



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



In the matter of:

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ISCR Case No. 24-01260

Applicant for Security Clearance

Appearances

For Government: Erin Thompson, Esq., Department Counsel

For Applicant: *Pro se*

01/05/2026

Decision

BENSON, Pamela C., Administrative Judge:

Guideline F (financial considerations) security concerns are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

On September 20, 2023, Applicant completed an Electronic Questionnaires for Investigations Processing or security clearance application (SCA). On September 19, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant 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* (Directive) (January 2, 1992), as amended; 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.

On October 29, 2024, Applicant responded to the SOR, and he requested a hearing. On November 22, 2024, Department Counsel was ready to proceed, and I received the case file on May 2, 2025. On June 23, 2025, DOHA issued a notice setting

the hearing for July 16, 2025. The hearing was held as scheduled, using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered Government Exhibits (GE) 1 through 7; Applicant offered documents marked as Applicant Exhibits (AE) A through J; and all proffered exhibits were admitted into evidence without objection. I held the record open until August 15, 2025, and then I extended it to August 30, 2025, per Applicant's request. On July 23, 2025, DOHA received a copy of the transcript. Applicant timely submitted documents AE K through AE V; there were no objections, and all documents were entered into evidence.

Motion to Amend the SOR

During the hearing, Department Counsel made a motion to amend SOR ¶¶ 1.a and 1.b, to conform to Applicant's testimony and the record evidence. I granted this motion without objection.

SOR ¶ 1.a originally alleged "You failed to file, as required, Federal income tax returns for at least tax year 2021. As of the date of this Statement of Reasons, the tax return remained unfiled." The amended allegation is reflected under Financial Considerations, cited below.

SOR ¶ 1.b originally alleged "You failed to file, as required, a State of [X] income tax return for the tax years 2018 and 2019. As of the date of this Statement of Reasons, the tax returns remained unfiled." The amended allegation is reflected under Financial Considerations, cited below.

Findings of Fact

In Applicant's SOR response, he admitted the SOR allegations in ¶¶ 1.a and 1.b, in part, and he admitted 1.c. He denied SOR allegations ¶¶ 1.d, 1.e, and 1.f. His admissions are accepted as findings of fact.

Applicant is a 35-year-old developer and manager for a government contractor he has worked for since November 2023. His annual salary is approximately \$140,000. He earned a bachelor's degree in bio systems engineering in 2013, and a master's degree in bio systems engineering in 2020. In December 2018, he began cohabitating with two other men, who were previously married, and all three consider themselves to be in a committed domestic relationship, and all three individuals are also co-owners of the house. He does not have any children. This is Applicant's first application for a security clearance. (GE 1; Tr. 18-21, 51-23, 61)

Financial Considerations

SOR ¶ 1.a (**AMENDED**) alleges Applicant failed to timely file, as required, his federal income tax returns for tax years (TY) 2018, 2019 and 2021. Applicant admitted this information.

Applicant had previously worked for a hobby shop operated by three people, and the owner of the business admitted to Applicant that he was not adept at keeping accounting records. Applicant had to pester the business owner repeatedly for his tax documents, and eventually he was able to file his federal tax returns for TY 2018, 2019, and 2021 in November 2024. Applicant had to pay approximately \$2,500 in federal taxes for those tax years, and the concern about his federal income tax returns for those years not being filed is now fully resolved. He filed his federal tax returns for TY 2020, 2022, 2023, and 2024 in a timely manner. (Tr. 22-25)

SOR ¶ 1.b (**AMENDED**) alleges Applicant failed to timely file, as required, his State of X income tax returns for TY 2018, 2019, 2020, and 2021. Applicant admitted this information.

Applicant filed his State of X income tax returns for TY 2018 through 2021 in October 2024, after he received his W-2s from the hobby business owner. During the hearing he testified that he was not aware if he owed any money to the State of X. He reported that obtaining information from the State of X's tax department was difficult and unavailable to retrieve online. Post-hearing tax documents submitted by Applicant while the record was held open showed that he filed his State of X income tax returns for TY 2018, 2019, 2020, and 2021 in October 2024. He was owed tax refunds totaling \$766. (AE L, M, N, O; Tr. 25-34)

SOR ¶ 1.c alleges that Applicant is indebted to a landlord for a judgment entered against him in the approximate amount of \$11,700. Applicant admitted this debt, but he has been unable to contact the attorney representing the landlord. He attended the court hearing in 2018 when the judgment was rendered by the court. He attempted multiple times the following 90 days to contact the landlord's attorney to see if a payment arrangement could be set-up. The attorney never called him back. The last phone call Applicant made to the attorney was to provide his name, phone number, and current address so the attorney could contact him. He never heard anything from the attorney. Applicant testified during the hearing that he had entered into a three-year residential lease with other co-signors, while he was enrolled in school. The other tenants left the state before the lease was up, and the landlord focused on Applicant to pay the full rent since the other parties left no forwarding address. Applicant tried to sublet the property, but after two years, he had to abandon the property because he could not keep up the monthly payments. The 2018 judgment is not resolved. (Tr. 34-40)

Applicant submitted an August 2025 e-mail communication from an attorney he had consulted following the 2018 judgment that was entered against him. The attorney, now retired, provided insight about the past legal matter. He verified that Applicant had contacted him after he had represented himself at the hearing where the landlord obtained a judgment related to unpaid rent by multiple tenants in a property where Applicant also lived. The attorney also noted that by the time Applicant called him, the time period for filing an appeal had passed. He stated, "Given [Applicant's] limited resources at the time, it was clear to [the attorney] that [Applicant] could not pay the judgment in full; however, [Applicant] sincerely desired to make some good faith

arrangement to settle the outstanding judgment in a timely manner.” The attorney informed Applicant that there was little to be gained by retaining his legal services and urged Applicant to contact the landlord’s attorney directly to seek a settlement or arrange a payment plan. The attorney stated that he was made aware that Applicant had contacted the landlord’s attorney several times, but Applicant never received a response. The retired attorney also understood, due to the circumstances at the time, why there has “been no effort by the plaintiff to enforce the judgment against [Applicant].” (AE T)

SOR ¶ 1.d alleges that Applicant is indebted to a bank for a flexible spending account charged off in the approximate amount of \$1,836. Applicant denied this debt as he had settled this account. He submitted post-hearing documents that showed he settled this debt in February 2025. (Tr. 40-45; AE R)

SOR ¶ 1.e alleges that Applicant is indebted to a collection agency for an account placed for collection in the amount of \$127. Applicant denied this debt as he had settled this account. He submitted post-hearing documents that showed this debt had been fully resolved. (Tr. 45-46; AE P)

SOR ¶ 1.f alleges that Applicant is indebted to a collection agency for an account placed for collection by a bank in the amount of \$992. Applicant denied this debt as he had settled this account. He submitted post-hearing documents that showed this account had been fully resolved. (Tr. 46-47; AE Q)

Applicant submitted a Personal Financial Statement (PFS). It showed that his monthly net income is \$7,889, and the monthly net income from his two domestic partners is about \$5,850. After payment of their monthly expenses of about \$3,393, including the monthly mortgage payment of about \$3,000, and Applicant’s repayment of his student loans in the amount of \$250 per month, he and his domestic partners are left with a monthly net remainder of about \$7,100. (AE S)

Character Evidence

Applicant submitted multiple letters of character evidence from family, friends, and his co-workers (past and present). All of his references acknowledged that Applicant is professional, knowledgeable, honest, and dedicated. Based on his keen insight and top-notch work performance, Applicant was recently promoted to a technical lead role by his employer. All references held no reservations and highly recommended Applicant be granted a security clearance. Applicant also provided his 2024 and 2025 employee evaluations, which also supported numerous merits reported by several character references. (AE U, V)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no 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 applicant’s 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, *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 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 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence 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. 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

Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

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 Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

AG ¶ 19 includes the following disqualifying conditions that could raise a security concern and may be disqualifying in this case:

(a) inability to satisfy debts;

(c) a history of not meeting financial obligations; and

“(f) failure to file . . . annual Federal, state, or local income tax returns . . . as required.”

The record establishes the disqualifying conditions in AG ¶¶ 19(a), 19(c), and 19(f) requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying condition is contained in the mitigation section, *infra*.

The financial considerations mitigating conditions under AG ¶ 20 which may be applicable in this case are as follows:

(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;

(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;

(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.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

Applicant provided information about the circumstances beyond his control that affected his ability to timely file his federal and state income tax returns for TYs 2018,

2019, 2020 (state only), and 2021. While pursuing his higher education, Applicant was employed at a hobby shop operated by three individuals. The business owner failed to provide Applicant with annual tax documentation, as required, so that he could file his income tax returns. Applicant repeatedly requested the tax records, but the hobby business owner did not timely provide the documentation due to poor accounting habits. Within a month of receiving the SOR, Applicant was able to file his previously unfiled federal and state tax returns and pay the outstanding federal taxes. He is expected to receive a tax refund from the state. He also provided information that he has timely filed his federal and state income tax returns for TYs 2022, 2023, and 2024. I find that Applicant's failure to timely file his past federal and state income tax returns was not due to his own fault, and he acted in good faith in the resolution of his tax issues.

Applicant also provided mitigating information that he has resolved all but one of the unpaid debts alleged in the SOR. Many of these delinquent accounts were resolved before the SOR was issued in September 2024. The one debt not resolved, a 2018 judgment from a landlord for a broken lease, also happened under circumstances beyond Applicant's control. Through no fault of his own, tenants abandoned the property and violated the terms of the three-year lease. Applicant testified that he tried to sublet the property, but he was unsuccessful. He also said the tenants left the state without a forwarding address, and the landlord focused solely on Applicant to recover unpaid rent. To his credit, Applicant attended the 2018 hearing, representing himself, but the court entered the judgment against him. He looked into hiring an attorney, but the attorney informed him that there was nothing to be gained by doing so. This attorney, now retired, recalled dealing with Applicant during that time. He verified that Applicant had tried, in good faith, to set up a payment plan by contacting the landlord's attorney directly, but despite several attempts, that attorney never returned his calls.

Based on his track record of showing financial responsibility, I am confident that Applicant will act in good faith to resolve his remaining delinquent debt. He has the financial resources to pay this debt once he hears from the landlord. I find that Applicant has established that he has acted responsibly under the circumstances with his tax and financial issues. The behavior happened so long ago, and occurred under such circumstances that it is unlikely to recur. His responsible actions in timely filing his federal and state income tax returns after 2021, when he was not employed by the hobby shop, shows that he understands the importance of filing his annual tax returns when he is provided the necessary tax documentation. His commitment to resolving, or attempting to resolve, all of his financial issues also supports a finding that he is reliable, trustworthy, and uses good judgment. The financial considerations security concerns are mitigated.

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 the 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), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall common-sense judgment based upon careful consideration of the guidelines” and the whole-person concept. My comments under Guideline F are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline but some warrant additional comment.

The Federal government must be able to repose a high degree of trust and confidence in persons granted access to classified information. In deciding whether to grant or continue access to classified information, the Federal government can take into account facts and circumstances of an applicant's personal life that shed light on the person's judgment, reliability, and trustworthiness. Applicant is highly regarded and respected by his peers and work associates. He has recently been promoted by his employer for his outstanding work and dedication. All character references recommended approval of Applicant's security clearance.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant successfully mitigated 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: FOR APPLICANT

Subparagraphs 1.a through 1.f: For Applicant

Conclusion

I conclude that it is clearly consistent with the interests of national security of the United States to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is granted.

Pamela C. Benson
Administrative Judge