



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-00998

Appearances

For Government:

John Renehan, Esquire, Department Counsel

For Applicant:

Pro se

08/15/2025

Decision

GLENDON, John Bayard, Administrative Judge:

Applicant has mitigated the security concerns raised under the financial considerations guideline. National security eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a Questionnaire for National Security Positions on May 11, 2023 (Questionnaire). On November 5, 2023, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Adjudicative Guideline (AG) F. The action was taken under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines effective within DoD after June 8, 2017.

Applicant responded to the SOR allegations on December 9, 2024 (Answer) and attached a letter to the Answer, which I have marked as Answer Attachment I. She requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). Department Counsel was prepared to proceed on March 14, 2025. The case was assigned to me on April 11, 2025. DOHA sent Applicant a Notice of Hearing on April 16, 2025, scheduling the case to be heard via Microsoft Teams video teleconference on May 7, 2025.

I convened the hearing as scheduled. Department Counsel proffered four documents marked as Government Exhibits (GE) 1 through 4. Applicant introduced two exhibits, marked as Applicant Exhibit (AE) A and B. All exhibits were admitted without objection. I kept the record open until May 21, 2025, to give Applicant the opportunity to supplement the record. She timely submitted one additional exhibit, marked as AE C. The record closed on May 21, 2025. DOHA received the transcript of the hearing (Tr.) on May 14, 2025. (Tr. at 39, 44.)

Findings of Fact

Applicant is 54 years old, divorced, and has no children. She received a high school diploma in 1990. She has been employed by a DoD contractor as a specialist since July 2022. She had worked in the same capacity for the prior DoD contractor at that location since 2016. Applicant was granted a Secret security clearance in 2007 as an employee of a third DoD contractor, but that clearance lapsed at one point due to a change in her employment. Her current employer required that she reapply for a clearance. (Tr. at 13-18, 43; GE 1 at 5, 10, 11-12, 14-15, 18-19, 28-29.)

Paragraph 1, Guideline F (Financial Considerations)

The Government alleged in the SOR that Applicant is ineligible for a security clearance due to her failure to timely file federal income tax returns and to being indebted to the U.S. Government for past taxes. In the Answer, Applicant admitted her failure to file income tax returns as alleged but denied that she owed the amount of back taxes alleged in the SOR. I find the following facts as set forth in the pleadings, developed at the hearing, and detailed in the documentary record.

SOR ¶ 1.a. Failure to Timely File Federal Tax Returns – Tax Years 2020-2022. Applicant failed to timely file her tax returns for tax years (TY) 2020-2022 due to Covid pandemic (the Pandemic) closures in her rural community where everything shut down for a long time, including the office of her tax return advisor (the Tax Advisor). Applicant filed the returns for TY 2020, TY 2021 and 2022, along with her TY 2023 return, on April 22, 2024, with the assistance of the Tax Advisor, who she had used for years prior to the Pandemic. For technical reasons unrelated to Applicant's return, the IRS did not accept her TY 2020 tax return as filed in April 2024 until September 20, 2024. (Tr. at 23, 29-34; GE 3 at 8, 15, 17, 19, 31; Answer Attachment I at 2.)

SOR ¶ 1.b. Indebted to the Federal Government for Delinquent Taxes - Tax Years 2013, 2021, and 2022 (\$10,007). Applicant worked with the Tax Advisor in 2024 to catch up on her delinquent returns. Applicant learned that she still had an outstanding federal tax debt for TY 2013 of \$1,544. Applicant was due to receive a refund of \$2,698 for TY 2020. According to her tax returns, she owed taxes for TYS 2021 and 2022 in the amounts of \$3,740 and \$1,698, respectively, plus interest and penalties. She was due a refund of \$1,261 for TY 2023. The IRS adjusted the balances due for TY 2021 and TY 2022 to \$5,965 and \$2,643, to include interest and penalties. (Tr. at 31-34; GE 2 at 9; GE 3 at 8,13, 17, 23, 59-66; GE 4 at 23; AE A at 2; AE B at 1-2.)

Applicant's refund for TY 2020 was applied to pay the taxes due in TY 2013, and she received a refund check in the amount of \$621 for the balance of her overpayment. In 2023, she increased her federal withholding, which explains her excess tax withholding in that year. The IRS applied the amount of her overpayment to pay down her tax obligations for TY 2021 and 2022. In 2024, Applicant received a substantial raise, and she increased her withholding again, producing an overpayment of almost \$2,300. The IRS applied that amount to further reduce her tax obligations for TY 2021 and 2022, which, after various adjustments, including interest, penalties, and credits for the overpayments, totaled a revised tax debt of \$5,539. Applicant expects a tax refund of more than \$3,500 for TY 2025 because she increased her weekly withholding by another \$50. When she files her TY 2025 tax return in 2026, the IRS will apply those funds to reduce her overall tax debt to less than \$2,000. In February 2025, Applicant entered into a payment plan with the IRS to pay \$120 per month on the 10th of every month until the tax debt is paid. After the hearing, she submitted AE C evidencing that she made her first payment under the payment plan on May 13, 2025. She expects to have the tax debt fully paid in 2026. (Tr. at 37-38; GE 3 at 8; GE 4 at 2-4.; AE A at 1; AE B at 1-5.).

Mitigation

Applicant's rural community was hit hard by the Pandemic shutdown. "Everything shutdown," including the office of her Tax Advisor. Her town suffered and so did she. At the same time, Applicant's long-term marriage ended in divorce, and her father died. Living alone with several pets for her only company was difficult. She had little contact with anyone and shutdown emotionally. When her town started to open up over time, there was fear of having contact with anyone. She was alone at work, since she "supervises herself," and went home where she was alone with her animals. Inflation took a big toll on her financial resources. Everything was more expensive. Then she needed a new septic tank, costing \$10,000. She found herself withdrawing. (Tr. at 24-26.)

Applicant received a raise in 2021 and earned \$11,000 more than she did in 2020. Her tax withholding was insufficient to cover her increased tax liability. She received a \$2,000 raise in 2022 and increased her withholding, but again it was insufficient to cover her tax liability. The Tax Advisor was not available to advise her on these changes. Her income dropped a little in 2023, but she raised her withholding again, generating an excess of payments over her tax obligation. (Tr. at 31-34; GE 3 at 27, 29, 31.)

In the Questionnaire, Applicant volunteered information about her late filing of tax returns and delinquent taxes. She started taking steps to file her tax returns for 2020 through 2022 in June 2023, before she received the SOR. (GE 1 at 30.)

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 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 alcohol consumption are set out in AG ¶ 21, which states:

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

- (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.

The documentary evidence in the record, Applicant's admissions in the Answer, and her testimony at the hearing establish that she failed to file Federal income tax returns and to pay Federal taxes, as required. Both mitigating conditions apply. Accordingly, the burden shifts to Applicant to mitigate security concerns under Guideline F.

The guideline includes the following five conditions in AG ¶ 20 that could mitigate the security concerns arising from Applicant's 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.

All of the above mitigating conditions have been established. Applicant's behavior occurred under circumstances unlikely to recur and does not cast doubt on her reliability, trustworthiness, or judgment. The circumstances she encountered in 2020 through 2022 were largely beyond her control, and she acted responsibly once she had the opportunity to correct her tax problems. She received excellent tax advice from her Tax Advisor, as evidenced by the filing of the returns following the Pandemic shutdown and the detailed letter from the Tax Advisor, which Applicant attached to the Answer. The record contains clear indications that Applicant's tax problems are being resolved and are under control. Applicant has filed her federal tax returns for TY 2020 through TY 2022. She has also initiated and is adhering to a good-faith effort to repay her delinquent taxes. Finally, she has made appropriate arrangements with the IRS to pay the taxes owed for TYs 2021 and 2022 and has provided evidence that she has begun to pay her delinquent taxes. The IRS has already substantially reduced her tax obligations with Applicant's overpayment of her taxes in TYs 2023 and 2024. Although her track record of payments under her payment plan with the IRS is not long, the amount of her monthly payments is well within her financial ability to pay, and a large part of the debt will be repaid with her overpayment for TY 2025 after she files her tax return in 2026.

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 must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the above whole-person factors and the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances in this case. I have given consideration to Applicant's maturity and her strong sense of duty and commitment to her job in support of DoD. She convinced me that there is no likelihood of a recurrence of her failure to file and pay her taxes as required. She has the excellent assistance of the Tax Advisor to make sure she does not find herself in this position again. With that advice, she has taken steps to increase her tax withholding to an appropriate level. Overall, the record evidence leaves me without questions or doubts as to Applicant's suitability for national security eligibility and a security clearance.

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: FOR APPLICANT

Subparagraphs 1.a and 1.b: For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant national security eligibility. Eligibility for access to classified information is granted.

JOHN BAYARD GLENDON
Administrative Judge