



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



In the matter of:

Applicant for Security Clearance

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)
) ISCR Case No. 24-00854
)
)

Appearances

For Government: Troy L. Nussbaum, Esq., Department Counsel
For Applicant: William J. Olson, Personal Representative

07/14/2025

Decision

HARVEY, Mark, Administrative Judge:

Applicant mitigated security concerns under Guideline B (foreign influence); however, he failed to mitigate Guideline F (financial considerations) security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On April 7, 2023, Applicant completed and signed an Electronic Questionnaires for Investigations Processing (SF 86) or security clearance application (SCA). (GE 1) On July 22, 2024, the Department of Defense Counterintelligence and Security Agency (DCSA), issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security

clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guidelines F and B. (HE 2)

Applicant provided a response to the SOR, and he requested a hearing. (HE 3) On January 15, 2025, Department Counsel was ready to proceed. On February 21, 2025, the case was assigned to me. On February 26, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing for April 21, 2025. (HE 1) Applicant's hearing was held as scheduled.

Department Counsel provided five exhibits, and Applicant did not provide any exhibits at his hearing. (Transcript (Tr.) 17; GE 1-GE 5) There were no objections, and all exhibits were admitted into evidence. (Tr. 18) The transcript was received on May 1, 2025. Applicant provided 10 exhibits after his hearing, which were all admitted without objection. (Applicant Exhibit (AE) A-AE K) The exhibits included spellings of the names of his siblings and some corrections to the transcript. (AE C; AE K) The record closed on May 27, 2025. (Tr. 70, 77)

Legal Issues

Department Counsel requested administrative notice concerning Somalia. (Tr. 17-18; HE 5) Applicant did not object, and I granted Department Counsel's motion. (Tr. 18) Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 16-02522 at 2-3 (App. Bd. July 12, 2017); ISCR Case No. 05-11292 at 4 n. 1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004) and *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n. 4 (3d Cir. 1986)). Usually, administrative notice at ISCR proceedings is accorded to facts that are either well known or from government reports. See Stein, *Administrative Law*, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice).

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

Findings of Fact

In Applicant's SOR response, he admitted all the SOR allegations, except he did not admit or deny SOR ¶ 2.i. (HE 3) He also provided explanations, clarifications, and mitigating information. (*Id.*)

Applicant is a 59-year-old linguist, and he is seeking employment with a U.S. Government contractor. (Tr. 29) He worked for the U.S. Government as a linguist from 1993 to 1994, and in 2023. He held a security clearance or interim security clearance during those years. (Tr. 52) He has a bachelor's degree in electrical engineering. (Tr. 27) Applicant has worked as a translator or interpreter for 15 years. (Tr. 29) In 2023, he was working for the U.S. Government in Somalia, and he had to return to the United States

because of an illness. (Tr. 29) He currently is a self-employed or independent contractor, and he works as driver for a large company. (Tr. 39)

Financial Considerations

Applicant first started to have financial problems in 2018. (Tr. 30) He also fell behind on some of his taxes because of the COVID-19 pandemic. (Tr. 30) In 2023, Applicant had a serious illness; he returned to the United States from Somalia; and he was unable to work for eight or nine months. (Tr. 29, 42) When he was ready to return to Somalia, he was advised his security clearance was on hold. (Tr. 42) He remained in the United States, and his income did not increase to the same levels he was receiving as a linguist in Somalia. His current monthly income averages about \$4,000. (Tr. 39) If he is hired as a linguist, he expects to receive annual income of about \$110,000. (Tr. 41)

SOR ¶ 1.a alleges Applicant failed to file, as required, a federal income tax return for the tax year (TY) 2018. Applicant said he completed his tax return and expected that his spouse would file it. (Tr. 20) His IRS tax transcript shows he filed his TY 2018 federal income tax return on April 23, 2019, and it was processed on June 17, 2019. (Tr. 21, 62-64; SOR response) He said he always timely files his federal income tax returns. (Tr. 63)

SOR ¶¶ 1.b through 1.d allege Applicant is indebted to the federal government for delinquent taxes in the following amounts (rounded to the nearest \$100): \$3,800 for TY 2019; \$4,800 for TY 2021; and \$2,400 for TY 2022, respectively.

The following table contains information from IRS tax transcripts for adjusted gross income (AGI) for TYs 2018, 2020, 2021, and 2022. (SOR response) Applicant did not provide IRS tax transcripts for TYs 2019, 2023, and 2024. He filed his federal income tax returns for TYs 2023 and 2024, and he said he owes about \$300 for TY 2023 and \$1,270 for TY 2024. (Tr. 68-69) The following table also shows his November 2024 IRS installment agreement, which indicates he owes \$10,400 for TYs 2019, 2021, 2022, and 2023. (Tr. 68-69; AE B):

Tax Year	Adjusted Gross Income Rounded to Nearest \$1,000	Account Balance Plus Accruals
2018	\$31,000	\$0
2019		\$3,700
2020	\$62,000	\$0
2021	\$76,000	\$3,700
2022	\$47,000	\$2,700
2023		\$300
2024		\$1,270

Applicant's IRS tax transcripts for TY 2018 show: he withheld \$40; he paid \$31 when he filed his return; and he owed \$1,581. (SOR response) From July 2019 to October 2022, he made \$31 monthly payments to the IRS. *Id.* On September 11, 2023, he paid

\$790, and he resolved his tax debt for TY 2018. *Id.* In sum, he failed to pay his federal income taxes for TY 2019 until September 11, 2023.

From April 2020 to October 2022, Applicant made monthly \$31 payments to the IRS. (AE H) His November 2, 2023 IRS installment agreement said he owed a total of \$9,390 to the IRS consisting of \$790 owed for TY 2018, \$3,800 owed for TY 2019; and \$4,800 owed for TY 2021. (AE A) He made the following payments to the IRS in 2023: September (\$790); October (\$500); and November (\$500). (AE H) Generally, the IRS applies any payments received to the oldest tax debt.

Applicant's IRS tax transcripts for TY 2021 showed the following payments: October 6, 2023 (\$275 and \$225); October 24, 2023 (\$500); November 20, 2023 (\$500); and March 27, 2024 (\$133). (SOR response; AE H) The two \$500 payments made in 2023 are noted in the preceding paragraph. He did not make any payments in January and February of 2024 because he was training for new employment, and he did not have any available income. (Tr. 65)

Applicant's November 20, 2024 IRS installment agreement shows he agreed to pay \$141 monthly to the IRS. (AE B) Applicant made four \$141 payments from December 2024 to April 2025 to address his federal income tax debts for TYs 2019 and 2021. (Tr. 65; AE A; AE H) He promised to continue the \$141 monthly payments. (Tr. 30) He believes he could pay his federal income tax debt a year or two or sooner, if his security clearance is approved, and he receives the proffered employment. (Tr. 21, 66) Applicant said his employer does not withhold funds for federal income taxes. (Tr. 40, 66) However, he provided a pay stub showing his pay for seven days in December 2024 was \$600 with \$4 withheld from his pay for federal income taxes. (AE F) He could have a large tax bill for TY 2024 and possibly in TY 2025. (Tr. 67) He said he wants to pay his taxes; however, he did not pay his taxes because of insufficient income. (Tr. 67)

SOR ¶ 1.e alleges Applicant is indebted to a state for delinquent taxes in the approximate amount of \$1,000 to \$2,000 for TY 2022. He said he paid the debt in 2023, and he does not owe anything to the state tax authority. (Tr. 22, 60) He said a property tax refund was transferred to pay a state income tax debt. (Tr. 61) He said he would ask for proof of payment or current status from the state tax authority after his hearing. (Tr. 61)

SOR ¶ 1.f alleges Applicant has an account that is past due for about \$578 with a total loan balance of \$9,994. Applicant had a vehicle lien for a 2013 vehicle. (SOR response) Applicant provided an August 3, 2024 statement from the creditor indicating the following payments: January 2024 (\$280); February 2024 (\$230); April 2024 (\$275); and July 2024 (\$300). *Id.* On July 13, 2024, the creditor wrote that monthly payment is \$227, and \$733 is due. *Id.* On April 21, 2025, the creditor wrote that the balance owed was \$2,073. (Tr. 22; AE E) He said if he receives the employment he is seeking as a linguist, he will pay the remaining balance owed on this debt. (Tr. 22) His daughter is currently making payments on this debt. (Tr. 59)

Applicant is making payments to a debt consolidation company which is addressing four of his non-SOR debts. (AE J) I advised Applicant that it was crucial for him to provide more evidence of his tax situation after his hearing. I requested that he provide proof of his IRS payment plan and proof that the state tax debt is paid. (Tr. 77) He provided the requested federal income tax information; however, he did not provide proof that he paid his state tax debt.

In October 2023, Applicant went on a vacation to Europe. (AE I) In 2024, Applicant and his spouse went on a Pilgrimage to Saudi Arabia, and in May 2024, he went on a vacation to Europe. (AE I)

Foreign Influence

SOR ¶ 2.a alleges Applicant's spouse owns a two-bedroom residence and three additional properties in Somalia with approximate values of \$5,000, \$5,000, \$3,000, and \$2,000 USD, respectively. Applicant said his spouse was unable to afford the payments, and she no longer owns the properties. (Tr. 23, 39, 57-58) She sold one property to her sister. (Tr. 57)

SOR ¶ 2.b alleges Applicant inherited property in Somalia with an approximate value of \$35,000 USD. (Tr. 53) He learned that he received the property in 1994. (Tr. 53) In 2019, his sister purchased the property for \$20,000, and Applicant used the money to pay down his mortgage on the house where he lives. (Tr. 38, 53; SOR response) Applicant said he sent an affidavit to enable his sister to transfer the property out of his name. (Tr. 24; AE G) His sister is working on getting the property transferred in the records of Somalia. (Tr. 54) He and his spouse do not currently own any property in Somalia. (Tr. 24-25)

SOR ¶ 2.c alleges Applicant's brother and sister are citizens and residents of Somalia. SOR ¶ 2.d alleges Applicant's brother is a citizen of Somalia and resident of Uganda.

SOR ¶¶ 2.e through 2.g allege Applicant's cousin, uncle, and aunt are citizens and residents of Somalia, respectively. Applicant said he ended contacts with his aunt, uncle, and cousin living in Somalia in 2023 when he was working in Somalia. (Tr. 25-26, 47-50) He does not intend to communicate with them in the future. (Tr. 47-50)

SOR ¶ 2.h alleges Applicant's mother's cousin is a citizen of Somalia and a resident of Saudi Arabia. SOR ¶¶ 2.i and 2.j allege Applicant's cousin and brother are citizens of Somalia and residents of the United Kingdom. SOR ¶ 2.k alleges his sister is a citizen of Somalia and a resident of the Netherlands. SOR ¶ 2.l alleges his stepmother is a citizen of Somalia and a resident of Ireland. Applicant admitted these four SOR allegations and clarified that his sister in SOR ¶ 2.k is a citizen of the Netherlands.

In 1981, Applicant left Somalia and immigrated to the United States when he was 16 years old. (Tr. 24, 31) He became a U.S. citizen in 1992. (Tr. 31) He has resided in the United States for about 43 years. (Tr. 24, 28, 70) He has been married three times,

and he has seven adult daughters and no sons. (Tr. 13, 30-34) His seven children were born in the United States. (Tr. 13, 27, 32) In 1996, his spouse left Somalia, and she is a naturalized U.S. citizen. (Tr. 31-32) He has four grandchildren; three were born in the United States; one was born in Canada; and all of them are U.S. citizens. (Tr. 30-33) None of his children have been to Somalia. (Tr. 27-28) Four of his daughters are married; three of them are married to U.S. citizens; and one of them is married to a U.S. permanent resident. (Tr. 34)

Applicant has 15 siblings or half siblings. (Tr. 43) Two half siblings are citizens and residents of Somalia. (Tr. 43) One sibling lives in the United Kingdom; two siblings live in Uganda; one sibling lives in Netherlands. (Tr. 44-45) Five siblings passed away. (Tr. 45) The last time he talked to either of the half siblings in Somalia was in 2023. (Tr. 45) He does not intend to communicate with them in the future. (Tr. 46) It is more important to him that he have a clearance than it is to communicate with anyone in Somalia. (Tr. 46) He most recently talked to the half sibling living in Uganda in November 2024. (Tr. 46) He does not intend to talk to him in the future. (Tr. 46-47)

The only time Applicant went to Somalia outside of his U.S. employment was in 2015, when he went to Somalia for 20 days to seek employment from a U.S. State Department-related nongovernment organization (NGO). (Tr. 55) In 2023, Applicant went to Somalia for four months as part of his employment with a government contractor. (Tr. 42) He had an interim clearance when he was in Somalia in 2023. (Tr. 42)

Two of Applicant's brothers and two of his sisters reside in the United States. (Tr. 35) All four of them are U.S. citizens. (Tr. 35) He owns his home, and it has a \$75,000 mortgage on it. (Tr. 36, 38) The fair market value of his house is about \$450,000. (Tr. 37)

Applicant said the only people he talks to are U.S. citizens. (Tr. 26) Applicant's best friend is his personal representative who is a lifelong U.S. schoolteacher and coach. (Tr. 26) He has another U.S. friend he has known for more than 40 years. (Tr. 27)

Character Evidence

In 2022, Applicant received a certificate of appreciation for his patriotism from a private organization. (SOR response) He received a certification of appreciation for his support to Operation Restore Hope in Somalia in 1993. (Tr. 51; SOR response) A character witness who has known Applicant for seven years described him as loving, kind, patriotic, honorable, honest, reliable, and trustworthy. (Tr. 72-73) He said Applicant exercises good judgment. (Tr. 73) He recommended approval of Applicant's security clearance. (Tr. 74)

Somalia

Somalia was established as a federal parliamentary republic in 2012. Somalia has made strides towards democracy and compliance with the rule of law since 2012. The U.S. State Department has issued a "Level 4: Do Not Travel Advisory for Somalia advising do not travel to Somalia due to **crime, terrorism, civil unrest, health issues,**

kidnapping, and **piracy**. Violent crime, such as kidnapping and murder, is common throughout Somalia.” (HE 5 at 2 (emphasis in original)) Al-Shabaab, a terrorist organization, controls several areas in Somalia and has launched attacks into neighboring countries. Al-Shabaab has engaged in numerous bombings and murders targeting the Somali Government, civilians, and foreigners. Somali Government security forces in some instances have engaged in human rights violations.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no 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.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied 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, 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 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 “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence 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. See *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. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

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 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). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Foreign Influence

AG ¶ 6 explains the security concern about "foreign contacts and interests" stating:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

AG ¶ 7 lists conditions that could raise a security concern and may be disqualifying in this case:

(a) contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion;

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology; and

(f) substantial business, financial, or property interests in a foreign country, or in any foreign owned or foreign-operated business that could subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest.

The SOR alleges, and Applicant admitted that he and his spouse owned property in Somalia. Applicant has siblings, aunt, uncle, and cousins who are citizens and residents of Somalia. He communicated with some of them until 2023. After 2023, he did not communicate with any residents of Somalia, and he does not intend to communicate with them in the future. His relationships with former Somalia citizens and residents who now live in Europe, Uganda, and the United States are not a security concern because they are not subject to criminals and terrorists in Somalia.

Frequency of communications with relatives in a foreign country are not the sole determinant of a foreign influence disqualifying condition. The Appeal Board addressed a case where an applicant had connections with a former foreign Russian government official and a current Russian government official. ISCR Case No. 19-02177 at 2 (App. Bd. Aug. 12, 2020). However, his communications with them were not recent and infrequent “about once every one to two years with the last time being in 2017” three years before his security clearance hearing. *Id.* The Appeal Board concluded these contacts were sufficient to raise a security concern and affirmed the denial of that applicant’s security clearance. *Id.* at 2-3.

The mere possession of close family ties with people living in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if an applicant, his or her spouse, or someone sharing living quarters with them, has such a relationship with even one person living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. See ISCR Case No. 08-02864 at 4-5 (App. Bd. Dec. 29, 2009) (discussing problematic visits of that applicant’s father to Iran).

Not every foreign contact or tie presents the heightened risk under AG ¶ 7(a). The “heightened risk” denotes a risk greater than the normal risk inherent in having a family member living under a foreign government. The nature and strength of the ties and the country involved (i.e., the nature of its government, its relationship with the United States, and its human rights record) are relevant in assessing whether there is a likelihood of vulnerability to coercion. “[T]he nature of the foreign government involved, and the intelligence-gathering history of that government are among the important considerations that provide context for the other record evidence and must be brought to bear on the Judge’s ultimate conclusions in the case. The country’s human rights record is another important consideration.” ISCR Case No. 16-02435 at 3 (App. Bd. May 15, 2018) (citing ISCR Case No. 15-00528 at 3 (App. Bd. Mar. 13, 2017)). Another important consideration is the nature of a nation’s government’s relationship with the United States. These factors are relevant in assessing the likelihood that an applicant’s family members or friends living in that country are vulnerable to government coercion or inducement.

The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, the government ignores the rule of law including widely accepted civil liberties, a family member is associated with or dependent upon the government, the government is engaged in a counterinsurgency, terrorism causes a substantial amount of death or property damage, or the country is known to conduct intelligence collection operations against the United States. The relationship of Somalia with the United States and the situations involving terrorists and insurgents in that country places a significant burden of persuasion on Applicant to demonstrate that his relationships with anyone living in or visiting Somalia does not pose a security risk because of the risks due to terrorist activities in that country. Applicant should not be placed into a position where he might be forced to choose between the protection of classified information and concerns about assisting someone living in or visiting Somalia.

The issue under Guideline B is whether Applicant has ties or contacts with relatives in Somalia, which raise security concerns because those ties and contacts create a potential vulnerability that criminals, or terrorists could seek to exploit to get unauthorized access to U.S. classified information that he has by virtue of a security clearance. Applicant may be vulnerable to influence or pressure exerted on, or through, his relatives.

International terrorist groups are known to conduct intelligence activities as effectively as capable state intelligence services, and Somalia has a significant problem with terrorism and crime. Applicant's relatives living in Somalia "could be a means through which Applicant comes to the attention of those who seek U.S. information or technology and who would attempt to exert coercion upon him." ADP Case No. 14-01655 at 3 (App. Bd. Dec. 9, 2015) (citing ISCR Case No. 14-02950 at 3 (App. Bd. May 14, 2015)).

Applicant's relationships with relatives who are living in Somalia or visiting Somalia create a potential conflict of interest because terrorists could place pressure on them to cause Applicant to compromise classified information. Those relationships create "a heightened risk of foreign inducement, manipulation, pressure, or coercion" under AG ¶ 7. Department Counsel produced substantial evidence of Applicant's relationships with relatives in Somalia. AG ¶¶ 7(a), 7(b), and 7(f) apply, and further inquiry is necessary about potential application of any mitigating conditions.

AG ¶ 8 lists conditions that could mitigate foreign influence security concerns including:

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the

individual can be expected to resolve any conflict of interest in favor of the U.S. interest;

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation;

(d) the foreign contacts and activities are on U.S. Government business or are approved by the agency head or designee;

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; and

(f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

As indicated in the disqualifying conditions of the Foreign Influence section, *supra*, Applicant and his spouse had property in Somalia. They divested themselves of the property in Somalia. They have substantial property in the United States. AG ¶ 8(f) applies to their property in Somalia.

Applicant has relationships with relatives living in Somalia. Terrorists and criminals could put pressure on Applicant by threatening his relatives in Somalia. Approval of a security clearance for Applicant increases the risk that they could be targeted to put pressure on Applicant to provide classified information.

The Appeal Board has concluded that contact every two months or three months constitutes "frequent contact" under AG ¶¶ 7 and 8. ISCR Case No. 14-05986 at 3-4 (App. Bd. Oct. 14, 2016). See *also* ISCR Case No. 04-09541 at 2-3 (App. Bd. Sept. 26, 2006) (finding contacts with applicant's siblings once every four or five months not casual and

infrequent and stating “The frequency with which Applicant speaks to his family members in Iran does not diminish the strength of his family ties.”). Frequency of contact is not the sole determinant of foreign interest security concerns. Applicant has not had any contacts with relatives in Somalia since 2023.

A key factor in the AG ¶ 8(b) analysis is Applicant’s “deep and longstanding relationships and loyalties in the U.S.” His relationship with the United States must be weighed against the potential conflict of interest created by his connections to Somalia. Applicant was born in Somalia, and he moved to the United States in 1981 when he was 16 years old. He became a U.S. citizen in 1992. He has a bachelor’s degree in electrical engineering. He has resided in the United States for 43 years.

In 1996, Applicant’s spouse left Somalia, and she is a naturalized U.S. citizen. His seven children are citizens and residents of the United States. He has four grandchildren, and all of them are U.S. citizens. Two of Applicant’s brothers and two of his sisters are citizens and residents of the United States. He owns his home, and he has equity of about \$375,000.

These factors are balanced against the security concerns outlined in the SOR. Applicant’s access to classified information could add risk to his relatives in Somalia. There is no allegation that he would choose to help the terrorists against the interests of the United States. A Guideline B adjudication is not a judgment on an applicant’s character or loyalty to the United States. It is a determination as to whether an applicant’s circumstances foreseeably present a security risk. See ISCR Case No. 19-00831 at 5 (App. Bd. July 29, 2020). The concern here pertains to the risk to his relatives living in Somalia and how that risk could be used to coerce Applicant. It does not relate to his loyalty or patriotism to the United States.

Applicant’s connections to the United States, taken together, are sufficient to overcome the foreign influence security concerns under Guideline B.

Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

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 Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

AG ¶ 19 includes disqualifying conditions that could raise a security concern and may be disqualifying 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.

The record establishes the disqualifying conditions in AG ¶¶ 19(a), 19(c), and 19(f) requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*. The financial considerations mitigating conditions under AG ¶ 20 which may be applicable in this case are as follows:

- (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;

(f) the affluence resulted from a legal source of income; 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) does not apply to the SOR debts. “It is also well established that an applicant’s ongoing, unpaid debts demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions.” ISCR 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017)).

Applicant’s income has been insufficient to take care of his family and pay his debts. He was unemployed for about eight months in 2023 after he returned to the United States from Somalia. He provided his AGI for three years as follows: \$62,000 (2020); \$76,000 (2021); and \$47,000 (2022). He did not provide his AGI or an income statement for TYs 2023, 2024, and 2025. He did not provide enough recent information to establish he had insufficient income, and that he was unable to have made greater progress on his tax debts. Applicant’s illness and his unemployment are circumstances largely beyond his control, which adversely affected his finances. However, “[e]ven if [an applicant’s] financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the [administrative judge] could still consider whether [the applicant] has since acted in a reasonable manner when dealing with those financial difficulties.” ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007). The DOHA Appeal Board has said:

[A]n applicant must act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by concomitant conduct even if it may only provide for the payment of debts one at a time. ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008). What constitutes responsible behavior depends on the facts of a given case and the fact that an applicant’s debts will not be paid off for a long time, in and of itself, may be of limited security concern. ISCR Case No. 09-08462 at 4. Relevant to the equation is an assessment as to whether an applicant acted responsibly given [his or] her limited resources See, e.g., ISCR Case No. 08-06567 at 3-4 (App. Bd. Oct. 29, 2009).

ADP Case No. 23-00547 at 3 (App. Bd. Apr. 23, 2024). A component is whether he maintained contact with creditors and attempted to negotiate partial payments to keep debts current. Applicant did not give enough information about his income and taxes to

fully establish mitigation. He did not meet his burden of proof that he acted responsibly under the circumstances.

“[A] single debt can be sufficient to raise Guideline F security concerns.” ISCR Case No. 19-02667 at 3 (App. Bd. Nov. 3, 2021) (citing ISCR Case No. 14-05366 at 3 (App. Bd. Feb. 5, 2016)). “Additionally, a single debt that remains unpaid over a period of years can properly be characterized as a history of not meeting financial obligations.” *Id.* Applicant has had delinquent federal income taxes since 2019.

Applicant’s November 2, 2023 IRS statement said he owed a total of \$9,390 to the IRS consisting of \$790 owed for TY 2018; \$3,800 owed for TY 2019; and \$4,800 owed for TY 2021. His November 2024 IRS installment agreement shows he owed a total of \$10,400 for TYs 2019, 2021, 2022, and 2023. This does not include his delinquent tax debt for TY 2024 of \$1,270. He is currently making \$141 monthly payments to the IRS; however, his federal income tax debt increased more than \$2,000 from November 2023 to November 2024. The increase in tax debt shows he was not withholding enough from his pay or making quarterly tax payments to gradually cause his federal income tax debt to decrease.

Applicant is credited with mitigation of the SOR allegations in 1.a and 1.f. He timely filed his federal income tax return for TY 2018. He has made payments to and significantly reduced the balance of his vehicle loan debt.

Applicant’s IRS debt of \$1,270 for TY 2024 was not alleged in the SOR. This debt will not be considered for disqualification purposes; however, it will be considered: “(a) in assessing [his] credibility; (b) in evaluating [his] evidence of extenuation, mitigation, or changed circumstances; (c) in considering whether [he] has demonstrated successful rehabilitation; and (d) in applying the whole-person concept.” ISCR Case No. 20-02787 at 4 (App. Bd. Mar. 9, 2022) (citing ISCR Case No. 15-07369 at 3 (App. Bd. Aug. 16, 2017)).

In ISCR Case No. 15-06440 at 4 (App. Bd. Dec. 26, 2017) the Appeal Board reversed the grant of a security clearance and noted:

The timing of the resolution of financial problems is an important factor in evaluating an applicant’s case for mitigation because an applicant who begins to resolve financial problems only after being placed on notice that his clearance was in jeopardy may lack the judgment and self-discipline to follow rules and regulations over time or when there is no immediate threat to his own interests. In this case, [taking financial actions] after submitting his SCA, undergoing his background interview, or receiving the SOR undercuts the weight such remedial action might otherwise merit.

In this instance, the SOR was issued on July 22, 2024. Applicant made four \$141 payments from December 2024 to April 2025 to address his federal income tax debt. Earlier, he was paying \$31 monthly, and his federal income tax debt was increasing. It is

unclear whether the issuance of the SOR triggered the increase in tax payments to the IRS to \$141.

The Appeal Board clarified that even in instances where an applicant has purportedly corrected his or her financial problem, and the fact that applicant is now motivated to prevent such problems in the future, does not preclude careful consideration of applicant's security worthiness considering his longstanding prior behavior evidencing irresponsibility. See ISCR Case No. 15-01031 at 3 & n.3 (App. Bd. June 15, 2016) (characterizing "no harm, no foul" approach to an applicant's course of conduct and employing an "all's well that ends well" analysis as inadequate to support approval of access to classified information).

In this regard, the Appeal Board has previously stated that it is reasonable for a Judge to expect an applicant to present documentation corroborating actions taken to resolve debts. ISCR Case No. 19-03757 at 3 (App. Bd. Aug. 18, 2021) (citing ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 15, 2020)). Applicant did not provide documentation showing payment of his state tax debt or progress reducing the overall magnitude of his federal income tax debt. He did not prove the trend of his IRS tax debt was a decreasing total tax debt.

None of the mitigating conditions fully apply. Since 2018, he has owed federal income taxes. He has not shown a meaningful track record of reducing his federal income tax debt. He did not prove his state tax debt is resolved. Financial considerations security concerns are not mitigated.

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(c), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall commonsense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guidelines B and F are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 59-year-old linguist, and he is seeking employment with a U.S. Government contractor. He worked for the U.S. Government as a linguist from 1993 to 1994, and in 2023, and he held a security clearance or interim security clearance during those years. He currently is a self-employed or independent contractor-driver for a large company. In 1981, Applicant left Somalia and immigrated to the United States when he was 16 years old, and he became a U.S. citizen in 1992. He has a bachelor's degree in electrical engineering. He has worked as a translator or interpreter for 15 years. In 2023, he was working for the U.S. Government in Somalia, and he had to return to the United States because of an illness.

In 2022, Applicant received a certificate of appreciation for his patriotism from a private organization. He received a certificate of appreciation for his support to Operation Restore Hope in Somalia in 1993. A character witness who has known Applicant for seven years described him as loving, kind, patriotic, honorable, honest, reliable, and trustworthy. He said Applicant exercises good judgment. He recommended approval of Applicant's security clearance.

Somalia is a dangerous place because of violence from terrorists and criminals. Terrorists continue to threaten the interests of the United States, and those who cooperate and assist the United States. Applicant has important connections to the United States as discussed under Guideline B. He has made a strong commitment to his future in the United States. His connections to the United States are sufficient to mitigate Guideline B security concerns.

Applicant did not provide documentation showing payment of his state income taxes. He has a payment plan on his federal income tax debt; however, he did not show that he was withholding enough from his income to pay his federal income taxes when due. He did not prove he is reducing his federal income tax debt.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards documented resolution of his debts and maintenance of his financial responsibility, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. *See Dorfmont*, 913 F. 2d at 1401. I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant mitigated foreign influence security concerns; however, he failed to mitigate 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 through 1.e:	Against Applicant
Subparagraph 1.f:	For Applicant
Paragraph 2, Guideline B:	FOR APPLICANT
Subparagraphs 2.a through 2.l:	For Applicant

Conclusion

Considering all of the circumstances in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge