



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



In the matter of:)	
)	
)	ISCR Case No. 25-00081
)	
Applicant for Security Clearance)	

Appearances

For Government: Karen A. Moreno-Sayles, Esq., Department Counsel
For Applicant: Aidan P. Connor, Esq.

03/19/2026

Decision

BORGSTROM, Eric H., Administrative Judge:

Applicant did not mitigate the security concerns arising from her untimely federal income tax returns and delinquent federal and state taxes. Eligibility for access to classified information is denied.

Statement of the Case

On February 12, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). The DOD acted 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) implemented by the DOD on June 8, 2017.

In Applicant's June 21, 2025 response to the SOR (Answer), she admitted in part and denied in part SOR ¶ 1.a, and she admitted, with explanations, SOR ¶¶ 1.b.-1.g. She attached nine documents, which I included in the record as part of the Answer. She requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. (Answer)

On July 8, 2025, the Government was ready to proceed to a hearing. 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. I was assigned this case on December 17, 2025.

On January 5, 2026, a notice was issued scheduling the hearing for February 4, 2026, by video teleconference. The hearing proceeded as scheduled. The Government proffered two evidentiary exhibits, which I admitted as Government Exhibits (GE) 1 and 2, without objection. Applicant and one witness testified. Applicant submitted nine exhibits, which I admitted as Applicant Exhibits (AE) A through I, without objection. At Applicant's request, I left the record open until March 4, 2026, to provide her an opportunity to supplement the evidentiary record. DOHA received the hearing transcript (Tr.) on February 17, 2026. On March 4, 2026, Applicant submitted five additional documents, which I admitted as AE J through N, without objection. The record closed on March 4, 2026.

Findings of Fact

Applicant is 59 years old. She graduated from high school in 1985. Since October 2004, she has been self-employed as a producer and assistant director in the film industry. In October 2023, she was hired as a full-time associate producer for a DOD contractor. The contract shifted to a different DOD contractor in October 2024; however, Applicant's position remained the same. She has never been married, and she does not have any children. (GE 1; Tr. 21-22, 53, 72-74)

On November 1, 2023, Applicant engaged a law firm to represent her as she addressed her unfiled tax returns and delinquent taxes. She testified that she paid the retainer in early November 2023. (AE J; Tr. 79-80)

On November 8, 2023, Applicant completed and certified an Electronic Questionnaire for Investigations Processing (e-QIP). Under Section 26 – Financial Record, she reported that she had failed to file her federal income tax (FIT) returns for tax years (TY) 2016 through 2022 and that she anticipated owing approximately \$35,000 in delinquent taxes for those tax years. She attributed her failure to file to a 2016 back surgery. She further reported that she was seeking assistance from a tax professional to file her tax returns. (GE 1; Tr. 49)

On October 24, 2024, Applicant responded to interrogatories concerning her unfiled FIT returns. She included copies of her FIT and state income tax (SIT) returns for TY 2015 through 2023 and documentary evidence confirming when the FIT returns were filed with the IRS. (GE 2)

The SOR alleges financial considerations security concerns arising from Applicant's failure to timely file her FIT returns for TY 2015 and 2016 (SOR ¶ 1.a.), her

delinquent federal taxes for TY 2018, 2019, 2020, 2021, and 2023 (SOR ¶¶ 1.b.-1.f.), and her delinquent state taxes for TY 2015 through 2023 (SOR ¶ 1.g.).¹

After the issuance of the SOR, Applicant entered into an installment agreement, dated June 20, 2025, with the IRS to pay \$500 monthly for TY 2015, 2016, 2018-2021, and 2023. These payments were required to begin in August 2025 on a total balance of \$107,473. With her Answer, she also included an offer in compromise to the state department of taxation for her delinquent state taxes. She referenced a June 2025 payment of \$100 to the State department of taxation but did not provide documentary evidence of such a payment. Applicant's payments to the IRS and State A continued through February 2026. (Answer at Encl. 6-9; AE A; Tr. 55-59)

SOR ¶ 1.a. With her October 2024 response to DOD interrogatories, Applicant included unsigned tax returns listing her gross income as \$64,000 (TY 2015) and \$41,283 (TY 2016). She later provided documentary evidence that these returns were filed on or about August 27, 2024. Although unalleged and not considered as disqualifying conduct, Applicant owed \$32,866 in delinquent taxes for TY 2015 and \$18,843 in delinquent taxes for TY 2016 as of December 2025. These taxes were paid in February 2026. (Answer; GE 2 at 192-193; AE C, AE K, AE M; Tr. 30, 54, 75-76)

SOR ¶ 1.b. Applicant filed her TY 2018 FIT return on or about August 27, 2024. As of October 31, 2024, she owed approximately \$10,413 in delinquent taxes and interest. As of December 8, 2025, she owed approximately \$8,758 in delinquent taxes and interest for TY 2018. She paid these taxes in full on February 2, 2026. (Answer; GE 2 at 196-197; AE C, AE K at 5-6, AE M; Tr. 30, 40, 77)

SOR ¶ 1.c. Applicant filed her TY 2019 FIT return on or about August 27, 2024. As of October 31, 2024, she owed approximately \$11,314 in delinquent taxes and interest. As of December 8, 2025, she owed approximately \$12,162 in delinquent taxes and interest. She paid these taxes in full on February 2, 2026. (GE 2 at 198-199; AE C, AE K at 7-8, AE M; Tr. 30, 77)

SOR ¶ 1.d. Applicant filed her TY 2020 FIT return on or about August 27, 2024. As of October 31, 2024, she owed approximately \$1,416 in delinquent taxes, interest, and penalties. As of December 8, 2025, she owed approximately \$1,546 in delinquent taxes and interest. She paid these taxes in full on February 2, 2026. (Answer; GE 2 at 200-201; AE C, AE K at 9-10, AE M; Tr. 30, 77)

SOR ¶ 1.e. Applicant filed her TY 2021 FIT return on or about September 2, 2024. As of October 31, 2024, she owed approximately \$26,266 in delinquent taxes and interest. As of December 8, 2025, she owed approximately \$29,775 in delinquent taxes and interest. She paid these taxes in full on February 2, 2026. (Answer; GE 2 at 202-203; AE C, AE K at 11-12, AE M; Tr. 30, 77)

¹ All references to state income taxes concern Applicant's state of residence.

SOR ¶ 1.f. Applicant filed her TY 2023 FIT return in August 2024. As of December 8, 2025, she owed delinquent taxes and interest of approximately \$4,708. She paid these taxes in full on February 2, 2026. (Answer; AE C, AE K at 13-14, AE M; Tr. 30, 78)

SOR ¶ 1.g. From Applicant's SIT returns, she admitted that she owed approximately \$12,807 in delinquent state taxes for TY 2015 through 2023. In June 2025, she submitted an offer in compromise to the state department of taxation. In December 2025, this offer was rejected by the state. As of December 5, 2025, she owed approximately \$8,068 in delinquent state taxes for TY 2012, 2021, 2022, and 2023. She provided documentary evidence of eight payments, spanning June 2025 through January 2026, totaling approximately \$4,200. As of the hearing, she had paid the state taxes for TY 2021, 2022, and 2023. As of February 27, 2026, her delinquent state taxes were paid for TY 2004 through 2023. (AE B, AE D, AE L, AE M; Tr. 31, 50, 52, 55-59)

The SOR did not include any allegation concerning Applicant's delinquent federal taxes for TY 2024. As of December 8, 2025, she owed approximately \$4,538. She testified that her employer had not withheld sufficient taxes. On February 2, 2026, Applicant paid her delinquent taxes for TY 2024 in the approximate amount of \$4,636. (AE C, AE K at 15-16; Tr. 52, 81-82)

At the hearing, Applicant testified that during her 30 years in the film industry, prior to her current salaried employment, was freelance work, and no taxes were withheld. Her salaried employment has withheld taxes and has stabilized her income stream. Her previous work in the film industry had largely been seasonal and would require her to supplement her income with other employment. She also attributed some of her financial delinquencies to the COVID-19 pandemic and its impact on her industry. She testified that she did not make any payments on her delinquent taxes – beyond the taxes withheld by her employer – between about 2015 and June 2025. (Tr. 25-29, 40, 43, 48-49, 80-81)

Applicant testified that she encountered problems with timely filing and paying her federal and state taxes beginning in about 2016. She had experienced chronic back problems, had surgery, missed work for three months, and then worked in a limited capacity for several months when she returned to work. In this limited capacity, she found some lower-paying jobs which were physically less demanding. In December 2022, she had knee-replacement surgery on both knees and missed work. She also incurred significant medical expenses due to the back and knee surgeries and recoveries. When she was able to find gainful employment in the film industry – in 2018 and 2021 – she prioritized paying off her credit-card accounts. (Tr. 34-39, 41-42, 44-45, 74, 82-83)

Applicant's monthly budget, as of December 2025, reflects approximately \$4,242 in income and \$3,878 in expenses (including \$500 to the IRS and \$400 to the State department of taxation). She has approximately \$4,000 in a checking account and approximately \$14,000 in retirement savings. (AE E, AE F; Tr. 60-61, 85)

Applicant testified that she has known her romantic partner (E) for decades, and they have been romantically involved for about a year. On January 21, 2026, E withdrew

approximately \$130,000 from his retirement savings, which he then provided to Applicant on or about January 30, 2026. She then used the funds to pay her state tax debts for TY 2021, 2022, and 2023 and to pay all her federal taxes except for TY 2024. She understood that she had additional State A tax debts for TY 2016 through 2020 to resolve, but she was awaiting further information from her tax attorney. After the hearing, she resolved her remaining state tax debt. (AE G, AE H; Tr. 62-67, 85-88)

Applicant's romantic partner (E) testified on behalf of her clearance eligibility. After honorably retiring from the U.S. Navy, he has worked as a civilian employee for the U.S. Government for approximately 17 years. He maintained a security clearance during his military service and a public trust position during his civilian employment. He has known Applicant for nearly 33 years, mostly as friends. Since May 2025, they have been romantically involved. He has been aware of her delinquent federal and state tax debts since August 2025. He also corroborated her testimony about her back and knee surgeries. He offered several times to pay off her taxes, but she had declined until recently. He does not have any expectation that she will repay the \$130,000 he provided her. He highly recommended her for clearance eligibility based on her character and his belief that her tax debts are unlikely to recur. (Tr. 92-101)

Whole Person

In her Answer, Applicant submitted five character-reference letters. Her current and former supervisors, former co-workers, and best friend praised her work ethic, dedication, trustworthiness, professionalism, integrity, and reliability. They also noted her exemplary work performance. None of these references mentioned that they were aware of Applicant's untimely tax returns or delinquent taxes. (Answer at Encl. 5; Tr. 26-28, 88)

Policies

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(a), 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 sensitive 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 sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive 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. . . .

The guideline notes several conditions that could raise security concerns. The following are potentially applicable in this case:

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.

Through the IRS tax transcripts, SIT returns, and Applicant's admissions, the Government established that Applicant failed to timely file her FIT returns for TY 2015 and 2016, as required. She also failed to timely pay her federal taxes for TY 2018, 2019, 2020, 2021, and 2023 and her state taxes for TY 2015 through 2023. AG ¶¶ 19(a), 19(c), and 19(f) apply.

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

(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 has initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; 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.

Applicant bears the burdens of production and persuasion in mitigation. An applicant is not held to a standard of perfection in his or her debt-resolution efforts or required to be debt-free. "Rather, all that is required is that an applicant act responsibly given [her] circumstances and develop a reasonable plan for repayment, accompanied by 'concomitant conduct,' that is, actions which evidence a serious intent to effectuate the plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017). See, e.g., ISCR Case No. 13-00987 at 3, n.5 (App. Bd. Aug. 14, 2014).

Applicant established circumstances largely beyond her control – her surgeries, medical expenses, and underemployment – that contributed to her financial delinquencies. Nonetheless, these circumstances did not alleviate or diminish her legal obligation, under federal and state law, to file her FIT and SIT returns and pay her taxes. Regarding the failure to timely file a federal income tax return, the DOHA Appeal Board has commented:

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. 20, 2002). As we have noted in the past, a clearance adjudication is not directed at collecting debts. *See, e.g.*, ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). By the same token, neither is it directed toward *inducing an applicant to file tax returns. Rather, it is a proceeding aimed at evaluating an applicant's judgment and reliability. Id.* A person who fails repeatedly to fulfill his or her legal obligations does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. *See, e.g.*, ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015). *See Cafeteria & Restaurant Workers Union Local 473 v. McElroy*, 284 F.2d 173, 183 (D.C. Cir. 1960), *aff'd*, 367 U.S. 886 (1961).

ISCR Case No. 14-04437 at 3 (App. Bd. Apr. 15, 2016) (emphasis in original). *See* ISCR Case No. 15-01031 at 4 (App. Bd. Jun. 15, 2016) (citations omitted); ISCR Case No. 14-05476 at 5 (App. Bd. Mar. 25, 2016) (citing ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002)); ISCR Case No. 14-01894 at 4-5 (App. Bd. Aug. 18, 2015). The timing of Applicant's debt-resolution efforts are relevant and material to the evaluation of her evidence in mitigation. *See, e.g.*, ADP Case No. 16-03595 at 4 (App. Bd. Aug. 27, 2018) (timing of debt-resolution efforts is relevant in evaluating the sufficiency of case in mitigation).

In November 2023, Applicant engaged a tax attorney and tax professional to assist her in filing her returns and negotiating repayment plans with the IRS and state tax authority. The returns were filed in August and September 2024. She entered into an IRS installment agreement in June 2025 and made payments from August 2025 to February 2026. She made monthly payments to the state department of taxation beginning in July 2025. As of the close of the record, all federal and state taxes were paid.

I have considered Applicant's efforts to file her unfiled FIT and SIT returns and resolve her delinquent taxes. I have also considered, though unalleged, that Applicant failed to timely file her FIT and SIT returns for TY 2018 through 2022 and that she incurred a tax debt to the IRS for TY 2024. She has not demonstrated that she has rectified the insufficient tax withholding with her employer to avoid ongoing tax problems. The DOHA Appeal Board has held that conduct not alleged in the SOR may be considered in the evaluation of an applicant's evidence in mitigation; as to whether an applicant has demonstrated successful rehabilitation; and in the whole-person analysis. *See* ISCR

Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006) (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See *also* ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n.1 (App. Bd. Sep. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)).

Notwithstanding Applicant's recent significant steps to address and resolve her unfiled returns and delinquent taxes, doubts remain concerning her financial responsibility, given her failure to address her unfiled returns until she obtained employment with a DOD contractor and required a security clearance. Her TY 2015 and TY 2016 were filed over seven years late, and there is no evidence of any tax payments for upwards of ten years between 2015 and June 2025. AG ¶ 20(g) applies given Applicant's payment arrangements and payments on her federal and state taxes; however, the record as a whole does not support mitigation of the financial considerations security concerns. See ISCR Case No. 24-02104 at 2 (App. Bd. Jan. 26, 2026).

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for access to classified information 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 and the factors in AG ¶ 2(d) in this whole-person analysis.

Applicant's supervisors, co-workers, friend, and romantic partner praised her work ethic, dedication, trustworthiness, professionalism, integrity, and reliability. They also noted her exemplary work performance. While circumstances beyond her control contributed to her financial delinquencies, these circumstances did not diminish her legal obligation to file her tax returns. She failed to address her unfiled returns for approximately seven years and made no payments for nearly 10 years. Given the insufficient tax withholding for TY 2024, she has not demonstrated that these problems are unlikely to

