



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



## Appearances

For Government: Alison O'Connell, Esq., Department Counsel  
For Applicant: *Pro se*

02/02/2026

## Decision

HYAMS, Ross D., Administrative Judge:

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

## Statement of the Case

On October 2, 2024, 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 an unknown date and requested a hearing before an administrative judge. Department Counsel amended the SOR to add five new allegations (SOR ¶¶ 1.m-1.q) on March 12, 2025. Applicant answered the Amended SOR on March 31, 2025. The case was assigned to me on August 26, 2025.

The hearing in this case 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.

The hearing convened on December 16, 2025. Department Counsel submitted Government Exhibits (GE) 1-6, which were admitted in evidence without objection. Applicant did not submit any documentary evidence at the hearing. After the hearing concluded, I held the record open for one week to allow Applicant to submit documentation. He timely submitted Applicant's exhibit (AE) A, which was admitted without objection.

### **Findings of Fact**

Applicant admitted all the SOR allegations with explanation. 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 58 years old. He married in 1994 and has four adult children. He earned a bachelor's degree in 1989. He has worked as an analyst for a government contractor since May 2023. Prior to that he was employed by a telecommunications company for 22 years and lost his job when the company downsized. He was making about \$90,000 yearly and was provided \$75,000 in severance pay when he was terminated in 2022. He was unemployed from January-May 2023. He now earns about \$58,000 annually. (Tr. 13-53; GE 1)

In 2014, Applicant's job was transferred to State A and he had the additional expense of an apartment rental, his home mortgage in State B, utilities for both abodes, and college expenses for his children. This lasted until he moved back to State B in 2017. During that time, he stated his financial priorities were maintaining their home in State B and paying his children's college expenses. (Tr. 17-53)

Applicant reported that his wife lost her job as a nurse in late 2017. She was earning about \$50,000 annually, and they had three children in college at that time. He claimed she was harassed on the job and needed to take a year off to recover. She received about \$25,000 in severance pay when she left her job. When she became reemployed in 2019, she was earning \$36,000. Since 2020, she has worked about 8 months total. During her second period of unemployment, she started collecting her social security income. (Tr. 17-53)

Under Guideline F, the allegations are as follows:

SOR ¶ 1.a alleges Applicant failed to file his 2016-2017 federal income tax returns. He testified that he owed the IRS a debt for these years and could not pay it and his children's college expenses, so he did not file his returns. They remain unfiled. (Tr. 17-53; GE 2, 3)

SOR ¶ 1.b alleges Applicant is indebted to the IRS for \$14,514 for tax year 2018. He testified that a substitute return was prepared by the IRS for 2018 because he did not file his return. He has not paid this or other tax debts. (Tr. 17-53; GE 2, 3)

SOR ¶ 1.c alleges Applicant failed to file his 2019 and 2022 State B income tax returns. He testified he has not filed returns for these years or 2024. (Tr. 17-53; GE 2, 3)

SOR ¶ 1.d alleges Applicant has a credit card account charged off for \$1,722. This debt is unresolved. (Tr. 17-53; GE 2-6)

SOR ¶ 1.e alleges Applicant has a credit card account placed for collection for \$966. This debt is unresolved. (Tr. 17-53; GE 2-6)

SOR ¶ 1.f alleges Applicant has an account in collection for \$879. This debt is unresolved. (Tr. 17-53; GE 2-6)

SOR ¶ 1.g alleges Applicant has a credit card account charged off for \$606. This debt is unresolved. (Tr. 17-53; GE 2-6)

SOR ¶ 1.h alleges Applicant has an account in collection for \$449. This debt is unresolved. (Tr. 17-53; GE 2-6)

SOR ¶ 1.i alleges Applicant has a credit card account charged off for \$448. This debt is unresolved. (Tr. 17-53; GE 2-6)

SOR ¶ 1.j alleges Applicant has an account in collection for \$401. He testified he was making monthly payments, but did not provide documentation. This debt is unresolved. (Tr. 17-53; GE 2-6)

SOR ¶ 1.k alleges Applicant has an account in collection for \$180. Applicant stated he disputed this debt, but did not provide documentation supporting this assertion. This debt is unresolved. (Tr. 17-53; GE 2-6)

SOR ¶ 1.l alleges Applicant has a credit card account charged off for \$155. This debt is unresolved. (Tr. 17-53; GE 2-6)

SOR ¶ 1.m alleges Applicant failed to file his 2014 federal income tax return. He testified that in 2009, he did not file his income tax return because he could not pay the debt he owed the IRS. That year he claimed a bonus he received was tax exempt, and the IRS found otherwise. In 2010, the IRS limited his deductions to ensure enough money was being withheld from his paycheck. He was not sure why he did not file for 2014. (Tr. 17-53; GE 2, 3)

SOR ¶ 1.n alleges Applicant has a credit card account charged off for \$682. This debt is unresolved. (Tr. 17-53; GE 2-6)

SOR ¶ 1.o alleges Applicant has a credit card account charged off for \$444. This debt is unresolved. (Tr. 17-53; GE 2-6)

SOR ¶ 1.p alleges Applicant has a credit card account placed for collection for \$695. This debt is unresolved. (Tr. 17-53; GE 2-6)

SOR ¶ 1.l alleges Applicant has a credit card account placed for collection for \$516. This debt is unresolved. (Tr. 17-53; GE 2-6)

Post hearing, Applicant provided a monthly budget showing that his expenses exceed his monthly income by \$1,171. In 2022, he and his wife purchased a timeshare vacation property in State A. He reported they have other timeshare interests in other locations as well. He reported the 2022 timeshare may be in foreclosure, but he does not know for sure. (Tr. 17-53; AE A)

## 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 sufficient evidence showing responsible behavior with regard to his finances or tax obligations. Applicant's testimony shows that his tax issues go back to at least 2009. He has multiple tax years where he did not file tax returns to avoid paying debts owed to the IRS or State B. His tax debts are unresolved. He has made no attempt to resolve delinquent consumer debt and has no plan to do so. All of these things continue to cast doubt on Applicant's reliability, trustworthiness, and judgment.

The Appeal Board has held that failure to file tax returns suggests that an Applicant has a problem with complying with well-established governmental rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information (ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 5, 2002)); and a person who has a history of not fulfilling their legal obligation to file income tax returns may be said not to have demonstrated the high degree of judgment and reliability required for access to classified information. ISCR Case No. 98-0608 at 1 (App. Bd. June 27, 2000)).

## **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 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.

## **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.q: 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