



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-02169

Appearances

For Government: Tovah Minster, Esq., Department Counsel
For Applicant: *Pro Se*

09/26/2025

Decision

HOGAN, Erin C., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on October 11, 2023. On December 26, 2024, the Defense Counterintelligence and Security Agency (DCSA) sent her a Statement of Reasons (SOR) alleging security concerns under Guideline F. The DCSA acted under Executive Order (EO) 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 (AG) implemented by the DOD on June 8, 2017.

Applicant timely answered the SOR on March 5, 2025, and requested a decision based on the written record in lieu of a hearing. On March 20, 2025, the Government sent Applicant a complete copy of its written case, a file of relevant material (FORM), including pleadings and evidentiary documents identified as Items 1 through 5. She was given an

opportunity to submit a documentary response setting forth objections, rebuttal, extenuation, mitigation, or explanation to the Government's evidence. She received the FORM on May 6, 2025. She was given 30 days to submit a response to the FORM. She did not submit a response. The case was forwarded to the DOHA Hearing Office on July 8, 2025, and assigned to me on September 2, 2025.

Evidentiary Matters

Items 1 and 2 contain the pleadings in the case and are part of the record. Items 3 through 5 are admitted into evidence. I also note that Item 2, page 4 is an important piece of evidence in support of Applicant's case.

Some details in the decision were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

Applicant, age 56, is an employee of a DOD contractor who is seeking a security clearance for a position with a federal contractor. She served in the United States Air Force from March 1987 to March 2007. She retired with an honorable discharge. She held a security clearance while serving on active duty and estimates that she was first granted a security clearance in August 2000. She has a bachelor's degree and two masters degrees. She is divorced and has an adult child. (Item 3)

The SOR alleged Applicant had two delinquent federal income tax debts, including:

SOR ¶ 1.a: a \$13,791 delinquent federal tax debt for tax year 2017. (Item 3 at 43; Item 4 at 6, 8, 14-18); and

SOR ¶ 1.b: a delinquent federal tax debt with an unalleged balance for tax year 2019. (Item 3 at 44; Item 4 at 7-8)

On her October 2023 SCA, in response to Section 26 – Financial Record – Taxes – In the last seven (7) years have you failed to pay or file Federal, state, or other taxes required by law or ordinance?" Applicant answered, "Yes." She indicated that for tax years 2017, 2018, 2019, and 2020, she provided her tax information to her long-time Certified Public Accountant (CPA), but he neglected to file and prepare her federal income tax returns. Applicant contacted the CPA on numerous occasions. He eventually filed the federal income tax return for tax year 2018 on April 13, 2020. No balance was owed for tax year 2018. (Item 3 at 44-45).

The former CPA did not prepare or file Applicant's federal income tax returns for 2017, 2019, and 2020. In approximately September 2022, she hired a new CPA. Her new

CPA filed the federal income tax returns for tax years 2017, 2019 and 2020. The status of the federal tax returns are as follows:

Tax Year 2017: Federal income tax return filed on September 7, 2022. On April 25, 2023, a payment plan was requested. As of October 2023, she was waiting for a confirmed payment plan from the IRS. The taxes owed for tax year 2017 were higher than usual because she withdrew inheritance money to fund her business. (Item 3 at 43)

Tax Year 2018: Federal income tax return filed on April 13, 2020. Applicant contacted her former CPA about filing her federal income tax returns. He filed the federal income tax return for tax year 2018 in April 2020. Any taxes owed were paid immediately. The IRS applied any refunds to the tax debt owed in tax year 2017. (Item 3 at 44)

Tax Year 2019: Federal income tax return filed on July 17, 2023. Applicant's new CPA filed the tax year 2019 federal income tax returns in July 2023. While she indicated that the balance due was resolved immediately, SOR ¶ 1.b alleges a delinquent tax debt for tax year 2019. (Item 3 at 44)

Tax Year 2020: Federal income tax return filed on February 13, 2023. Applicant's new CPA filed tax year 2020 income tax returns in February 2023. Any balance due was resolved and any refund was applied to her 2017 tax debt. (Item 3 at 45)

Applicant's tax issues with tax years 2018 and 2020 were not alleged in the SOR. It is likely because these tax issues were resolved before the SOR was issued in December 2024. Applicant began working on resolving her federal tax issues with the new CPA around September 2022. The tax year 2018 and 2020 tax issues will not be considered for disqualifying purposes. They will be considered under matters of extenuation and mitigation.

In her response to the SOR, Applicant denied that she owed federal income tax debts for tax years 2017 and 2019. She attached a document from her account on the IRS website titled "Payment Activity." It indicated that she made a \$1,000 payment towards her 2017 federal tax debt on May 23, 2024, and a \$14,256 payment on February 14, 2025, for tax year 2017. On February 18, 2025, she made a \$3,286 payment towards her 2019 federal tax debt. She claims the taxes owed for tax years 2017 and 2019 have been paid in full. (Item 2)

In her response to DOHA Interrogatories in August 2024, Applicant provided her monthly budget. Her net monthly income was \$13,719. Her total monthly expenses were \$1,910, her total monthly debt payments were \$4,930. Her total monthly payments were \$6,840. Her monthly net remainder was \$6,879. (Item 4 at 9) (NOTE: My calculations were different from the totals listed on the budget work sheet.)

Policies

“[N]o one has a ‘right’ to a security clearance.” (*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988)). As Commander in Chief, the President has the authority to “control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” (*Egan* at 527). The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” (EO 10865 § 2)

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” (EO 10865 § 7). Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. (*Egan*, 484 U.S. at 531). “Substantial evidence” is “more than a scintilla but less than a preponderance.” (*See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994)). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016). Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. (Directive ¶ E3.1.15). An applicant has the burden of proving a mitigating condition,

and the burden of disproving it never shifts to the Government. (ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005))

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” (ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002)). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” (*Egan*, 484 U.S. at 531; AG ¶ 2(b))

Analysis

Guideline F: Financial Considerations

The concern under this guideline is set out in AG ¶ 19:

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.

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person 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)).

AG ¶ 19 notes several disqualifying conditions that could raise security concerns. The disqualifying condition that is relevant to Applicant's case is:

(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.

AG ¶ 19(f) applies. Applicant owed past due federal income taxes for tax years 2017 and 2019.

AG ¶ 20 describes conditions that could mitigate security concerns. The following are potentially applicable in this case:

(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 in 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;

(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.

AG ¶ 20(a) and AG ¶ 20(b) apply because Applicant's federal income tax issues were the result of her original CPA's failure to prepare and file her federal income tax returns on a timely basis for tax years 2017 – 2020. After many attempts to get him to file her federal income tax returns, he filed her federal income tax return for tax year 2018, but still did not file her federal income tax returns for tax years 2017, 2019 and 2020. As a result, Applicant hired another CPA who filed her outstanding federal income tax returns and negotiated a payment agreement with the IRS related to the outstanding tax debts. She provided proof that she paid the outstanding tax debts in full in February 2025. While she could have been more proactive in seeking information about her tax returns from her original CPA, she ultimately took the initiative to hire a new CPA who filed her income tax returns for her. Applicant's federal tax situation was the result of negligent CPA. This was a circumstance beyond her control and she acted responsibly under the circumstances. The situation is unlikely to recur.

AG ¶ 20(d) applies because Applicant initiated a good-faith effort to resolve her federal income tax issues. After realizing her former CPA was not going to file her income tax returns for tax years 2017, 2019 and 2020, she hired a new CPA who filed the federal income tax returns for tax years 2017, 2019 and 2020. The tax returns were filed between 2022 and 2023, and in April 2023, the IRS was contacted about creating a payment plan for the outstanding tax debts. Applicant began to resolve her federal tax issues before she submitted her October 2023 SCA and before the SOR was issued in December 2024.

AG ¶ 20(g) applies in that Applicant hired a new CPA who helped with filing all of the income tax returns her previous CPA neglected to file. She and her CPA worked on getting payment arrangements to resolve her federal income debts. While it is not clear whether she ever had an approved payment plan with the IRS, Applicant provided

sufficient proof that her federal income tax returns were filed and that she made payments to the IRS which resolved her outstanding federal tax debts for tax years 2017 and 2019.

Overall, Applicant mitigated the concerns raised under Financial Considerations.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall commonsense judgment based upon careful consideration of the adjudicative guidelines, each of which is to be evaluated in the context of the whole person. An 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.

I have incorporated my comments under Guideline F in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). I considered Applicant's honorable active-duty service and retirement from the U.S. Air Force. I considered that her federal tax income tax issues were the result of a CPA who failed to timely file her federal income tax returns for tax years 2017-2020. After numerous attempts to contact the CPA, she made the decision to hire a new CPA who filed her federal income tax returns and helped her negotiate a payment plan with the IRS. It took several years, but Applicant resolved the federal income tax debts owed for tax years 2017 and 2019. After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, I conclude that Applicant mitigated the security concerns raised under financial considerations.

Formal Findings

Formal findings 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.b: For Applicant

Conclusion

I conclude that it is clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Clearance is granted.

Erin C. Hogan
Administrative Judge