



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



## Appearances

For Government: Troy Nussbaum, Esq., Department Counsel  
For Applicant: *Pro se*

01/23/2026

## Decision

HYAMS, Ross D., Administrative Judge:

Applicant failed to mitigate the financial considerations security concerns arising from his unpaid taxes and delinquent debts. Eligibility for access to classified information is denied.

## Statement of the Case

On June 4, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). Applicant answered the SOR on June 18, 2025, and requested a hearing before an administrative judge. The case was assigned to me on August 26, 2025.

The hearing convened on September 25, 2025. Department Counsel submitted Government Exhibits (GE) 1-11, which were admitted in evidence without objection. Applicant did not submit any documentation at the hearing. After the hearing concluded, I held the record open two weeks to allow Applicant to submit documentation. He timely submitted Applicant's exhibits (AE) A-D, which were admitted without objection.

The completion of this decision was delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a federal government shutdown due to a lapse in federal funding.

### **Findings of Fact**

Applicant admitted all the SOR allegations. His admissions are incorporated into the findings of fact. Based on my review of the pleadings, evidence submitted, and testimony, I make the following findings of fact.

Applicant is 46 years old. He married in 2009 and divorced in 2025. He has five minor children. He graduated from high school in 1999 and attended trade school in 1999. He is currently working at a shipyard. (Tr. 18-22; GE 1)

Applicant attributed his financial problems to his ex-wife. He claimed he was working in overseas assignments, and she was supposed to take care of their bills and file his taxes. He took overseas assignments for varying periods from 2017-2024. He claimed she caused them to lose the equity in their home and her car was repossessed. He reported she had previously defaulted on her car payments back in 2013. (Tr. 22-77; GE 1)

Under Guideline F, the allegations are as follows:

SOR ¶ 1.a alleges Applicant failed to timely file his 2021-2023 federal income tax returns. He provided a tax account transcripts showing: 2016 return was filed late in September 2017; 2017 return was filed late in September 2019; 2018 return was filed late in May 2019; and 2019 and 2020 returns were timely filed. His 2021-2023 returns were filed late in February 2025. His 2024 return was filed late in July 2025. (Tr. 22-77; GE 3, 4; AE A-C)

SOR ¶¶ 1.b-1.e alleges Applicant is indebted to the IRS for delinquent taxes, totaling \$41,807, for tax years 2015, 2016, 2018, and 2019. He stated that he had reduced the balance by \$7,000, through the IRS recapturing his refunds. Post-hearing, he provided a tax account transcript showing: 2016 with a balance of \$8,175; 2018 with a balance of \$17,897; 2019 with a balance of \$7,955; and 2023 with a balance of \$19,080. No transcript was produced for 2015. His delinquent tax debts as of September 2025, not including the debt from tax year 2015, are \$53,107. He has not established a payment plan with the IRS. (Tr. 22-77; GE 3, 4; AE A-C)

SOR ¶ 1.f alleges Applicant is indebted to State A for delinquent taxes, totaling \$520, for tax year 2023. He claimed this debt was about \$11,000 larger at the start, and he has repaid the remaining balance. He did not offer documentation substantiating these claims. (Tr. 22-77; GE 10, 11)

SOR ¶¶ 1.g-1.l alleges Applicant is indebted on six charged-off accounts totaling \$1,295. No action has been taken, and these debts remain unresolved. (Tr. 22-77; GE 5-7)

SOR ¶¶ 1.m-1.s alleges Applicant is indebted on seven accounts in collection totaling \$4,091. No action has been taken, and these debts remain unresolved. (Tr. 22-77; GE 5-7)

SOR ¶¶ 1.t alleges Applicant filed a Chapter 13 Bankruptcy in 2012, which was dismissed 2017. He could not explain why the case was dismissed. (Tr. 22-77; GE 9)

Applicant has been earning about \$20 an hour in his current employment in State A. He pays about \$2,800 monthly for child support, which leaves him with only a few hundred dollars to pay his expenses. He is currently staying with his mother to reduce his monthly expenses. (Tr. 22-77)

Applicant stated he had made about \$92,000 while working overseas. He intends to return to his overseas work and then will resolve his delinquent tax and other debts. Post hearing, he sent an email stating that he was offered a job in State A, and if he starts that position, clearance pending, he will plan to start resolving his delinquent tax and other debts. (Tr. 22-77; AE D)

Applicant stated he has not had financial counseling and did not provide a budget. Records indicate that he previously had his security clearance denied in 2017 for financial reasons, although he denied this occurred. (Tr. 22-77; GE 8)

## Policies

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

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 to be 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, administrative judges apply the guidelines 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 national security eligibility will be resolved in favor of the national security.”

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel.” The applicant 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 EO 10865 provides that adverse 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 F, Financial Considerations**

The security concern for financial considerations 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. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns

about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The guideline notes conditions that could raise security concerns under AG ¶ 19. The following are applicable in this case:

- (a) inability to satisfy debts;
- (c) history of not meeting financial obligations; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

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

None of the mitigating conditions apply. Applicant failed to provide documentation supporting his claims or showing that he acted responsibly under the circumstances. His 2016 federal income tax returns were not timely filed. He did not explain why he did not ensure his tax returns for future years were filed on time when it was clear that his ex-

wife would not or could not timely file them. The same is true for the debts his ex-wife was responsible to pay. He did not adequately explain the reason for his large tax debts. The record shows that Applicant's financial problems go back to at least 2012 when he filed bankruptcy and were a concern for the Government, regarding his security clearance, in 2017.

Applicant had a responsibility to ensure his finances were in order, and his lack of awareness and action for so many years is concerning. While he would like to work in a high paying job overseas, as a means to resolve his delinquent taxes and debts, future promises to resolve delinquent tax and other debt are insufficient to resolve the security concerns in this case. Applicant must establish a track record of repayment and responsible behavior.

The Appeal Board has held that an Applicant who waits until his clearance is in jeopardy before resolving debts might be lacking in the judgment expected of those with access to classified information, and that waiting to pay legitimate debts until forced to do so by the security clearance process does not constitute good-faith debt resolution. See ISCR Case No. 15-03208 at 5 (App. Bd. Mar. 7, 2017); ISCR Case No. 10-05909 at 3 (App. Bd. Sep. 27, 2012).

### **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 clearance 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 considered Applicant's past service to the government working overseas for defense contractors. I have incorporated my comments under Guideline F in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility for a security clearance. I conclude that Applicant has not mitigated the financial considerations security concerns. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for eligibility for access to classified information in the future.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F: **AGAINST APPLICANT**

Subparagraphs 1.a-1.t: **Against Applicant**

### **Conclusion**

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

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Ross D. Hyams  
Administrative Judge