



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 25-00454

**Appearances**

For Government: Andrew H. Henderson Esq, Department Counsel  
For Applicant: *Pro se*

01/16/2026

**Decision**

WESLEY, ROGER C. Administrative Judge

Based upon a review of the case file, pleadings, exhibits, and testimony, Applicant did not mitigate financial considerations concerns. Eligibility for access to classified information or to hold a sensitive position is denied.

**Statement of the Case**

On May 9, 2025, the Defense Counterintelligence and Security Agency Adjudication and Vetting Services (DCSA AVS) issued a statement of reasons (SOR) to Applicant detailing reasons why under the financial considerations guideline the DCSA AVS could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DoD) Directive 5220.6 *Defense Industrial Personnel Security Clearance Review Program*, (January 2, 1992) (Directive); 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.*

Applicant timely responded to the SOR on June 24, 2025. (GEs 1 and 10) and requested that his case be resolved on the written record without a hearing. Applicant received the File of Relevant Material (FORM) on June 24, 2025, and he elected not to respond to the FORM. This case was assigned to me on, December 2, 2025. The Government's case consisted of nine exhibits that were admitted without objection as Government Exhibits (GEs) 1-9). Applicant submitted one post-FORM exhibit (his SOR response) that is admitted as Applicant's Exhibit A. (AE A)

### **Summary of Pleadings**

Under Guideline F, Applicant allegedly (a) failed to file his federal income tax returns, as required, for tax years 2014-2018 and 2021-2022; (b) failed to file his state income tax return, as required, for tax years 2016, 2018, and 2021; and (c) accumulated one delinquent federal tax debt exceeding \$140 and four delinquent consumer debts exceeding \$31,000. Allegedly, Applicant's delinquent federal and state tax filings and debts have not been resolved and remain outstanding.

In Applicant's response to the SOR, he admitted most of the allegations pertaining to his finances with explanations and clarifications, denying only the listed federal tax debt covered by SOR ¶. 1.h. He claimed that he will pay the owed \$140 federal tax debt in the near future. He also claimed that the remaining consumer debt delinquencies listed in the SOR will take some time to pay due to the high amount. He further claimed that his work assignment does not require a security clearance.

### **Findings of Fact**

Applicant is a 44-year-old employee of a defense contractor who seeks a security clearance. Allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

### **Background**

Applicant married in April 2016 and divorced in May 2020. (GE 2) He has four children. (GE 2) He earned a high school diploma in June 1999 and an associate's degree in May 2007. Applicant reported no military service.

Since April 2022, Applicant has been employed by his current employer as a customer support associate. (GE 2) Previously, he worked for other employers in various jobs. He reported unemployment between December 2020 and April 2022. He has previously held a public trust position (2018) and a security clearance between July 2020 December 2020 while employed by a military department. (GE 2) Applicant is sponsored by his current employer.

## **Applicant's Finances**

Supplied interrogatory responses document that Applicant failed to timely file his federal income tax returns, as required, for tax years 2014-2018 and 2021-2022. (GEs 2-4) Supplied interrogatory responses also document Applicant's failure to timely file his state income tax returns, as required, for tax years 2016, 2018, and 2021. He attributed his tax-filing lapses to personal issues that prevented him from getting around "to finish filing my taxes." (GE 3) To date, he has provided no evidence documenting his filing of his any of his reported delinquent federal and state tax returns.

Between 2015 and 2024, Applicant accumulated one delinquent tax debt (for tax year 2015 in the amount of \$140) and four delinquent consumer accounts exceeding \$31,000. (GEs 3-9) He attributed his debt delinquencies to unemployment, underemployment, and family financial obligations. (GE 3) While unemployed, he supported himself through unemployment benefits while looking for employment and spending more time with his family.

In his personal subject interview (PSI) conducted in February 2023, he told the interviewing investigator that he continues to make arrangements to resolve his financial issues and will follow through with his arrangements. (GE 3) To date, he has not provided documentation of any payment initiatives. (GEs 3-4)

## **Policies**

By virtue of the jurisprudential principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), "no one has a 'right' to a security clearance." As Commander in Chief, "the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Egan*. at 527.

Eligibility for access to classified information may only be granted "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 AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. These AGs include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could

mitigate security concerns, if any. These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following ¶ 2(d) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent herein:

### **Financial Considerations**

*The Concern:* Failure or inability 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 or 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 acts or otherwise questionable acts to generate funds. . . . AG ¶ 18.

### **Burdens of Proof**

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, Feb. 20, 1960, § 7. See *also* Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

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 (4<sup>th</sup> 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 [or her] 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**

Security concerns are raised over Applicant’s untimely filing of multiple federal and state income tax returns and debt delinquencies that raise trust, reliability, and judgment concerns about his current and future ability to manage her finances safely and responsibly. These concerns are addressed below.

#### **Financial concerns**

Applicant’s tax-filing failures and accumulated delinquent debts warrant the application of three of the disqualifying conditions (DC) of the financial consideration guidelines. DC ¶¶ 19(a), “inability to satisfy debts,”; 19(c), “a history of not meeting financial obligations”; and 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,” apply to Applicant’s situation.

Applicant’s admitted tax-filing lapses and debt delinquencies require no independent proof to substantiate them. See Directive 5220.6 at E3.1.1.14; *McCormick on Evidence* § 262 (6<sup>th</sup> ed. 2006). His admitted debt delinquencies are fully documented and raise judgment issues over the management of his finances. See ISCR Case No. 03-01059 (App. Bd. Sept. 24, 2004). Credit bureau reports are ordinary business records

admissible as an exception to the Federal Rules of Evidence (F.R. of Ev.) as a hearsay exception that doesn't require an authenticating witness. See ISCR Case No. 18-00052 at 3 (App. Bd Jan. 18, 2019); ISCR Case No. 07-08955 at 1-2 (App. Bd. Sep. 15, 2008)

Financial stability in a person cleared to protect classified information is required precisely to inspire trust and confidence in the holder of a security clearance that entitles the person to access classified information. While the principal concern of a security clearance holder's demonstrated difficulties is vulnerability to coercion and influence, judgment and trust concerns are implicit in cases involving delinquent debts.

Historically, the timing of addressing and resolving tax-filing failures and debt delinquencies are critical to an assessment of an applicant's trustworthiness, reliability, and good judgment in following rules and guidelines necessary for those seeking access to classified information or to holding a sensitive position. See ISCR Case No. 14-06808 at 3 (App. Bd. Nov. 23, 2016); ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015); ISCR Case No. 14-00221 at 2-5 (App. Bd. June 29, 2016). Without any independent evidence of timely federal and state tax filings or approved extensions of the times allotted for his filing of his tax returns, or good cause demonstrated for his untimely filing of his federal and state tax returns and addressing of his debt delinquencies, none of the potentially available mitigating conditions are available to Applicant.

Applicant is entitled to partial application of mitigating condition (MC) ¶ 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," in recognition of extenuating circumstances associated with her family care-taking responsibilities. However, he is not able to meet the mitigation requirements of the second prong of MC ¶ 20(b) ("and the individual acted responsibly under the circumstances").

### **Whole-person assessment**

Whole-person assessment of Applicant's clearance eligibility requires consideration of whether his history of federal and state untimely tax-filings and accumulated delinquent debts is fully compatible with minimum standards for holding a security clearance. While Applicant is entitled to credit for his work in the defense industry, his efforts are not enough at this time to overcome his repeated failures or inability to timely file his federal and state tax returns and address his delinquent debts. Overall good judgment, reliability and trustworthiness are not established.

Based on a consideration of all of the facts and circumstances considered in this case, it is too soon to make safe predictions that Applicant will be able to undertake documented good-faith efforts to mitigate the Government's financial concerns within the foreseeable future. More time is needed to establish the requisite levels of stability with his finances to establish his overall eligibility for holding a security clearance.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude financial considerations security concerns are not mitigated. Eligibility for access to classified information is denied.

### **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:

GUIDELINE F (FINANCIAL CONSIDERATIONS): AGAINST APPLICANT

Subparagraphs 1.a-1.h:

Against Applicant

### **Conclusion**

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied

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Roger C. Wesley  
Administrative Judge