was based on his IRS account transcript for that year dated August 2023. In his interrogatory response from September 2024 he stated the debt had grown to \$7,617. He also stated that there was no installment agreement for taxes for this or any other year. No further information was provided. This tax debt is not resolved. (Item 5 at 11-12.)

1.e. Applicant admitted that he is indebted to the Federal government for delinquent taxes in the amount of \$10,521 for tax year 2021. That was based on his IRS account transcript for that year dated August 2023. In his interrogatory response from September 2024 he stated the debt had grown to \$11,626. He also stated that there was no installment agreement for taxes from this or any other year. No further information was provided. This tax debt is not resolved. (Item 5 at 11-12.)

1.f. Applicant admitted that he is indebted to the State A tax authority for delinquent taxes in the amount of approximately \$2,500 (combined) for tax years 2007, 2008, 2009, 2010, 2011, 2012, 2013, and 2014. He stated in his interrogatory response in September 2024 that he did not know his total State A tax liability, and that he was working with the State A tax authorities to resolve the debt. No further information was provided. This tax debt is not resolved. (Item 5 at 12-13.)

1.g. Applicant admitted that he is indebted to the State A government for delinquent taxes in an unknown amount tax years 2018, 2019, 2020, and 2021. He stated in his interrogatory response in September 2024 that he owed \$1,858 for tax year 2018, and \$3,174 for tax year 2019. These appear to be the only years for which he had accurate information. He stated that he was working with the State A tax authorities to resolve the debt. No further information was provided. This tax debt is not resolved. (Item 5 at 12-13.)

1.h. Applicant admitted that he is indebted to the Federal government for delinquent taxes in the approximate amount of \$12,000 for tax years 2007, 2008, 2009, 2010, 2011, 2012, 2013, and 2014. In his interrogatory response from September 2024 he stated that his outstanding Federal tax debt at that time was \$107,572. He also stated

that there was no installment agreement for taxes for these or any other years. These tax debts are not resolved. (Item 3 at Section 26; Item 5 at 11-12.)

1.i. Applicant admitted in his Answer that a Federal tax lien had been entered against him in the approximate amount of \$6,817 for delinquent Federal taxes. The lien was released in about 2013.

1.j. Applicant admitted in his Answer that a Federal tax lien had been entered against him in 2019 in the approximate amount of \$11,485. No information was provided to show that the lien had been released. (Item 7.)

1.k. Applicant admitted in his Answer that he had filed for Chapter 7 bankruptcy in May 2011, which was discharged in July 2013. That is incorrect. He filed for Chapter 13 bankruptcy protection in May 2011. A Chapter 13 plan was confirmed in August 2011. In February 2013 the Chapter 13 Trustee filed an action to remedy a default by the debtor (Applicant) in performance under the plan. The case was subsequently converted to a Chapter 7 bankruptcy in March 2013. He received a discharge in bankruptcy in July 2013. (Item 8.)

Applicant submitted a budget and information as to his salary. They are attached to his interrogatory responses. The documents show that his monthly income cannot pay his regular monthly debts. He has stated that his financial situation is, "difficult." He further stated, "Credit card balances and tax debt reflect the fact that our income does not meet our expenses. My wife recently received some inheritance money that will resolve much of this debt and allow us to resolve outstanding tax issues. These things are in process now." No further information was provided. (Item 5 at 5-7, 14.)

Applicant elected not to submit any information about his work performance or ability to safeguard classified information. I am unable to make a credibility assessment as he elected not to have a hearing.

Policies

When evaluating an applicant's national security eligibility for a security clearance, 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 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 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 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 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 three conditions that could raise security concerns and may be disqualifying in this case:

- (a) inability to satisfy debts;
- (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 Federal, state, or local income tax as required.

The evidence shows that Applicant has not filed all of his Federal, State A, and State B income tax returns. He states that his Federal tax liability is over \$100,000. He owes unknown amounts in past-due taxes to the two state tax authorities. He also has tax liens and a bankruptcy. AG ¶¶ 19(a), (c), and (f) apply. The burden thereby shifts to Applicant to mitigate the adverse inference of his tax situation.

The guideline includes five conditions in AG ¶ 20 that could possibly 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, 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;

(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.

None of the mitigating conditions have application to this case. The documentary evidence did not contain sufficient evidence to support a finding that Applicant had resolved any of his tax debts, or filed all of the subject returns. He admitted that his financial situation is such that he cannot resolve these issues at this time. Based on all of the available evidence, Applicant has not mitigated the security concerns of this guideline.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for national security eligibility 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 national security 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 pertinent facts and circumstances surrounding this case. Applicant has not presented sufficient evidence to show that he had resolved, or is resolving, his Federal and state tax situation. Paragraph 1 is 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.k:

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.

WILFORD H. ROSS
Administrative Judge