



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



In the matter of:)	
)	
)	ISCR Case No. 24-02161
)	
Applicant for Security Clearance)	

Appearances

For Government: Rhett E. Petcher, Esq., Department Counsel
For Applicant: *Pro se*

11/20/2025

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations) and E (Personal Conduct). Clearance is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on April 28, 2023. On March 26, 2025, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline F and Guideline E. The DCSA acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016), which became effective on June 8, 2017.

Applicant answered the SOR on May 9, 2025, and requested a decision on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on June 18, 2025. A complete copy of the file of relevant material (FORM) was sent to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. The FORM consists of the pleadings in the case and the documents in support of the allegations in the SOR. (Government Exhibits (GX) 1 through 7) Applicant received the FORM on June 27, 2025, and he did not respond or object to any of the exhibits. The case was assigned to me on September 29, 2025. My decision was delayed from October 1, 2025, to November 13, 2025, because administrative judges were furloughed during the shutdown of the federal government due to a lapse in funding.

Findings of Fact

In Applicant's answer to the SOR, he admitted the allegations in SOR ¶¶ 1.a through 1.e., and 2.a. through 2.h. His admissions are incorporated in my findings of fact.

Applicant is 46 years old. He received an associate degree in June 2006 and is employed as a designer by a defense contractor, since March 2023. He worked as a welder for twelve different employers from 2013 through March 2023, at least six of which terminated his employment for either a safety violation or a violation of company policy. He honorably served in the Army National Guard from October 1997 through April 1999. He has never held a security clearance.

SOR ¶ 1.a. alleges and the evidence establishes that Applicant failed to pay, as required, federal income taxes for tax years (TYs) 2016 through 2023. In his answer to the SOR, he admitted this allegation. Internal Revenue Service (IRS) tax account transcripts reflect filed federal income tax returns as follows: TY 2017 filed July 2018; TY 2018 filed July 2024; TY 2019 filed April 2020; TY 2020 filed May 2021; TY 2021 filed April 2022; TY 2022 filed March 2024; and TY 2023 filed October 2024. (GX 3) The record is void of IRS documentation regarding TY 2016. Applicant retained the services of a professional tax service as legal representatives regarding his IRS tax liability and compliance with TY 2023 filing requirements. (GX 3 at 6)

SOR ¶ 1.b. alleges and the evidence establishes that Applicant failed to pay, as required, state income taxes for tax years 2013, 2015, and 2016. In his answer to the SOR, he admitted this allegation, however, he provided no additional documentary evidence.

SOR ¶ 1.c. alleges and the evidence establishes a federal tax debt for delinquent taxes in the amount of \$59,024 for tax years 2016 through 2023. This debt is reflected in Applicant's response to Government interrogatories and the supporting IRS tax account transcripts for said tax years. (GX 3 at 5, 27-40) In his answer to the SOR, Applicant admitted this allegation. When he was interviewed by a security investigator in May 2023, he stated that though he intends to pay his outstanding taxes, he had not yet done so because he was awaiting a response from the IRS regarding a settlement agreement. (GX 3 at 18-21) He did not provide any additional evidence with his answer to the SOR.

As of February 2025, Applicant's legal representatives are attempting to secure an installment agreement with the IRS for \$950/month to cover all balances owed through TY 2023. (GX 3 at 26)

SOR ¶ 1.d. alleges and the evidence establishes a state tax debt for delinquent taxes in the amount of \$6,338.51 for TY 2013, 2015, and 2016. In his answer to the SOR, Applicant admitted this allegation. He provided no documentary evidence regarding this state tax debt. As of February 2025, he set up automated debit transactions in the amount of \$285 a month beginning in March 2025 through February 2027 to resolve this debt. (GX 3 at 45) However, the record is void of evidence of any actual payments made. Documentary evidence shows that he made a payment agreement with the state tax authority, dated November 20, 2024, assigning monthly payments of \$243 beginning December 2024 to address outstanding taxes for TY 2015 and 2016, totaling \$5,413.88. (GX 6) However, the record is again void of evidence of any actual payments made.

SOR ¶ 1.e. alleges and the evidence establishes a charged-off debt to a credit union in the approximate amount of \$1,021. This debt is reflected in a credit report from May 2023. (GX 7) In Applicant's answer to the SOR, he admitted this debt and provided no evidence of resolution.

SOR ¶ 2.a. through 2.h. allege and the evidence establishes eight separate terminations from eight different employers from 2013 through 2023. In his SCA, Applicant lists fifteen separate employers from December 2012 through present. He noted "Involuntary Separation" or "Involuntary Discharge" as his reason for leaving eight of the fifteen listed employments. He also answered "Yes" indicating he was "Fired" as his reason for separation from six of the fifteen listed employments. (GX 2 at 10 - 27) When he was interviewed by a security investigator in May 2023, he confirmed the information he provided in his SCA regarding his employment history. (GX 3 at 8-11)

SOR ¶ 2.a alleges that Applicant was terminated from his employment with a construction company in February 2023 for a safety violation. Company safety protocol required the removal of all combustible materials within at least 35 feet of the worksite before commencing any welding. Applicant failed to remove his kneepad, which caught on fire once he started welding. He put the fire out immediately and avers that no damage was caused. He was terminated on the following day. (GX 2 at 13; GX 3 at 8)

SOR ¶ 2.b alleges that Applicant was terminated from his employment with a ship repair company in December 2022, for violation of company policy prohibiting employees from having their cell phones on the ship or in their working area. He had been previously disciplined about the same violation in November 2022. He had also previously received discipline from the same employer for violation of company policy for failure to follow protocol regarding combustible material in November 2022. (GX 2 at 15-16; GX 3 at 8-9)

SOR ¶ 2.c alleges that Applicant was terminated from his employment with a construction company in October 2019 for violation of company policy. During his subject interview, he confirmed that although he knew it was against safety policy to weld without

having someone in a fire watch position with him, on the day of his violation, he welded without a fire watch person present. (GX 2 at 17; GX 3 at 9)

SOR ¶ 2.d alleges that Applicant was terminated from his employment with a boat repair company in April 2019 for violation of company safety policy. He was required to cut all gas lines and remove them from the space he was working during his lunch break and at the end of the workday. Though he knew it was against company policy to not remove the gas line, he did not do so during his lunch break because it took time away from his lunch break. (GX 2 at 18; GX 9-10)

SOR ¶ 2.e alleges that Applicant was terminated from his employment with a federal contractor in January 2019 for violation of company safety policy. He had a disagreement with one of his supervisors about lack of overtime hours which escalated into a verbal argument resulting in his termination. (GX 2 at 19-20; GX at 10)

SOR ¶ 2.f alleges that Applicant was terminated from his employment with a shipbuilding company in October 2018 for violation of company safety policy. A security officer at the company approached Applicant and asked him for his employee badge, because the security officer asserted Applicant was speeding in a company parking lot. Applicant refused to comply and was thereafter terminated the following week for violation of company policy. (GX 2 at 21; GX at 10)

SOR ¶ 2.g alleges that Applicant was involuntarily separated from his employment with a federal contractor in June 2015. He confirmed his termination during his subject interview, however had no recollection of the reason or circumstances surrounding his termination. (GX 2 at 23-24; GX at 11)

SOR ¶ 2.h alleges that Applicant was involuntarily separated from his employment by a federal contractor in June 2013. He confirmed his termination and explained that it was due to an error he made when he was overtired and accidentally inputted the wrong program into the computer, resulting in cutting the same product twice when only one was required. Due to the cost of the metal sheets and the additional cut product being scrapped, he was terminated. (GX 2 at 26-27; GX at 11)

Policies

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

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, an administrative judge

applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

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

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

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan* at 531. Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record." See ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019). It is "less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n*, 383 U.S. 607, 620 (1966). "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

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

Analysis

Guideline F, Financial Considerations

The security concern under this guideline is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

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

Applicant's admissions and the evidence in the FORM establish the following disqualifying conditions under this guideline:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(c): a history of not meeting financial obligations; and

AG ¶ 19(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 following mitigating conditions are potentially applicable:

AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

AG ¶ 20(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) is not established. Applicant's delinquent debts are numerous and accrued during a long period of time, and he has presented insufficient evidence to meet his burden to show that they were incurred under circumstances that are unlikely to recur.

AG ¶ 20(b) is not established. Applicant presented no evidence to support that his tax problems alleged in SOR ¶¶ 1.a -1.d or the delinquent consumer debt alleged in SOR ¶ 1.e were due to circumstances largely beyond his control or that he took responsible action at the time of the occurrence.

AG ¶ 20(c) is not established. Though Applicant retained legal representation to assist him in addressing his IRS tax debt, he did not obtain financial counseling and provided insufficient evidence to establish that the financial issues were being resolved or under control.

AG ¶ 20(d) is not established. Although Applicant provided evidence that he entered into two different payment plan agreements with the state department of revenue to address SOR ¶ 1.d., he did not provide evidence of actual compliance with either payment arrangement. As for his federal tax debt alleged in SOR ¶ 1.c., although he provided evidence that he retained the services of tax professionals to assist in an offer in compromise or setting up a payment plan with the IRS, he did not provide proof of entry into a formal agreement or any evidence of the like from the IRS to indicate negotiations or a resolution.

AG ¶ 20(g) is not established. Although Applicant provided evidence that he has filed, albeit some late, his federal income tax returns for TY 2017 to 2024, his federal tax debt detailed in SOR ¶¶ 1.a. and 1.c. remain delinquent and any installment agreement or plan for repayment remains to be established and/or entered into at a future date. Moreover, although he provided evidence that he entered into an agreement to resolve his state tax debt alleged in SOR ¶¶ 1.b. and 1.d., he did not provide evidence of actual compliance with either of those agreements.

Guideline E, Personal Conduct

The security concern under this guideline is set out in AG ¶ 15: "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."

Applicant's admissions and the evidence in the FORM establish the following disqualifying condition under this guideline:

AG ¶ 16(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:

- (1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;
- (2) any disruptive, violent, or other inappropriate behavior;
- (3) a pattern of dishonesty or rule violations; and
- (4) evidence of significant misuse of Government or other employer's time or resources.

Applicant's terminations from eight of his last fifteen employments spanning back to 2013 establish a pattern of rule violations and inappropriate behavior sufficient to establish disqualification under this guideline.

The following mitigating conditions are potentially applicable:

AG ¶ 17(c): the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it 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

AG ¶ 17(d): the individual has 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.

Neither mitigating condition is established. Though it has been over two years since Applicant's last rule violation and termination, the offenses are of a similar nature and repeat in a way that indicate he has not learned from his past. His nonchalant attitude towards the safety protocols set in place for his protection and the protection of others raises concerns about his ability to follow rules and regulations set in place for the protection of classified information. Given the lengthy history and frequency of his violations, mere passage of time, absent evidence of an established change in behavior

or other positive steps taken to address the behavior to ensure that it is unlikely to recur, is insufficient to meet his burden of providing evidence of mitigation.

Whole-Person Analysis

Under AG ¶ 2(c), the 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. An administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all the relevant circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

I have incorporated my comments under Guidelines F and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under Guidelines F and E, and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his financial and personal conduct problems.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F (Financial Considerations): **AGAINST APPLICANT**

Subparagraphs 1.a – d: **Against Applicant**

Paragraph 2, Guideline E (Personal Conduct): **AGAINST APPLICANT**

Subparagraphs 2.a - h: **Against Applicant**

Conclusion

I conclude that it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is denied.

LeRoy F. Foreman
Administrative Judge