



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



In the matter of:)	
)	
)	ISCR Case No. 24-02413
)	
Applicant for Security Clearance)	

Appearances

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

02/17/2026

Decision

DRISKILL, A. M., Administrative Judge:

Applicant did not mitigate the security concerns under Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

On March 18, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F.

Applicant responded to the SOR on May 5, 2025, and requested a decision on the written record in lieu of a hearing. The Government’s written case was submitted on June 25, 2025. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on July 17, 2025, and he did not respond. The case was assigned to me on December 9, 2025. The Government exhibits included in the FORM are admitted in evidence without objection.

Findings of Fact

The SOR alleges Applicant failed to file Federal income tax returns for tax years (TY) 2012-2013, 2015-2018, and 2020-2023 (SOR ¶ 1.a) and state income tax returns for TY 2016-2018 and 2020-2023 (SOR ¶ 1.b), and that he had 11 state tax liens filed against him totaling approximately \$22,150 (SOR ¶ 1.c – 1.m). He admitted failing to file all but his 2023 Federal and state tax returns and admitted to all the liens, except for one that he paid. The allegations are supported by Applicant's 2024 and 2023 security clearance applications (SCA), his 2023 subject interview (SI) with a government investigator, his response to interrogatories, including tax transcripts, and state tax lien records. (Items 3-9)

Applicant is 33 years old. He has worked for a defense contractor since February 2024. He graduated high school in 2010 and has some college education. He did not serve in the military. He has never married and has no children. His 2024 and 2023 SCAs list unemployment from June or July 2017 to April 2018 and from August 2018 to February 2019, and part-time employment from April 2018 to August 2018. His September 2018 SCA, however, reflects employment from September 2010 to June 2018 and from June 2018 to the "present" (September 2018). (Items 3-5)

In his 2018 SCA, Applicant did not report any financial issues. In his 2023 SCA, he reported failing to file and pay Federal and state tax returns for TY 2016, 2017, 2018, 2020, and 2021. He provided a variety of explanations for failing to meet his tax-filing obligations each year, such as no longer having a 1099 form, having to help his mother when her house was foreclosed upon, being busy job hunting, not making enough in 2018 to require filing, forgetfulness, and being too busy to file. He stated he planned on filing his 2020 and 2021 returns with his 2022 returns. He also reported owing state taxes for TY 2015 and claimed that he had set up a payment plan to resolve the debt. (Items 4, 5)

In his July 2023 SI, Applicant affirmed the information from his SCAs. He told the investigator that his tax issues started in 2011 when he filed incorrectly and could not complete an online tax payment to the Internal Revenue Service (IRS). He believed he also owed his state for TY 2011, but he never attempted to pay it. He discussed receiving a notice from his state in 2022 regarding taxes owed for TY 2015. When he investigated, he learned that he owed about \$14,000 in unpaid taxes and that he owes for TY 2013, 2014, 2015, and 2016. He set up a payment arrangement to pay these delinquent taxes over time. (Items 6, 9)

Applicant told the investigator he did not know whether he owed any Federal income taxes. He confirmed he had not filed Federal and state returns for TY 2016, 2017, and 2020 and that he was not required to file in 2018 due to not meeting the minimum income requirement. He told the investigator he filed his 2021 and 2022 Federal and state tax returns in April 2023. He admitted to the investigator that "taxes are scary" and that he put them off due to fear. He acknowledged that he needs to get a better handle on his taxes so that he does not have to worry about them negatively affecting him in the future. (Items 6, 9)

In his May 2024 response to interrogatories, Applicant attributed his failure to file to receiving a 1099 form in one of his first jobs and not knowing how to file his returns

with it. He stated he was actively searching for someone to assist him with his taxes and finances. He included IRS account transcripts that reflected returns filed for TY 2011, 2014, and 2019, and no returns filed for TY 2012, 2013, 2015, 2016, 2020, and 2021. (Item 7)

In his 2024 SCA, Applicant reported failing to file his Federal and state income tax returns for TY 2018, 2020, 2021, and 2022. He attributed this failure to “forgetfulness and procrastination” and stated that he earned under \$5,000 in 2018, implying he was not required to file that year because he did not meet the minimum income requirement. He stated that he was seeking a financial advisor or accountant who could assist him in filing his returns. He also reported several years of unpaid state taxes and stated that he had established a payment plan with the state to resolve the debts. (Item 3)

In his February 2025 response to interrogatories, Applicant reported that his 2022 tax return was not received by the IRS. He reported no Federal tax liability and included correspondence with the IRS confirming they had no record of him owing delinquent taxes. He also included the repayment agreement he entered into with his state to pay his outstanding tax debt of \$13,674.67 over a 48-month term beginning September 15, 2024; recent statements showing his balance on the debt decreasing; a January 2025 release of a state tax lien; and IRS account transcripts for TY 2021, 2022, and 2023, each return reported as unfiled. (Items 6, 9)

State tax lien records reflect 11 liens filed against Applicant for unpaid taxes. These records correspond to SOR ¶¶ 1.c – 1.m, with the exception that the lien amounts alleged in SOR ¶¶ 1.e and 1.j are incorrect. The lien alleged in SOR ¶ 1.e is in the amount of \$1,525.66 in the records, and the lien alleged in SOR ¶ 1.j is in the amount of \$3,386.88 in the records. Three of the liens are reported in the records as satisfied (SOR ¶¶ 1.k – 1.m). One of the liens reported as unpaid in these records is the same lien shown as satisfied in Applicant’s January 2025 release of lien submitted with his second interrogatory response.¹ (Item 8)

In his Answer, Applicant resubmitted the payment agreement he entered into with his state in September 2024 as well as several months’ worth of statements showing a decreasing balance. The last month shown is March 2025, with a remaining balance of \$11,830. Although he stated that he filed his 2023 Federal and state tax returns, he did not provide any proof of filing.

Policies

This case is adjudicated under Executive Order 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) implemented by the DOD on June 8, 2017.

¹ SOR ¶ 1.c alleges this lien was entered against Applicant in 2011, however the records reflect it was entered in 2013.

“[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*, 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 (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. *See* 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*, 484 U.S. at 531.

Analysis

Guideline F, Financial Considerations

The 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. 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 evidence establishes 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(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.

I find that Applicant's Federal and state tax returns, as alleged on the SOR, remain unfiled. Although he has argued that he was not required to file for 2018 due to being below the minimum income requirement, his 2018 SCA reflects nine months of employment in that year. His 2023 and 2024 SCAs report entirely different employment information for 2018. Given the contemporaneous reporting, it is likely that his 2018 SCA contains the most accurate information, but, without more conclusive evidence, I am unable to determine whether Applicant is correct that his income was below the minimum income requirement to file for 2018. Likewise, although his Answer states that he filed his 2023 Federal and state returns, he did not provide any evidence of filing, and thus I am unable to determine whether he has mitigated the concerns for that year.

Applicant's failure to file has spanned over a decade, with almost every year since 2012 at issue. He has provided a variety of excuses and explanations for his failure to file, but none of them indicate that this was behavior that occurred under such circumstances that it is unlikely to recur. He has provided no evidence that he has made arrangements to file the tax returns at issue. His long history of failing to file and his failure to make progress in filing cast doubt on his current reliability, trustworthiness, and good judgment. AG ¶¶ 20(a) and 20(g) do not apply to SOR ¶¶ 1.a and 1.b.

Applicant accumulated a considerable amount of state tax debt over the course of about nine years. Unlike the filing of his returns, however, he has taken significant steps to remedy his tax debt issues. Of particular note is that four of the alleged liens were all satisfied months or even years before the SOR was issued, and Applicant entered into a repayment plan for the remaining liens months before the SOR was issued. He has provided documentary evidence that he is making regular, timely payments in accordance with the agreement. AG ¶¶ 20(d) and 20(g) apply to SOR ¶¶ 1.c through 1.m, and those allegations are found for Applicant.

Whole-Person Concept

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. In applying the whole-person concept, an 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. 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 Guideline F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003). After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised under Guideline F, financial considerations.

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.b:	Against Applicant
Subparagraphs 1.c – 1.m:	For Applicant

Conclusion

I conclude 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.

A. M. Driskill
Administrative Judge