



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



In the matter of:
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Applicant for Security Clearance)

ISCR Case No. 24-02171

Appearances

For Government: John Renahan, Esq., Department Counsel
For Applicant: *Pro se*

08/29/2025

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On July 31, 2023, Applicant submitted a security clearance application (e-QIP). On January 30, 2025, 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. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended (EO); DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective within the DoD after June 8, 2017.

Applicant answered the SOR on March 21, 2025, and requested a hearing before an administrative judge. The case was assigned to me on June 16, 2025. The Defense Office of Hearings and Appeals issued a notice of hearing on July 1, 2025, and the hearing was convened as scheduled on August 12, 2025. The Government offered five exhibits, referred to as Government Exhibits 1 through 5, which were admitted without objection. Applicant testified on his own behalf and called one witness. He offered one exhibit, referred to as Applicant's Exhibit A, which was admitted without objection. The record remained open until August 26, 2025, to allow the Applicant the opportunity to submit additional documentation. He submitted nothing further. DOHA received the transcript of the hearing (Tr.) on August 25, 2025.

Findings of Fact

Applicant is 40 years old. He is not married and has no children. He has a high school diploma and three years of community college. He holds the position of Quantum Encryption Advisor and Engineer. He is seeking to obtain a security clearance in connection with his employment.

Guideline F - Financial Considerations

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

In 2022, Applicant was hired as an advisor and subcontractor for a defense contractor. As part of the job requirements, in July 2023, he completed an application for a security clearance. Applicant claims that he is an inventor of technology acquired by the company that is sponsoring him for a security clearance. He further stated that his technology has made significant contributions to both commercial and government business sectors. He is also the CEO of his own company. (Applicant's Response to the SOR.)

The SOR identified three allegations: Applicant's failure to file Federal income tax returns for tax years 2016 through 2022; his failure to file State income tax returns for tax years 2016 through 2022; and his indebtedness to a creditor totaling in excess of \$38,500. Applicant admits each of the allegations set forth in the SOR. Applicant's Subject Interview; Responses to Interrogatories; and the Applicant's credit reports dated August 9, 2023; and November 5, 2024, confirm the information set forth in the allegations in the SOR. (Government Exhibits 2, 3, 4 and 5.)

Applicant explained that he was raised by his grandparents who were first generation immigrants to the United States. He did not come from a wealthy family and did not have a lot of mentors. He stated that he is self-taught by people he has met and

trusted along the way. (Tr. pp. 61-62.) He contends in a round-about-way that he was not aware of the legal ramifications involved in not filing his income tax returns. (Tr. pp. 57-61.)

Except for a four-to-six month period between 2019 and 2020 of unemployment, Applicant has been consistently employed on a full-time basis for many years. (Tr. p. 41.) His current total annual income is approximately \$80,000.

Applicant acknowledges that he understood the legal requirement to file annual income tax returns. Filing his income tax returns were not a priority because of his focus on his work. He was not aware of the fees and penalties imposed when they are not filed on time. He stated that his compliance with the rules are now his top priority. Going forward, he plans to ensure that all of his tax returns are filed in a timely fashion, and that all of the taxes he owes are paid. (Tr. pp. 53-58 and 97-98.)

Applicant explained that during 2016, 2017, and 2018, the IRS was garnishing his wages for back taxes in an amount he believes to be approximately \$50,000. He stated that he believed that was the mechanism for paying back taxes. (Tr. pp. 59-60.)

Applicant stated that in March 2025, he hired a tax preparer to prepare the Federal and State income tax returns in question. He submitted copies of receipts from the IRS for his Federal tax returns submissions. He stated that he has been unable to obtain receipts for his State income tax filings. (See Letter from tax preparer dated March 20, 2025, attached to Applicant's response to SOR.)

The following allegations set forth in the SOR are of security concern:

1.a. Applicant failed to file Federal income tax returns for tax years 2016, 2017, 2018, 2019, 2020, 2021, and 2022. Applicant has now filed his Federal income tax returns for tax years 2016, 2017, 2018, 2019, 2020, 2021, and 2022. (Applicant's Exhibit A.) It is not clear if he has filed his Federal return for tax year 2023. He stated that he has not yet filed his Federal tax return for tax year 2024. After filing his Federal returns, he was recently notified by the IRS that he still owes at least \$80,000 in back taxes. Applicant stated that he has already started his own personal payment plan that has not yet been approved by the IRS. He has paid \$200 toward his Federal back taxes and plans to pay more in the future. (Tr. pp. 45 and 48.)

1.b. Applicant failed to file State income tax returns for tax years 2016, 2017, 2018, 2019, 2020, 2021, and 2022. Applicant stated that he has now filed his State income tax returns for tax years 2016, 2017, 2018, 2019, 2020, 2021, and 2022. He has provided no evidence to show that his State returns have been filed. It is not clear if he has filed his State tax return for 2023. He stated that he has not yet filed his State tax return for tax year 2024. He was recently notified that he currently owes \$12,000 in back taxes to the State. (Tr. pp. 45 and 48.)

1.c. Applicant is indebted to a creditor for an account that was charged off in the approximate amount of \$38,578. This was a car title loan in the amount of \$3,000, and Applicant's vehicle was collateral. Due to financial hardship, Applicant did not make the loan payments and penalties, interest and fees accumulated. Eventually the vehicle was confiscated. The debt reflects as a charge-off account on his most recent credit report. Applicant has made no payment towards resolving the debt. (Tr. p. 68.)

Applicant stated that he is now taking more responsibility for himself. He is a homeowner. In addition to the job for which he needs a security clearance, he is also the CEO of his start-up company, and he has employees who work for him. He is maturing, cleaning up his act, and growing more as a professional. (Tr. pp. 74-76.)

The witness is the founder and Facility Security Officer for the defense contractor that Applicant works for, and is a good friend of the Applicant's. He has held a security clearance since 2022. He testified that he brought Applicant on as a subcontractor to be an outside advisor for his company. Applicant has worked as an outside advisor since March 2022, providing feedback for the company's Engineers. He stated that Applicant was brought in because he has developed technologies that no one else has and very few people can do. Patent attorneys for the company have protected the invention, and the patents are in the name of his company. The witness knows that Applicant has had some tax issues and believes that they have all now been resolved. He also believes that Applicant's knowledge of the technology is crucial for his company, and Applicant should be able to enter the skiffs with the engineering team to do his work. He believes that Applicant's value outweighs the totality of the security risk. (Tr. pp. 22-36.)

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. Three are potentially applicable in this case:

- (a) inability or unwillingness 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 annual Federal, state, or local income tax as required.

While gainfully employed, Applicant failed to file his Federal and State income tax returns for tax years 2016 through 2022. During part of this period, the IRS was garnishing his wages because he was not paying his taxes. He also owes approximately \$38,578 for a charge-off account. The evidence is sufficient to raise the above disqualifying conditions.

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;
- (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; and
- (f) 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 contends that he has now filed both his Federal and State income tax returns for the years in question. For at least six years from 2016 to 2022, while gainfully employed, he did not file his annual Federal and State income tax returns, as required by law. During these years, he incurred tax liability that he did not pay until his wages were garnished by the IRS. He continues to owe a significant amount of money in back taxes to both the IRS and the State. He currently owes \$80,000 in back taxes to the IRS, and about \$12,000 in back taxes to the State. He has barely started to address this debt. He has not demonstrated that he is financially responsible. Applicant has done too little, too late. In fact, his history of financial irresponsibility and inaction for so long casts doubt on his current reliability, trustworthiness, or good judgment. His conduct shows poor judgment and unreliability. He needs more time to diligently work towards resolving his remaining back taxes to show the Government that he can be financially responsible. Under the particular facts, the mitigating conditions do not establish full mitigation.

Overall, there is insufficient evidence in the record to show that the Applicant has carried his burden of proof to establish mitigation of the government security concerns under Guideline F.

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. Applicant has now filed his Federal and State income tax returns for tax years 2016 through 2022. It is not clear if he has filed his Federal and State tax returns for tax year 2023. He currently owes at least \$80,000 in Federal back taxes that he just started to pay. He also owes \$12,000 in State income tax returns that he has not yet addressed. In addition, he has not in any way addressed his charge-off account in the amount of approximately \$38,500. At this

time, he does not show a pattern of financial responsibility, and is not found to be sufficiently reliable to properly protect and access classified information.

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 concern.

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

Darlene Lokey Anderson
Administrative Judge