



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



In the matter of:)
)
) ISCR Case No. 24-00529
)
)
Applicant for Security Clearance)

Appearances

For Government: Tara R. Karoian, Esq., Department Counsel
For Applicant: *Pro se*

05/05/2025

Decision

LOUGHREN, Edward W., Administrative Judge:

Applicant did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On April 2, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). Applicant responded to the SOR on April 20, 2024, and requested a hearing before an administrative judge. The case was assigned to me on November 21, 2024.

The hearing was convened as scheduled on January 22, 2025. Government Exhibits (GE) 1 through 5 were admitted in evidence without objection. Applicant testified and submitted Applicant Exhibits (AE) A through J, which were admitted without objection. The record was held open for Applicant to submit additional documentary evidence. She submitted an email containing tax information, which I have marked AE K and admitted in evidence without objection.

Findings of Fact

Applicant is a 48-year-old employee of a defense contractor. She has worked for her current employer since about August 2023. She earned an associate degree in 2004, and she has technical certifications. She married for the second time in 2017 after her first marriage ended in divorce in 2001. She has two adult children and a minor child. (Tr. at 7, 71; GE 1)

Applicant has a history of financial problems, including a Chapter 7 bankruptcy discharge in 2014, unfiled federal and state income tax returns, unpaid federal and state taxes, and delinquent debts. The SOR alleges the tax issues and six delinquent debts totaling about \$9,290. The SOR did not allege the bankruptcy. Any matter that was not alleged in the SOR will not be used for disqualification purposes. It may be used in assessing Applicant's overall financial situation, in the application of mitigating conditions, and in the whole-person analysis. (Tr. at 23-24, 43-44; Applicant's response to SOR)

Applicant filed the 2014 bankruptcy after she had emergency surgery at a time when she did not have insurance. She became ill in 2018 and was unable to work for part of the year. She also had significant medical bills. When she returned to work, it was at a reduced salary. She and her husband took out payday loans but had a difficult time making the payments. She stated that when they filed their federal income tax return for tax year 2019, they owed \$6,000. Their finances were still under stress in 2020, and they decided not to file their federal and state income tax returns. They could not afford to pay to have their tax returns prepared. (Tr. at 21-22, 43-45, 51, 58-59; Applicant's response to SOR; GE 2, 5)

Applicant's husband lost his job in 2021. When he found another job, it was at a lower salary. They did not file their 2021 and 2022 federal and state income tax returns when they were due. Their finances stabilized in 2023, and they contracted with a tax preparation company to file their returns. (Tr. at 51; Applicant's response to SOR; GE 2, 5)

Applicant submitted a Questionnaire for National Security Positions (SF 86) in August 2023. She reported that she failed to file her federal and state income tax returns for tax years 2021 and 2022. She also reported other financial issues. (GE 1)

Applicant was interviewed for her background investigation in September 2023. She discussed her unfiled tax returns for 2020 through 2022. She indicated that she contracted with a tax preparation company to file their returns. She also discussed other financial issues. (GE 5)

Applicant and her husband filed their 2020 through 2022 federal and state income tax returns between about September and November 2023. In response to DoD interrogatories, Applicant provided IRS tax account transcripts for the three years. The tax account transcript for 2020 was the only one that showed a return had been filed.

Their adjusted gross income for 2020 was \$82,756, and their taxable income was \$57,316. Their tax liability was \$4,971, and \$5,326 was withheld from their wages for federal income taxes. With credits (presumably COVID-19 relief), they received refunds of \$2,900 in April 2020 and \$1,800 in January 2021. The IRS transferred \$355 to what they owed for tax year 2019. There is no balance owed for 2020. She testified that she thought she still owed the IRS for 2019. (Tr. at 24-26, 51, 55-57; Applicant's response to SOR; GE 2)

The IRS tax account transcript for 2021 was obtained in December 2023. It does not show that a return had been received, possibly because it had not yet been processed. Applicant testified that she owed the IRS about \$556 (before penalties and interest) for tax year 2021. It was noted during the hearing that another IRS tax account transcript would likely have updated information. She did not provide another transcript, nor any other documentation about her 2019 and 2021 federal taxes. (Tr. at 51-61; GE 2)

The IRS tax account transcript for 2022 showed a return had been received in January 2024. Their adjusted gross income for 2022 was \$87,652, and their taxable income was \$60,068. Their tax liability was \$6,079, and \$4,228 was withheld from their wages. As of February 2024, with penalties and interest, they owed the IRS \$2,606. (Tr. at 53-56; GE 2)

Applicant submitted documentation in her response to the SOR that she was approved by the IRS for a \$150 per month payment plan. She did not document when the plan went into effect; what years it covered; how much she owed; or how many payments she made. (Applicant's response to SOR)

As of April 2024, Applicant owed her state \$1,563 for tax year 2020; \$359 for 2021; and \$1,143 for 2022, for a total of \$3,066. The state approved a \$150 per month payment plan the same month. Applicant and her husband work for the same contractor. They missed one or more payments, and their state is garnishing \$330 from his paycheck every two weeks for their state taxes. (Tr. at 38, 62-65; Applicant's response to SOR; AE A, I, J)

Applicant and her husband had not filed their 2023 federal and state income tax returns as of the date of her hearing. She filed her 2023 and 2024 federal and state income tax returns in late March or early April 2025. She indicated that they owed the IRS \$3,930 for 2023 and \$741 for 2024. They owed their state \$1,547 for 2023, and they were due a refund of \$1,883 for 2024. (Tr. at 59-60; AE K)

Applicant provided documentation with her response to the SOR that she paid the \$171 debt alleged in SOR ¶ 1.f. She settled the \$873 debt alleged in SOR ¶ 1.h with a payment of \$350. (Tr. at 32-33, 37-38; Applicant's response to SOR; AE C-G)

Applicant borrowed \$4,615 from her 401(k) retirement plan in January 2015, which she testified would be used to pay her taxes and debts. She testified that she has

been making payments to the collection company that is handling the \$2,104 medical debt alleged in SOR ¶ 1.g since about the beginning of 2024, and the morning before her hearing, she paid \$658. The 2023 and 2024 credit reports indicate this is a medical debt. The January 2025 credit reports list an \$870 debt to the same collection company, but for a utility company. The reports do not list the medical debt. She testified that the collection company is handling multiple debts, with the current balance of the collective debts as \$1,675. She did not submit anything post-hearing to document any payments toward her debts. (Tr. at 22, 28-29, 34-37, 40-43; Applicant's response to SOR; GE 3, 4; AE E-H)

SOR ¶ 1.i alleges a charged-off auto loan with a \$4,652 balance. Applicant indicated that she had gap insurance when her son was in an accident and totaled the car in July 2017, which should have covered the discrepancy in the car's value and what she owed on the loan. The debt is listed on the August 2023 and March 2024 credit reports, but not on the January 2025 credit reports. (Tr. at 22, 28-29, 38-40; Applicant's response to SOR; GE 3, 4; AE E-G)

Applicant testified that she paid the \$622 debt alleged in SOR ¶ 1.j the morning of her hearing. She did not submit anything post-hearing to document that payment. (Tr. at 40-41; Applicant's response to SOR; AE E-G)

Applicant and the collection company for the \$959 debt alleged in SOR ¶ 1.k agreed to settle the debt for 12 monthly payments of \$39, with the first payment in April 2024. She did not document any payments. The debt was reported by TransUnion on the August 2023 combined credit report. It is listed on the January 2025 Equifax credit report, but not the TransUnion and Experian credit reports obtained in the same month. She testified that she had reduced the debt to \$658, which she paid the morning of her hearing. She did not submit anything before or after the hearing to document those payments. (Tr. at 41-42; Applicant's response to SOR; GE 3, 4)

Applicant stated that her finances have improved. Her utilities are included in her rent. She and her husband frequently work from home, which cuts down on their commuter costs. She attended a financial course that was offered by her church. She indicated that she was paying some debts right after the hearing, and she thought she could pay the rest of her debts by the end of the year. She did not submit anything post-hearing to document any payments. (Tr. at 45-50, 68; GE 2) She testified that her husband is now involved with their finances, and he has helped her change her approach to her finances:

In the past, if I wanted it, I would buy it regardless of whether I had the funds to do it. And then if my bills didn't get paid, oh, well. And I look at it the opposite way now, and I am, if the bills are paid and I've got it, great. If the bills are not paid, I can't have it. (Tr. at 49-50)

Policies

This case is adjudicated 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), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, 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 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 the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), 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."

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 security decision.

A person who seeks access to classified information enters 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 of 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable 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 annual Federal, state, or local income tax as required.

Applicant has a history of financial problems, including unfiled federal and state income tax returns, unpaid federal and state taxes, and delinquent debts. AG ¶¶ 19(a), 19(c), and 19(f) are applicable.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (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; 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 became ill in 2018 and was unable to work for part of the year. She also had significant medical bills. When she returned to work, it was at a reduced salary. Her husband lost his job in 2021. When he found another job, it was at a lower salary. Those events were beyond her control. For AG ¶ 20(b) to be applicable, Applicant must establish that she acted responsibly under the circumstances.

Applicant provided documentation that she paid the \$171 debt alleged in SOR ¶ 1.f, and she settled the \$873 debt alleged in SOR ¶ 1.h with a payment of \$350. Her testimony that she has been making payments to the collection company that is handling the \$2,104 medical debt alleged in SOR ¶ 1.g is accepted. I also accept her testimony that she had gap insurance that should have covered the \$4,652 charged-off auto loan alleged in SOR ¶ 1.i. Those four debts are mitigated.

Applicant testified that she paid the \$622 debt alleged in SOR ¶ 1.j and the \$959 debt alleged in SOR ¶ 1.k the morning of her hearing. She did not submit anything post-hearing to document those payments. The Appeal Board has held that “it is reasonable for a Judge to expect applicants to present documentation about the satisfaction of specific debts.” See ISCR Case No. 09-07091 at 2 (App. Bd. Aug. 11, 2010) (quoting ISCR Case No. 04-10671 at 3 (App. Bd. May 1, 2006)).

Applicant’s tax issues have the most security significance. She did not file her income tax returns when they were due, and she did not pay her taxes. That is not responsible conduct. She filed her 2020 to 2022 state and federal income tax returns in 2023. AG ¶ 20(g) is applicable to the tax-filing allegation (SOR ¶ 1.a), but that does not end the discussion.

Failure to comply with tax laws suggests that an applicant has a problem with abiding by well-established government rules and systems. Voluntary compliance with rules and systems is essential for protecting classified information. See, e.g., ISCR Case No. 16-01726 at 5 (App. Bd. Feb. 28, 2018) A person who fails repeatedly to fulfill his or her legal obligations, such as filing tax returns when due, does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. See, e.g., ISCR Case No. 17-01382 at 4 (App. Bd. May 16, 2018) This is true even when the tax returns are eventually filed, and the taxes are eventually paid.

Applicant's state income taxes are being paid by garnishment from her husband's wages. However, court-ordered or other involuntary means of debt resolution, such as garnishment, are entitled to less weight than means initiated and carried through by the debtor. See, e.g., ISCR Case No. 17-04110 at 3 (App. Bd. Sep. 26, 2019).

Applicant submitted documentation in her response to the SOR that she was approved by the IRS for a \$150 per month payment plan. She did not document at any time when the plan went into effect; what years it covered; how much she owed; or how many, if any, payments she made. Additionally, despite going through the security clearance process, which included submitting an SF 86 in August 2023, being interviewed in September 2023, and responding to the SOR in April 2024, she and her husband did not file their 2023 federal and state income tax returns until after her hearing in late March or early April 2025. She indicated that they owed the IRS \$3,930 and their state \$1,547.

There is insufficient evidence for a determination that Applicant's financial problems will be resolved within a reasonable period. I am unable to find that she acted responsibly under the circumstances or that she made a good-faith effort to pay her taxes and the non-mitigated consumer debts. Her financial issues are recent and ongoing. They continue to cast doubt on her current reliability, trustworthiness, and good judgment. Except as noted above, the mitigating conditions are not applicable. Financial considerations security concerns are not mitigated despite the presence of some mitigation.

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 have incorporated my comments under Guideline F in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the financial considerations security concerns.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	Against Applicant
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b-1.e:	Against Applicant
Subparagraphs 1.f-1.i:	For Applicant
Subparagraphs 1.j-1.k:	Against Applicant

Conclusion

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Edward W. Loughran
Administrative Judge