DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 23-00302
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Rhett Petcher, Esq., Department Counsel
For Applicant: Bradley Moss, Esq.

09/10/2025

Decision

BENSON, Pamela C., Administrative Judge:

Applicant failed to mitigate the Guideline E (personal conduct) and Guideline F (financial considerations) security concerns. National security eligibility for access to classified information is denied.

Statement of the Case

On August 14, 2023, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines E, F, and B (foreign influence). 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 implemented by the DOD on June 8, 2017.

On December 18, 2023, Applicant provided a response to the SOR (Answer). He admitted SOR allegations ¶¶ 1.a, 1.c (in part), 2.b (in part), and 3.a. He denied SOR allegations ¶¶ 1.b, 1.c (in part), 2.a, 2.b (in part), 2.c, and 2.d.

Applicant requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. I was assigned this case on January 3, 2025. DOHA issued a notice on February 25, 2025, scheduling the hearing for March 25, 2025. On March 11, 2025, another DOHA Department Counsel was assigned to the case. The hearing was continued to May 8, 2025. On April 15, 2025, the newly assigned DOHA Department Counsel provided additional disclosures and amendments to the SOR. Applicant's counsel requested that, due to the Government's substantial amendments to the SOR and supplemental disclosures, the May 8th hearing should be rescheduled to provide Applicant adequate time to respond.

I granted Applicant's request to cancel the May 8th hearing, and the hearing was rescheduled for June 12, 2025. The hearing proceeded as scheduled via online video teleconferencing, but, by the end of the day, I had to continue the hearing to June 16, 2025, in order to finish the hearing. Applicant answered the amended SOR as follows: He admitted SOR allegation ¶ 1.d, and he denied SOR allegations ¶¶ 1.e through 1.t, and 2.e.

Department Counsel submitted Government Exhibits (GE) 1 through 17. Applicant testified and offered 15 documents, which were labeled as Applicant Exhibits (AE) A through O. All of the exhibits were admitted into evidence without objection. The Government called two witnesses, and Applicant called one witness to testify on his behalf. I held the record open for one month so either party could supplement the record with additional documentation. Department Counsel withdrew Paragraph 3 (Guideline B) during the hearing, and there were no objections. Applicant timely submitted AE P through OO, which was admitted into evidence without objection, and the record closed.

Findings of Fact

Applicant is 40 years old and was born in Nigeria. He became a naturalized United States citizen in April 1998. He earned a bachelor's degree in 2008. Since approximately 2016, he has been employed as an information technology (IT) consultant for Federal government clients, specifically as a 1099 independent contractor through his own company. He has also been employed with multiple Federal contractors since January 2008. He has worked for both Federal contractors and clients for his company, at times, simultaneously. He is considered a cybersecurity subject- matter expert, and he has possessed a security clearance since 2014. He currently has top-secret eligibility. He married his wife in September 2016, and they have three children, ages seven, six, and three. (Tr. 159, 218-219; GE 1-4)

Personal Conduct and Falsification

The Government's first witness was Applicant's former supervisor ("L"), who has been employed with Federal contractor (Employer 1) for over 17 years. Her current position is Senior Performance Management Specialist. During the 2019-to-2020 time frame, L described her employment duties as being primarily responsible for employee relations in the office of human resources (HR). Applicant was hired on November 11, 2019, as a full-time cybersecurity engineer. He was permitted to work from a remote

location. L trained him during the new hire orientation. The orientation lectures involved, in part, review of Employer 1's policies, to include the code of ethics, conflicts of interest, and proper timekeeping. It specifically addressed that any employee of Employer 1 considering outside employment must follow proper procedures for final approval, as discussed below. After the orientation, the new employee is required to sign an acknowledgment form. There is also a security briefing that is provided to new hires with security clearances, which included, in part, foreign travel reporting requirements. Applicant participated in both trainings. (GE 14; Tr. 22-34, 102-103)

Employer 1's written policies are in the record, and under "personal conflicts of interest" the policy states that no employee of Employer 1 may work for a competitor, and if the employee has an employment opportunity with another employer, the employee is required to provide full details to Employer 1's inside legal counsel to obtain permission. The employee must also notify their direct manager and the human resources (HR) office. Employer 1's final written decision on the matter will be placed in the employee's personnel file. L stated that during her 17 years of employment with Employer 1, their legal counsel has never allowed an employee to simultaneously work for a competitor. She testified that that company would never have authorized Applicant's full-time employment as a cybersecurity expert with any other Federal contractor, performing the same duties. L stated that Applicant did not notify his manager, HR, or Employer 1's legal counsel at any time of his other concurrent employments with multiple federal contractors. L had worked closely with Applicant's manager, and she stated that he has never violated company policy. Once a manager becomes aware of an employee's violation of company policy, the manager has an obligation to report the information to HR. L said that Applicant's manager was unaware of Applicant's concurrent employment with other federal contractors. (GE 14; Tr. 22-34, 95)

During Applicant's employment with Employer 1, the facility security officer (FSO - "R") became aware that Applicant had traveled to a foreign country without reporting it to the security office, as required under security policy. R initiated a check on Applicant's security clearance, and she discovered that his DOD security clearance was held by six other federal contractors. R was able to reach two of the federal contractors, and at least two of the other federal contractors admitted Applicant worked full time for them, but they were also unaware that Applicant was working full time for other federal contractors. Employer 1 initiated an investigation and soon discovered that Applicant had double billed time on multiply days with at least two full-time employers. L testified that in checking with federal contractor 2's vice president of HR, they decided to work together and compare Applicant's billing and time sheets that he had provided to the two different Federal contractors. They realized "[Applicant] worked in the same time zones for each company and that he had charged [the same] hours for both companies" on the same days. L stated, "It was a concern because there were full hours for both companies, and … if eight hours is a normal workday, how can [an individual] work 16 hours in the same time zone with similar hours?... That's double-dipping." L testified that Applicant had been working full time for at least three Federal contractors, and she stated that was his hours were most likely considered "triple dipping." (GE 2, 10, 12, 14, 17; Tr. 34-48, 58, 76, 80, 85-86, 89-92, 95)

Applicant was terminated on January 17, 2020, by Employer 1. His termination letter included the subject line, "**Termination for Business Code of Ethics and Conduct Violations - Other Employment and Timesheet Fraud.**" (emphasis added) L was the employee who had the employment termination conversation with Applicant via telephone call, and Applicant's direct manager was on the phone as well. She could not recall specifically if their FSO (R) was also on the telephone call. At no time did L tell Applicant that the basis for his termination from Employer 1 was due to his unreported foreign travel. L also testified that at no time did Applicant state on the phone call, while his direct manager was on the call, that Applicant had previously reported his other overlapping full-time contactor employments to this manager and that the manager had approved it. Ultimately, a JPAS incident report was filed against Applicant, as required by security regulations. (GE 2, 10, 14; Tr. 34-48, 57-58, 83, 85-88, 126-128)

Applicant had disclosed in his March 2020 e-QIP that he was not a full-time employee for Employer 1 since he was still in training. He listed too that he had been misled by the employer and he was planning to resign from his position. He stated that Employer 1 was going to terminate him for his unreported foreign travel to Nigeria, from December 26, 2019 to January 6, 2020, and together they made a mutual decision to separate. L testified that the information Applicant reported on the e-QIP was inaccurate. Applicant was a full-time employee of Employer 1 as of January 2020, and she said there was no mutual decision to separate. "We made the decision to terminate based on what's in the termination letter, the policy violations. … there was no discussion about him resigning." (GE 2; Tr. 4, 13, 14, 15; Tr. 48-54, 60)

SOR ¶ 1.c alleges that in January 2020 Applicant was terminated from employment with Employer 1 for violating Employer 1's policies on timekeeping and its code of ethics and conduct policies. Applicant failed to report his concurrent employment with other companies, and he committed time fraud for claiming time worked at the same time and on the same days for different Federal contractors. Applicant admitted in his Answer that he was terminated by Employer 1 in January 2020, but he denied any timekeeping fraud or his failure to report concurrent employment.

Applicant also listed the same explanation on his June 2023 Declaration for Federal Employment. "Later in January 2020, I was called by HR and the FSO about the unreported foreign travel and was told that the company is moving on and I was being terminated, since they do not want their contract with the DoD to be affected. I offered to quit and resigned on the phone call." (SOR ¶ 1.p) L said this information was also inaccurate. L believed Applicant was dishonest, and she would not recommend his eligibility for a security clearance. (GE 4, 13, 14, 15; Tr. 48-54, 60, 126-129)

The Government's second witness ("R") was the FSO of Employer 1 during the 2019-2020 period when Applicant was employed there. She has been employed with Employer 1 for approximately 25 years. R became aware of Applicant after she and his direct manager had been trying to get in touch with Applicant, but he was not responding. Applicant's direct manager kept working on trying to locate Applicant, and he later disclosed to R that he just discovered Applicant had been on foreign travel to Nigeria. When Applicant returned in early January 2020, R contacted Applicant for a debriefing,

as required by security regulations. She asked Applicant to provide a written statement of his foreign travel and foreign contacts. R counseled him that, in the future, he needed to report foreign travel to the security office before leaving for a trip. R stated that Employer 1 was not going to terminate Applicant for failing to report his foreign travel, and that Employer 1 has never terminated any employee for failing to report foreign travel. She testified: (Tr. 97-108; GE 14)

> …[Applicant told her] he had reported the foreign travel to his previous employer (Employer 4). And that piqued my curiosity, which made me open up JPAS [Joint Personnel Adjudication System] to see if I could determine who that previous employer was. And that's when I noticed that he was being owned -- his clearance was being owned by six different companies…

R recalled that Applicant had stated Employer 4 was his "previous" employer, not a current employer. R looked on JPAS and mistakenly reached out to Employer 2, instead of Employer 4, to verify Applicant's report of foreign travel, and she discovered he was actively working full time with Employer 2. She realized she needed to check with HR to see if Applicant had reported this overlapping employment, as required by Employer 1's policies. R stated that Applicant's direct supervisor was also unaware of Applicant's other employers. When she verified that Applicant was currently working full time with other Federal contractors, her staff reached out to the other federal contractors in JPAS. Two of the six Federal contractors holding an active security clearance for Applicant in JPAS responded, Employers 2 and 3, and both disclosed that Applicant was also working full time for them as well. R turned the information over to HR to investigate further. (Tr. 108-133; GE 10, 13, 14, 17)

Employer 2 contacted Employer 1 via email and asked if Applicant was a full-time employee of Employer 1. R stated that Employer 2 also did not know Applicant was working full time for Employer 1. Based on an email communication in the record, the vice president of HR at Employer 2 asked Applicant's Employer 2 supervisor to query Applicant about his employment with Employer 1. Applicant reported to his supervisor that he had not worked for Employer 1 in "over a year." When specifically asked whether he currently worked for Employer 1, Applicant stated "No." (GE 14, 17)

R was also on the employment termination telephone call with Applicant, L, and Applicant's direct supervisor. At no time was Applicant told during the termination of his employment that he was being fired due to his unreported foreign travel. R stated, "the termination was not based on not reporting the foreign travel. It was based on the other employment and him not reporting that, and the time sheet fraud." At no time during the phone call did Applicant indicate he wanted to resign or discuss a mutual separation. R submitted an incident report to JPAS, which was sent to DCSA's Counterintelligence and Industrial Security representatives. Applicant was provided a copy of his termination letter, but he denied receiving it. (GE 10, 12, 14, 17; Tr. 119-133, 150-151, 325-326)

It is important to note throughout Applicant's security clearance investigation to the day of his hearing, Applicant has made multiple inconsistent statements. The following

inconsistent statements exemplify those considered as part of a credibility assessment. In his August 2023 response to interrogatories, Applicant stated:

> In December 2019, while working for [Employer 1], I traveled to Nigeria for a personal vacation with my wife. **Prior to leaving, I properly notified [Employer 2], [Employer 4], and [Employer 3] of this planned vacation**. Due to an inadvertent oversight, however, I mistakenly failed to also properly notify [Employer 1] of my planned travel …This was not a deliberate oversight **as I clearly ensured I notified my other employers, and it would make no sense for me to withhold this information from [Employer 1].** (GE 13)

The SOR was issued in August 2023, and ¶ 1.a alleges Applicant traveled to Nigeria from December 26, 2019, until January 5, 2020. He did not report his foreign travel to Employer 1, as required. SOR ¶ 1.d alleges the same information, but states that Applicant did not report his foreign travel to his concurrent Employer 2, as required Applicant admitted these allegations in his Answer(s). He stated that he had reported the upcoming foreign travel to Employer 4's FSO, but he did not report this information beforehand to Employer 1 or to Employer 2, as required. SOR ¶ 1.o. alleges that Applicant falsified material facts about his termination from Employer 1 on a Declaration for Federal Employment, dated June 27, 2023. He stated that he had notified Employer 1 of pending international travel when, in fact, he did not disclose the travel until after it occurred.

During the hearing, Applicant was asked, if prior to his December 2019 travel to Nigeria, had he ever reported his foreign travel to security. He testified,

> **Applicant**: Yeah. Yes. I notified [Employer 4's] FSO.
>
> **Applicant's Counsel**: Why only one FSO?
>
> **Applicant**: Because my understanding was, if I have notified one FSO, that I have met my reporting requirement. So, my reporting requirement was to notify the government that I'm traveling. So, my understanding was if I notified one FSO, because usually the FSOs will, once you notify them, …they give you the travel advisory for the country and they enter it -- I again, I'm guessing enter it into a system. That was my understanding. So, I thought once I've notified [Employer 4's] FSO, that met my reporting requirements. (Tr. 335-336)

Comparing his interrogatory response, where Applicant stated he had notified all FSOs of his upcoming foreign travel, except Employer 1's FSO, to now stating he reported his upcoming foreign travel to his part time employer's FSO only (Employer 4), is a statement that conflicts with his previous statement, making it impossible for both statements to be true.

Documentation in the record showed that Applicant had not reported his foreign travel to Colombia (July 17-21, 2019) and Jamaica (November 27-December 1, 2019) to

Employer 2's FSO. When he returned to the office following his travel, Applicant initially reported he had been out due to illness. This information was not alleged in the SOR. (GE 17)

SOR ¶ 1.s alleges that Applicant provided materially false information in response to DOHA interrogatories in that he stated that he had properly notified Employer 2 of planned travel to Nigeria (December 2019-January 2020), when in fact, he did not notify that company until he returned and was confronted. (GE 13, 17)

SOR ¶ 1.b alleges that in December 2019 Applicant failed to report, as required by Employer 1's business code of ethics and conduct policy, multiple concurrent Federal contractor employers while also working for Employer 1. Applicant denied this information and claimed that he had reported his concurrent employment with other federal contractors to his direct manager at Employer 1. Applicant did not have supporting documentation or testimony to validate his contention. Both Government witnesses testified that Applicant's direct manager was not aware of Applicant's other concurrent employments. He had not reported the information to HR or to Employer 1's legal department, as required. (Tr. GE 13)

SOR ¶ 1.h alleges that Applicant falsified material facts on an Electronic Questionnaires for Investigations Processing (e-QIP), executed by him on March 9, 2020, in response to Section 13A-Employment Activities, when he provided the reason for leaving employment with Employer 1 was a mutual decision when, in fact, Applicant was terminated for cause. Applicant denied this in his Answer, claiming he had resigned because **he learned the contract he was working on expired in April 2020**, (emphasis added) and his employer wanted to fire him due to unreported foreign travel. He considered this as a mutual decision to separate from Employer 1. He also noted that he disclosed on the e-QIP that he quit after being told he would be fired. As listed above, L and R testified that Applicant was terminated on January 17, 2020, for violation of Employer 1's business code of ethics and conduct policies, and fraudulent timekeeping. Both witnesses testified Applicant did not resign during the employment termination phone call. In response to interrogatories, Applicant stated, "It is true that I was informed [by Employer 1] that I was terminated." He did not believe he had violated any business code of ethics and conduct policies or that he committed timekeeping fraud. (GE 2, 13, 14)

SOR ¶ 1.j alleges that Applicant falsified material facts on an e-QIP, executed by him on November 16, 2021, in response to Section 13A-Employment Activities, when he provided the reason for leaving employment with Employer 1 was a mutual decision when, in fact, Applicant was terminated for cause. Applicant denied this in his Answer since he had resigned because **he learned the contract he was working on expired in April 2020** (emphasis added), and his employer wanted to fire him due to unreported foreign travel. He considered this as a mutual decision to separate from Employer 1. He also noted that he disclosed on the e-QIP that he quit after being told he would be fired. As listed above, L and R testified that Applicant was terminated on January 17, 2020, for violation of Employer 1's business code of ethics and conduct policies, and fraudulent

timekeeping. Both Government witnesses testified Applicant did not resign during the employment termination phone call. (GE 3)

SOR ¶ 1.n alleges that Applicant falsified material facts on an e-QIP, executed by him on June 21, 2023, in response to Section 13A-Employment Activities, when he provided the reason for leaving employment with Employer 1 was a mutual decision when, in fact, Applicant was terminated for cause. Applicant denied this in his Answer since he had resigned because **he learned the contract he was working on expired in April 2020** (emphasis added), and his employer wanted to fire him due to unreported foreign travel. He considered this as a mutual decision to separate from Employer 1. He also noted that he disclosed on the e-QIP that he quit after being told he would be fired. As listed above, L and R testified that Applicant was terminated on January 17, 2020, for violation of Employer 1's business code of ethics and conduct policies, and fraudulent timekeeping. Both Government witnesses testified Applicant did not resign during the employment termination phone call. (GE 4)

During the hearing, Applicant testified that in November 2019, Employer 1 hired him for a "surge position." Applicant stated;

> **Applicant:** Surge position is where you are on the bench when -- until work starts, until that work to do. So essentially, you don't -- there's no portfolio assigned to you. You don't really do any -- I don't want to say don't do anything, but, Your Honor, there's no portfolio assigned to you until there is work to do. And that's when they call you. It's like a surge. A surge is when we don't have enough people doing the work, they will bring in a surge to assist and then -- and then you're off again.
>
> **Applicant's counsel**: Why would they have brought you on in November 2019 if the billable work to the contract wasn't going to start until April 2020?
>
> **Applicant**: So, this is normal in the cyber security consulting firm [X]. We're subject matter experts, right? You're -- you are hired because a company's anticipating on winning an- award on our -- anticipating on getting more work. So, you are hired so that they can have you on payroll, so when the work begins, you're to slot right in. So, you have already gone through the clearance, all the training, all the certifications you need. So, you're ready to start right in as soon as the work begins in earnest. That's what it is.
>
> **Applicant's Counsel:** Okay. So, to clarify further, in November 2019, did -- had [Employer 1] been awarded this subcontract …?
>
> **Applicant:** … I will tell you, yes… (Tr. 304-306)

Applicant explained during the hearing that he was doing training for those months, as a surge employee, leading up to the April 2020 contract work for Employer 1. He did not say anything about his concerns the April 2020 contract was going to expire, as he listed in his e-QIPs. His direct supervisor gave him a code to bill his time, but he could not

remember exactly what the code meant. During training he was billing to overhead. Whenever he billed to a contract, his work was conducted 90% virtually from his home office. His direct supervisor allowed him to bill 40 hours a week, even though Applicant was not working full time during training. He was preparing for the April 2020 contract work to begin. (Tr. 304-313)

SOR ¶ 1.r alleges that Applicant provided materially false information in response to DOHA interrogatories in that he stated that he had made Employer 1 aware that he was employed simultaneously by multiple companies when, in fact, he did not inform Employer 1 until confronted. (GE 13, 14)

SOR ¶ 1.e alleges that in or around January 2020, during an inquiry by his supervisor at Employer 2, Applicant provided materially false information regarding his concurrent employment with Employer 1, i.e., in that he stated he had not worked for Employer 1 for the past year. Applicant denied this information. Records from Employer 2 report Applicant had been questioned about overlapping employment with Employer 1, and Applicant's response to his supervisor of Employer 2 was a denial, and he claimed he had not worked with Employer 1 in over a year. Applicant testified during the hearing that he remembered his direct supervisor of Employer 2 asking him this question, and he stated he told his supervisor that he was working for Employer 1 as of November 2019. (Tr. 78, 81-82; 148-149, 323-324; GE 17)

SOR ¶ 1.f alleges that on January 17, 2020, Applicant was terminated for cause by Employer 2 for ethics violations. Applicant denied this information. (GE 17)

SOR ¶ 1.i alleges that Applicant falsified material facts on an e-QIP, executed by him on March 9, 2020, in response to Section 13A-Employment Activities, when he failed to disclose that he had been terminated by Employer 2 in January 2020. Applicant denied this information. A letter dated January 17, 2020, included in the record, showed Applicant was terminated by Employer 2 "effective immediately" due to ethics violations. During the hearing, Applicant denied being fired by Employer 2. He stated that he had worked until February 25, 2020, when he resigned. He provided texts and an e-mail communication to support his testimony. He also denied ever receiving the January 17, 2020 termination letter from Employer 2. (GE 2, 17; AE G, H; Tr. 325-328)

SOR ¶ 1.k alleges that Applicant falsified material facts on an e-QIP, executed by him on November 16, 2021, in response to Section 13A-Employment Activities, when he failed to disclose that he had been terminated by Employer 2 in January 2020. Applicant denied this information. (GE 3, 17)

SOR ¶ 1.l alleges that Applicant falsified material facts on an e-QIP, executed by him on June 21, 2023, in response to Section 13A-Employment Activities, when he failed to disclose that he had been terminated by Employer 2 in January 2020. Applicant denied this information. (GE 4, 17)

SOR ¶ 1.q alleges Applicant falsified material facts of a Declaration for Federal Employment dated June 27, 2023, when he failed to disclose that he had been terminated by Employer 2. (GE 15)

SOR ¶ 1.g alleges that in about May 2022, Applicant was terminated by Employer 4 for poor performance. Applicant denied this allegation. Documentation of Applicant's termination from Employer 4 is in the record. (GE 16; Tr. 316, 324, 329-331)

The documentation in the record disclosed that Applicant had been terminated by Employer 4 in May 2022 after his client reported his poor performance. Applicant claimed his employment ended after he had a pay dispute with a new manager. He claimed he resigned from this position, and he denied any knowledge of poor performance issues. (GE 16; Tr. 329-331)

SOR ¶ 1.m alleges that Applicant falsified material facts on an e-QIP, executed by him on June 21, 2023, in response to Section 13A-Employment Activities, when he failed to disclose either his employment at Employer 4, or his subsequent termination by Employer 4 in May 2022. Applicant denied this information. He stated in his Answer that he did not knowingly or deliberately falsify material facts. (GE 4, 16; Tr. 329-331)

SOR ¶ 1.t alleges that information alleged in paragraph 2. (and paragraph 3 Guideline B was withdrawn by Department Counsel during the hearing).

Applicant's wife testified. She stated that during 2018 and 2019, Applicant was working all hours of the day, every day, and "he worked around the clock." Due to the numerous hours he worked and having little time for the family, their marriage became strained. She stated, "he just was, for the most part, generally unavailable." It was her primary duty to take care of the young children. She had no knowledge whether her husband ever billed time that overlapped between more than one employer. (Tr. 173-197, 199, 213)

Financial

Applicant took out a COVID-19 Economic Injury Disaster Loan (EIDL) from the U.S. Small Business Administration (SBA) in about September 2020. His certified public accountant (CPA) advised him it was a loan he could take out without accruing any interest. Applicant took the EIDL "in case one of my clients was going to -- was going to go out of business due to the pandemic." His business did not suffer financially during 2020. He had a two-year moratorium in which he did not have to repay the loan. In February 2023, the government loan was referred to collections in the approximate amount of $148,500. (SOR ¶ 2.a) (Tr. 285-289; GE 7, 10, 11,13; AE GG)

Applicant stated in his August 2023 response to interrogatories that,

> In October 2022 I changed the business address of [personal consulting company] but I neglected to properly update that address information with the U.S. Small Business Administration ("SBA"). Therefore, when SBA

> started sending out correspondence regarding repayment of the loan, I did not receive the correspondence. This was my mistake. I learned that the loan had gone into collection in January 2023. When I realized what had occurred, I contacted SBA immediately and we verbally set up a repayment agreement to pay back the loan. I made a one-time, good faith payment of $3,000, and the repayment agreement requires me to pay $2,000 per month. See Exhibit "3" (appended to his Answer) (proof of payments in June 2023 and July 2023). The SBA approved this repayment arrangement, and the loan is set to be repaid by May 2029 (far earlier than the original loan anticipated). (GE 13)

Applicant explained during the hearing why he was late on the SBA loan. He stated by the time the loan payments were due, he had moved out of an apartment into his new house, and he did not receive any SBA loan payment notices at his new residence. In 2023, when he discovered the EIDL was in collections, he immediately paid off the entire balance. The Government's Continuous Vetting Program uncovered in February 2023 unreported information that Applicant's SBA loan was referred for collections in the amount of $148,500. Applicant provided documentation, however, that contradicts his testimony. He submitted an e-mail communication dated March 22, 2022, from the SBA that Applicant was granted an additional 6-month deferment on his EIDL, and he was to resume regular payments after 30 months from the date of the loan. The e-mail also provided borrowers links to access their borrower history and their loan documents, which was highly recommended by the SBA for all borrowers to access and use. From documentation Applicant submitted with his Answer, it appears this loan was paid in full in October 2023. This debt is resolved. (Tr. 285-289; GE 10, 11,13; AE GG)

SOR ¶ 2.b alleges Applicant is indebted to the Federal Government for delinquent taxes in the amount of approximately $285,034 for tax years (TY) 2018 and 2019. As of the date of the SOR, the Federal taxes remained unpaid. Applicant admitted the taxes were unpaid, but he denied that he owed this money, and he was currently disputing the IRS calculation. In 2023, Applicant became aware of the Federal income tax delinquencies after he received a letter from the IRS. In 2018, he was a W-2 employee of Employer 3, and he was a 1099 consultant for Employer 4. He also admitted other consultant work he performed for clients through his self-employed consulting business. In 2019, he also became a concurrent full-time employee of Employers 1 and 2. Applicant did not receive any documentation from the IRS in 2019 following their audit of his tax returns. The IRS letter stated that he owed delinquent taxes for TYs 2018 and 2019; he filed an appeal in September 2024, and he participated in a tax appeal hearing in February 2025, where the judge has yet to make a ruling. He had to resubmit W-2s and 1099s, bank statements, canceled check deposit slips, books, journals, etc., to the Tax Examination Office (TEO). The TEO is going to review this information and conduct a recalculation of Applicant's 2018 and 2019 taxes. The tax appeals judge requested the recalculation information so she could include it in her decision. As of the day of the hearing, he was still waiting to hear back from the TEO about their recalculations. (Tr. 221-228, 312, 318; GE 13; AE C)

In March 2021, Applicant retained Community Tax Advocates (CTA), an organization offering services to taxpayers who have a tax dispute with the IRS. His CPA had encouraged Applicant to retain the services of this organization, "…just kind of to have them on retainer in case, you know, [Applicant] had any tax issue or any tax matter." Applicant paid CTA about $1,300 as a retainer in March 2021. In late 2023, after Applicant received the letter from the IRS about his 2018 and 2019 tax delinquencies, he actively engaged the services of CTA. It was pointed out to Applicant that the March 2021 document he provided in the record stated that CTA were there to help him resolve his back tax liabilities. Applicant explained that he placed a retainer in March 2021 for CTA because his family members use the same CPA, and two brothers and his father were audited. He retained CTA to be proactive in case he was also audited, which he later found out did occur in 2019. For TY 2020 Applicant under withheld taxes, and he was required to pay the IRS approximately $40,000, to include penalties and interest. He did not timely file his 2021 income tax returns until September 2023, despite receiving an extension until October 2022. (SOR ¶ 2.c) He also did not report his failure to file or pay 2021 income taxes on his June 2023 e-QIP, as required, although this information was not alleged in the SOR. (GE 4; AE B; Tr. 229-234, 265-273)

Applicant claimed 45,000 miles of work-related travel on his 2018 tax return, even though he admitted the majority of his work occurred in his home. Applicant testified that he drove from Maryland to Florida one quarter in 2018, and from Maryland to Houston during another quarter, and he drove a similar trip during another quarter, or possibly two trips. He would then fly from that city and obtain a rental car to drive in the western portion of the U.S. The total amount of roundtrip miles he could have driven his own vehicle was determined to be at least 8,000 miles, and at the very most, 12,000 miles. Department Counsel pointed out to Applicant that driving 45,000 miles was the equivalent of driving around the Earth's equator twice. Applicant claimed he had driven the 45,000 miles as reported on his income tax return. This information was not alleged in the SOR. (Tr. 199, 273-278; AE C)

SOR ¶ 2.c alleges Applicant did not file his Federal income tax return for TY 2021 in a timely manner. He received an extension until October 2022, but he actually filed the tax return in September 2023. He testified too that he had not yet filed his 2023 Federal income tax return because he received an extension. Department Counsel made a motion to amend the SOR to conform to Applicant's testimony, and I granted the motion over Applicant's objection. SOR ¶ 2.c now includes Applicant did not file his 2023 income tax returns in a timely manner. Applicant claimed that he had called the IRS, and they told him he could file his 2023 income tax return along with his 2024 income tax return. He also has not filed his 2024 income tax returns either, but he has an extension until October 2025. The record was held open for one month for Applicant to respond to the SOR amendment and submit supporting documentation. After the hearing he submitted a copy of his 2023 individual income tax return that was accepted by the IRS on July 5, 2025. His gross income for 2023 totaled $354,537. The amount of taxes owed for this year was $63,436. There was nothing in the record to show if these taxes were paid. (AE NN, OO; GE 4; Tr. 271-273, 296-302)

SOR ¶ 2.e alleges Applicant has exhibited unexplained affluence when comparing his reported income to documented expenses. He denied this information. Applicant stated that he is making approximately $335,000 for 2025, based on the payments he receives from two different companies that have contracted with his personal consulting business. He stated his stock portfolio account earns about $20,000 per month from the dividends, for about a $250,000 gain every year for the past three years, on an account that has a total of less than one million dollars invested. He also has about $180,000 in his savings account, and about $425,000 invested in an Individual Retirement Account (IRA). Applicant and wife keep their finances separate, but they do have a joint bank account. For 2023, he had several sources of income, at least from five employers from various companies, but he also claimed that he does not work for these companies "all at the same time." (Tr. 290-296; AE M, P through FF)

Applicant and his wife purchased a new home in 2022 for $1.59M. Applicant's wife owns a Mercedes car and a Lexus which she allows her mother to drive. Applicant owns a 2015 Mercedes-Benz and a 2016 Porsche Panamera. Applicant said they put down $380,000 as a down payment for the home. The house payment is approximately $9,000 a month, and Applicant, his wife, and his mother-in-law split the mortgage payment three ways, each paying $3,000 every month. His mother-in-law has a sizeable pension from her legal work with the United Nations. He thinks she earns $8,000 a month. He stated the current value of their home is about two million dollars. Utilities are about $2,500 a month because they live in "a really big home." Their children go to private school year-round, which costs $5,000 per month. His wife's car payment is $1,200 a month, and she pays about $250 on her student loans. (Tr. 173-197, 193-199, 213, 238-239, 244, 283-284; AE P, AA, HH)

Applicant testified during the hearing that he was not currently paying on his student loans of approximately $442,000. He decided to take advantage of the forbearance that was issued during the COVID-19 pandemic. Applicant received notice that he was to begin repayment on these loans starting in October 2023. He reported in his August 2023 interrogatory that he would begin repayment in October 2023. He also disclosed that in 2025, he requested a public service loan forgiveness of his student loan debt. He acknowledged he was making a high income but believed he should also take advantage of the student loan forgiveness program because it was a wise financial decision. He has not made any payments on his student loans until he hears whether his student loans qualify for forgiveness.

Applicant believes he should qualify for the public service loan forgiveness program since he has worked ten years as a civil servant (IT consultant) at the U.S. Patent and Trademark Office (PTO). He testified he worked there from 2008 to 2017, which does not meet the ten-year period. Applicant's 2014 SCA listed his PTO employment from January 2008 to October 2011, just under four years. When confronted with this information, Applicant stated that must have been a typo on his SCA. He had also listed the less than four-year employment with PTO on his 2020 SCA and disclosed on both SCAs and on his 2021 SCA that he had been employed by a different federal contractor from November 2011 until January 2016. This information is not alleged in the SOR. (GE 1, 2, 13; Tr. 249-259, 261-265; Answer attachment)

Information that was not alleged in the SOR. I will not use as evidence for disqualification purposes, but I may use it to assess credibility, mitigation and the whole-person factors.

Character Reference:

A Declaration made by Applicant's former program manager at Employer 4 was submitted. She stated that Applicant was not a full-time employee with Employer 4, and he worked part time on the weekends. She had great experiences with Applicant and found him trustworthy and stated he used good judgment. She recommended Applicant's continued eligibility for access to classified information. (AE E)

Policies

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 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, these guidelines are applied 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 access to classified information will be resolved in favor of 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 not drawn inferences grounded on mere speculation or conjecture.

Directive ¶ E3.1.14 requires the Government to 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 to obtain 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 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 Executive Order 10865 provides that 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 E: Personal Conduct

AG ¶ 15 expresses the security concern for personal conduct:

> Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified or sensitive information. Of special interest is any failure to provide truthful and candid answers during national security investigative or adjudicative processes. …

AG ¶ 16 describes conditions that could raise a security concern and be disqualifying. The following are potentially applicable under the established facts in this case:

> (a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities;
>
> (c): credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information,
>
> (d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual

may not properly safeguard classified or sensitive information. This includes but is not limited to, consideration of:

> (3) a pattern of dishonesty or rule violations; and
>
> (4) evidence of significant misuse of Government or other employer's time or resources; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:

> (1) engaging in activities which, if known, could affect person's personal, professional, or community standing.

The record contains substantial evidence of Applicant's falsifications on multiple e-QIPs and on an interrogatory. He failed to notify Federal contractors of overlapping employments, and he engaged in timecard fraud. This information establishes the potentially disqualifying conditions quoted above. The DOHA Appeal Board has noted that an employer's conclusions following an internal investigation are entitled to some deference. ISCR Case No. 18-00496 at 4 (App. Bd. Nov. 8, 2019). Applicant's overall conduct raises serious questions about his judgment, reliability, candor, and, most significantly, his willingness to comply with rules and regulations. The disqualifying conditions listed above apply.

The guideline also includes conditions that could mitigate security concerns arising from personal conduct. The following mitigating conditions under AG ¶ 17 are potentially applicable:

> (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
>
> (c) the offense is so minor or so much time has passed, or the behavior is so infrequent, or happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and
>
> (d) the individual acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

I have given deference to Applicant's previous employers' internal investigations and characterization of events in these proceedings. I also find the inconsistent and self-serving statements made by Applicant undercut his credibility.

Applicant has a long history of misconduct. He intentionally misrepresented the characterization of employment terminations and withheld pertinent employment information on several e-QIPs. He provided inconsistent statements about what particular FSOs received self-reported information about his upcoming foreign travel. He has demonstrated an ethical lapse of good business practices. He failed to follow his employers' rules and policies, and more importantly, he has shown by his pattern of deception that his personal interests receive priority above everything else. When considering his behavior as a whole and his refusal to accept any responsibility for his actions, I am unable to conclude that his misconduct is unlikely to recur. His history of misconduct reflects questionable judgment, unreliability, and an unwillingness to comply with rules and regulations. The above mitigating conditions are not applicable. Personal Conduct security concerns are not mitigated.

Guideline F: Financial Considerations

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

> 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 facts of this case establish the following potentially disqualifying conditions set forth in AG ¶ 19:

> (b) an unwillingness to satisfy debts regardless of the ability to do so;
>
> (c) a history of not meeting financial obligations;
>
> (d) deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, expense account fraud…and other intentional financial breaches of trust;
>
> (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local tax as required; and
>
> (g) unexplained affluence, as shown by a lifestyle or standard or living, increase in net worth, or money transfers that are inconsistent with known legal sources of income.

The record evidence support the potential disqualifying conditions set forth above. The burden, therefore, shifts to Applicant to mitigate security concerns under Guideline F.

The guideline includes the following conditions in AG ¶ 20 that can potentially mitigate security concerns arising from Applicant's financial history:

> (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
>
> (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation, 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;
>
> (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.

AG ¶ 20(a), (d), (e) and (g) are not established. Applicant's unpaid 2018-2019 Federal income taxes arose a long time ago. In 2021, he was placed on notice that his income tax returns were likely to be audited after his brothers' and father's taxes were audited by the IRS. His CPA, who prepared all of their tax returns, recommended Applicant retain CTA in the event of an audit, which he did. Although Applicant has appealed the tax calculations, to date he has not provided any information that the tax calculations were incorrect or that he does not owe significant back taxes. As of the date of the hearing, his total tax liabilities of $285,034 remain outstanding. He has not made any tax payments to the IRS or set aside money into an escrow account in good faith. I do not have documentation that his July 2025 filing of his 2023 Federal income tax return, which showed he owes $63,436, was paid. His lapse in taking responsible action sooner on his income taxes cast doubt on his current reliability, trustworthiness, and good judgment.

AG ¶ 20(b) is not established. Applicant did not provide evidence that he failed to pay these debts over the years due to circumstances beyond his control. Moreover, he did not act responsibly by addressing these debts when he had increased financial

resources. To date, he has failed to pay his delinquent taxes. He also agreed that his business did not experience a COVID-19 economic injury disaster in 2020, but he took out the U.S. SBA interest-free loan anyway. He only paid this loan after the Government's Continuous Vetting Program in February 2023 uncovered unreported information that Applicant's SBA loan was referred for collections in the amount of $148,500. Applicant claimed he did not receive any correspondence from the SBA about the payment schedule due to a change of address, however, his March 2022 email communication from the SBA in the record refutes his testimony of ignorance of when the loan payments were due. Although the loan is repaid, the circumstances surrounding the loan has me finding SOR ¶ 2.a against Applicant.

Although not alleged in the SOR, Applicant continues to have outstanding student loans totaling approximately $442,000. He decided to take advantage of the forbearance that was issued during the COVID-19 pandemic. Applicant received notice that he was to begin repayment on these loans starting in October 2023. He reported in his August 2023 interrogatory that he would begin repayment in October 2023, but there is no evidence he has done so. In 2025 he requested a public service loan forgiveness of his student loan debt. He acknowledged he was making a high income but believed he should also take advantage of the student loan forgiveness program because it was a wise financial decision.

AG ¶ 20(e) is only partially established. Applicant disputed the tax debts as invalid. However, as noted above, he has not established a good-faith escrow account or made payments to the IRS on a significant delinquent tax debt. He has not submitted documentation showing that the taxes were miscalculated or unenforceable.

AG ¶ 20(g) is not established. Applicant was earning income from overlapping Federal contractors paying him for cyber security work that he billed during the same hours on the same days with at least one other Federal contractor. This entitled him to receive income that he was not entitled to earn. The evidence in the record and testimony from the Government witnesses show that Applicant was made fully aware by Employer 1 that he was to report any outside employment to his manager, the HR office, and to the legal department of Employer 1. A final determination by the legal department would then be placed in his personnel file. Applicant did not report any of his concurrent employments to any of these sources. The policies that were covered during his new hire orientation were included in the record.

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 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 in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines E and F and the AG ¶ 2(d) factors in this whole-person analysis.

The Federal government must be able to repose a high degree of trust and confidence in persons granted access to classified information. In deciding whether to grant or continue access to classified information, the Federal government can take into account facts and circumstances of an applicant's personal life that shed light on the person's judgment, reliability, and trustworthiness.

Considering the evidence as a whole, I find Applicant has not carried his burden of showing that it is clearly consistent with the interests of national security of the United States to continue his eligibility for access to classified information.

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 E:	AGAINST APPLICANT
Subparagraphs 1.a through 1.t:	Against Applicant
Paragraph 2, Guideline F:	AGAINST APPLICANT
Subparagraphs 2.a through 2.e:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, I conclude that it is not clearly consistent with the interests of national security to grant or continue Applicant's national security eligibility. Eligibility for access to classified information is denied.

Pamela C. Benson
Administrative Judge