



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



In the matter of:)

Applicant for Security Clearance

ISCR Case No. 23-02519

Appearances

For Government: Patricia Lynch-Epps, Esq., Department Counsel

For Applicant: *Pro se*

04/17/2025

Decision

MURPHY, Braden M., Administrative Judge:

Applicant provided sufficient evidence to mitigate financial considerations security concerns. Applicant's eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on August 22, 2022, in connection with her employment in the defense industry. On December 18, 2023, 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 CAS issued the SOR 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 Security Executive Agent Directive (SEAD) 4, *National Security Adjudicative Guidelines* (AG) effective within the DOD on June 8, 2017.

Applicant answered the SOR on February 26, 2024, and elected to have her case decided by an administrative judge of the Defense Office of Hearings and Appeals (DOHA) on the administrative (written) record, instead of a hearing. Her answer to the SOR included several attached documents. (Item 2) On March 27, 2024, Department Counsel submitted the Government's file of relevant material (FORM), including documents identified as Items 1 through 8. DOHA mailed the FORM to Applicant on March 29, 2024, and she received it on or about April 27, 2024. She was given 30 days from receipt of the FORM to submit materials in response, and to object to the Government's evidence. Applicant submitted a three-page narrative response to the FORM, along with several documents, on or about May 29, 2024. (FORM Response 1) She did not note any objections to the Government's documents. Department Counsel indicated on June 3, 2024, that she did not object to Applicant's submissions.

The case was assigned to me on July 23, 2024. On March 10, 2025, I emailed the parties and reopened the record to give Applicant the opportunity to submit additional materials, largely since some time had passed since her FORM Response. (Hearing Exhibit (HE) 1). On March 24, 2025, Applicant responded and submitted three additional documents. (FORM Response 2) The record closed on March 25, 2025.

Government Items 1 and 2, the SOR and the Answer, are the pleadings in the case. Government Items 3 through 8 are admitted without objection. Applicant's attachments to her SOR Answer and the attachments to FORM Responses 1 and 2 are admitted without objection.

Findings of Fact

In Applicant's answer to the SOR, she admitted the 10 SOR allegations (¶¶ 1.a through 1.j), with narrative explanations and some documents. Her admissions are included in the findings of fact. Additional findings follow.

Applicant is 57 years old. She and her husband have been married since 1991, and they have four adult children, all born in the 1990s. She earned an associate degree in 2007 and a bachelor's degree in 2012, and she has taken some graduate coursework. She has worked for a large defense contractor since 2012 as an engineer. She has not held a prior clearance. (Item 3)

On her August 2022 SCA, Applicant disclosed several years of unfiled Federal income tax returns (most of 2016-2021) as well as various delinquent debts. (Item 3) She discussed her tax issues and debts at length in her December 2022 background interview, which she authenticated in July 2024. (Item 4)

In December 2023, Applicant gave additional updated information on the status of her late-filed tax returns and taxes owed, with documentation from the IRS and from State M. She reported that she had filed these overdue Federal returns in April 2023, through a nationally known tax preparer service. The returns were formally filed with the IRS soon thereafter. (Item 4) This was while her clearance application was pending but before the

SOR was issued. The resulting tax debts are alleged in the SOR (see below) but the late-filed returns are not alleged.

In December 2023, Applicant entered into an installment agreement with the IRS for payment of a combined \$27,499, later updated to \$28,227, for tax years (TY) 2013, 2014, 2016-2018, and 2020-2022. The installment plan was accepted. (Item 4 at 25-29)

The SOR alleges two medical debts (SOR ¶¶ 1.a, 1.c), one consumer debt (SOR ¶ 1.b) as well as past-due Federal income taxes totaling about \$22,516 from TY 2016-2022. (SOR ¶¶ 1.d – 1.i) and past-due state income taxes of \$3,360 (SOR ¶ 1.j). The totals for the state and Federal tax debts alleged are taken from Applicant's interrogatory responses. (Items 4 & 5) As noted above, her installment agreement with the IRS covers earlier tax years and the amount owed is about \$5,000 more than what is alleged. (Item 5) The non-tax debts are established by credit reports from September 2023 and September 2022. (Items 6 & 7)

Applicant explains that she incurred her debts beginning in about 2015, when she moved from State W to State M for work. She owned a home in State W. When she moved, she left her college-aged children there and continued to pay the mortgage for that home. She also paid rent for the home in her new location. The added expenses of maintaining two households were a financial burden. She also failed to file tax returns for several years, a situation which began with that move. Her husband also lost his job in 2016, which led to a decline in household income. (Item 4 at 7-9). Applicant initially fell behind on mortgage payments but in early 2018, she took out about \$28,000 from her 401(k) pension plan to prevent the home from being foreclosed on. (Item 3 at 36-37; Item 4 at 9)

SOR ¶¶ 1.a (\$1,093) and 1.c (\$57) are medical debts placed for collection with the same collection agent. (Item 3 at 37-39; Items 6 & 7) Applicant explained in her background interview and her Answer that she and her husband had to see medical specialists and were not able to pay for them through their Health Savings Accounts (HSAs), and these debts resulted. (Item 4 at 9; Answer) She documented with her Answer that the debt at SOR ¶ 1.c has been paid. With her initial FORM Response, she documented a \$91 payment in June 2024 towards the debt at SOR ¶ 1.a. She did not provide documentation of any further payments with FORM Response 2, in March 2025. However, the medical debts are small and due to an explainable, reasonable circumstance.

SOR ¶ 1.b (\$371) is an account placed for collection by a cable TV provider. (Items 6, 7) Applicant initially disputed the debt, but then realized she still had a piece of cable equipment she had not returned. She returned the equipment and made reasonable efforts to document that she did so. (Answer; FORM Response 1) I consider that this account is resolved.

SOR ¶ 1.d alleges \$5,027 in past-due Federal income taxes for TY 2016. (Item 4 at 31)

SOR ¶ 1.e alleges \$1,561 in past-due Federal income taxes for TY 2017 (Item 4 at 33)

SOR ¶ 1.f alleges \$11,752 in past-due Federal income taxes for TY 2018. (Item 4 at 35) Applicant filed her TY 2019 federal tax returns on time. She received a \$902 refund, credited to past-due taxes for TY 2013. (Item 4 at 37-38)

SOR ¶ 1.g alleges \$2,053 in past-due Federal income taxes for TY 2020. (Item 4 at 39)

SOR ¶ 1.h alleges \$1,340 in past-due Federal income taxes for TY 2021. (Item 4 at 41)

SOR ¶ 1.i (\$333 in past-due Federal income taxes for TY 2022. (Item 4 at 43)

Applicant's Federal taxes are all established by the IRS account transcripts she provided with her December 2023 interrogatory response. (Item 4) With her Answer, she provided a copy of her installment agreement, and documented two monthly payments of \$385, in January and February 2024. (Answer) With her FORM Response, she provided documentation of updated monthly payments through May 2024. In March 2025, she documented 10 more regular \$385 monthly payments through March 2025, from her bank. (FORM Response 2) While a current balance owed is not provided, it would appear that the Federal tax balance owed has been reduced by an additional \$3,850 since May 2024, with total payments under the installment agreement of about \$5,700. Though it would appear that she still owes over \$22,000 in past-due Federal taxes, this debt is being resolved.

SOR ¶ 1.j alleges \$3,360 in past-due state income taxes to State M for TY 2016 and 2018. (Item 4 at 15, 21) With her Interrogatory response, Applicant documented an agreed-upon repayment plan with State M to pay \$190 a month for 18 months, beginning in January 2024. (Item 4 at 21) As of late May 2024, she had made enough payments to reduce the balance to \$3,092, with the payments to end by late 2025 (FORM Response) In March 2025, she provided updated documentation from her bank showing about 9 regular \$190 monthly payments since then, through early March 2025. (FORM Response 2) While a current balance owed is not provided, it would appear that the state tax balance owed has been reduced by about \$1,700. This debt is being resolved.

Applicant filed for Chapter 7 bankruptcy protection in June 2005 and her debts were discharged in October 2005. (Item 8) She explained that she filed for bankruptcy after falling behind on her debts when she quit working while raising young children. With a fresh financial start, she put herself through college, earned a bachelor's degree in chemical engineering, and has been working for her current employer since 2012. (Answer) Applicant's bankruptcy is part of her financial history but is not alleged in the SOR.

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.” *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

The adjudicative 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(a), the entire process is a conscientious scrutiny of several 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 access to classified information 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, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable security 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 that an 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.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline for financial considerations is set out, in relevant part, 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. . . .

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

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 incurred unpaid Federal and state taxes in recent years due to family financial instability and a move, resulting in increased expenses. She also had several years of unfiled tax returns. Though the returns have been filed and are not alleged, significant tax debt remains. She also incurred some medical and other debts, also alleged in the SOR. The above disqualifying conditions apply.

The following mitigating conditions under AG ¶ 20 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;
- (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.

Applicant's non-tax debts (SOR ¶¶1.a-1.c) were due to unusual circumstances, and they are small and largely resolved. Her tax debts are ongoing though being resolved under repayment plans. The fact that Applicant's tax debts are ongoing prevents full application of AG ¶ 20(a).

Applicant disclosed her significant tax issues on her SCA. She took steps to cure the matter in April 2023, when she filed her past-due returns with the assistance of a well-known tax-preparation service. This was while her clearance application was pending, but also before the SOR was issued. She has documented that she has been in regular, monthly compliance with tax repayment arrangements with both the IRS and the tax authority for State M since January 2024. While the fact of her numerous late-filed returns cuts against full application of good-faith under AG ¶ 20(d), she nonetheless has demonstrated a track record of regular, steady payments to resolve her tax debts under agreed-upon repayment plans, and her tax debts are being resolved and are under control. While they remain significant, I conclude that AG ¶¶ 20(c) and 20(d) both partially apply in mitigation. AG ¶ 20(g) fully applies.

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 the 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(a), 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 under all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis.

After seeking appropriate professional financial and tax advice, Applicant filed her overdue tax returns and has been paying the resulting state and Federal tax debts regularly since January 2024. While she still has a way to go, she has demonstrated enough of a track record of repayments to conclude that she will continue making the payments until the debts are resolved. Overall, the record evidence leaves me with no

questions or doubts as to Applicant's eligibility for access to classified information. Applicant provided sufficient evidence to mitigate financial 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: **FOR APPLICANT**

Subparagraphs 1.a-1.j: For Applicant

Conclusion

Considering all of the circumstances presented, it is clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is granted.

Braden M. Murphy
Administrative Judge