



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



In the matter of: )  
)  
) ISCR Case No. 25-00491  
)  
Applicant for Security Clearance )

**Appearances**

For Government: George A. Hawkins, Esq., Department Counsel  
For Applicant: *Pro se*

03/25/2026

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**Decision**

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FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Clearance is denied.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on August 29, 2023. On April 25, 2025, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline F (Financial Considerations). The DCSA acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016), which became effective on June 8, 2017.

Applicant answered the SOR on July 6, 2025, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on September 5, 2025. The case was assigned to me on January 6, 2026. On January 13, 2026, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled

to be conducted by video teleconference on February 27, 2026. I convened the hearing as scheduled. Government Exhibits (GX 1 through 7 were admitted in evidence without objection. GX 6 is a summary of several interviews of Applicant by a security investigator. It is not authenticated as required by Directive ¶ E3.1.20, but Applicant waived the authentication requirement. (Tr. 9) Department Counsel requested that I take administrative notice of the facts contained in three Internal Revenue Service documents, which are marked as GX 8, 10, and 11, and the provisions of 26 U.S.C. § 7508. I took administrative notice as requested.

At the hearing, Department Counsel moved to amend the SOR to add SOR ¶ 1.c, alleging that Applicant was indebted to the federal government for delinquent taxes in the approximate amount of \$20,000 for tax year 2021, and that the tax obligation remained unpaid as of the date of the hearing. (Tr. 57). After the hearing, he submitted a written confirmation of the motion. (Hearing Exhibit I) I granted the motion, but I have renumbered the allegation as SOR ¶ 1.j.

Applicant testified but did not present the testimony of any other witnesses. He submitted Applicant's Exhibits A through H, which were admitted without objection. I kept the record open until March 20, 2026, to enable him to submit additional documentary evidence. He did not submit any additional evidence. DOHA received the transcript on March 19, 2025. The record closed on March 20, 2025.

### **Findings of Fact**

In Applicant's answer to the SOR, he admitted the allegations in the SOR. His admissions are incorporated in my findings of fact.

Applicant is a 29-year-old fitness trainer employed by a defense contractor. He provides training for military and civilian personnel deployed to Saudi Arabia. He graduated from high school in June 2015. He served on active duty in the U.S. Army from February 2016 to February 2020 and received an honorable discharge. He received a security clearance while on active duty. He married in 2017 and separated in 2019. (Tr. 27).

Applicant was unemployed after his discharge from the Army until November 2020, when he was hired by a federal contractor. He was employed by a federal contractor in a foreign country from November 2020 to April 2022. He was fired in April 2022 for consuming alcohol off the base. (Tr. 33) He has been employed by a federal contractor in an overseas location since December 2024. (Tr. 23) He earns more than \$100,000 per year. (Tr. 34) He has a net remainder of between \$6,000 and \$8,000 each month after paying all his bills and expenses. (Tr. 49-50) He has about \$17,000 in his checking account. (Tr. 51)

SOR ¶ 1.a alleges failure to file federal income tax returns as required for tax years 2020, 2021, 2022, and 2023. IRS tax transcripts establish this allegation. (GX 2 at 5-12) Applicant testified at the hearing that he did not file his federal tax return for 2020 because

of COVID. (Tr. 18-19) He did not describe how COVID prevented him from timely filing his return for that year.

Applicant also testified that, based on advice from his manager, he believed he had three years after returning from overseas to file his tax returns. (Tr. 19, 35-36, 56) If he received such advice, it was erroneous. I have taken administrative notice, based on the administrative notice materials submitted by Department Counsel, that U.S. federal tax laws do not provide for a three-year grace period for filing tax returns for overseas employment.

Incorrect tax advice from non-professionals is not uncommon, and I found Applicant's testimony credible when he testified that he received incorrect advice from his manager. However, he learned that his unfiled tax returns were a security issue when he was interviewed by a security investigator in January 2024, and he told the investigator that he planned to resolve his tax issues by April 2024. (GX 6 at 14). He did not file his returns after that interview. He was reminded that his unfiled tax returns raised security issues when he received the SOR, but he had not resolved them as of the date of the hearing. At the hearing, he testified that he has hired a certified public accountant (CPA) to prepare his tax returns, and his CPA is reviewing the tax debt for tax year 2021. He stated that he intends to file his remaining past-due tax returns when he returns to the United States in April 2026. (Tr. 37-38) I have found his repeated promises to file his past-due returns unconvincing.

SOR ¶¶ 1.b-1.i allege delinquent debts reflected in credit reports from April 2025, August 2024, September 2023, and January 2026. (GX 3, 4, 5, and 7) The evidence pertaining to each debt is summarized below.

SOR ¶ 1.b: personal loan charged off for \$393. Applicant paid this debt on May 1, 2025. (AX B)

SOR ¶ 1.c: auto loan charged off for \$3,000. Applicant settled this debt for \$1,500 on May 1, 2025. (AX F)

SOR ¶ 1.d: unsecured loan charged off for \$10,000. On May 1, 2025, Applicant settled this debt for \$5,213, to be paid in four installments. (AX G)

SOR ¶ 1.e: payday loan placed for collection of \$1,446. Applicant paid this debt on May 1, 2025. (AX D)

SOR ¶ 1.f: payday loan placed for collection of \$1,604. Applicant paid this debt on May 1, 2025. (AX E)

SOR ¶ 1.g: sporting goods store account placed for collection of \$395. Applicant paid this debt on May 1, 2025. (AX C)

SOR ¶ 1.h: credit-card account charged off for \$2,038. Applicant paid this debt on May 1, 2025. (AX A)

SOR ¶ 1.i: telecommunications account placed for collection of \$1,258. Applicant submitted no evidence showing resolution of this debt.

SOR ¶ 1.j (added in amendment to the SOR): Federal tax debt in the approximate amount of \$20,000 for tax year 2021. Applicant testified that he filed his federal tax return for tax year 2021, that he owed about \$20,000 in taxes, and that he was paying \$500 per month on the tax debt. (Tr. 23) He provided no documentary evidence that he had filed his 2021 return and no evidence of payments on the tax debt for that year. When an applicant claims that a debt is being paid, he or she is expected to present documentary evidence supporting that claim. See ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 19, 2016).

## Policies

“[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* at 531. Substantial

evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” See ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019). It is “less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “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. 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* at 531.

## **Analysis**

### **Guideline F, Financial Considerations**

The security 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. . . . 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 a person might knowingly compromise classified information to raise money. It encompasses concerns about a person’s self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The following disqualifying conditions under this guideline are relevant:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(b): unwillingness to satisfy debts regardless of the ability to do so;

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.

AG ¶¶ 19(a) and 19(b) are not established. Applicant is earning a six-figure salary and paid the debts alleged in SOR ¶ 1.b through 1.h on May 1, 2025. He testified that he is paying \$500 per month on a federal tax debt. Although he has been careless in his financial management, there is no evidence that he is unwilling or unable to satisfy his debts.

AG ¶ 19(c) is established. Applicant did not satisfy the debts alleged in SOR ¶¶ 1.b through 1.h until he received the SOR and was aware that they were an impediment to keeping his security clearance. He submitted no evidence that he has satisfied the debt alleged in SOR ¶ 1.i.

AG ¶ 19(f) is established. Applicant admitted that he had not filed his federal income tax returns as required for tax years 2020, 2021, 2022, and 2023. He claimed, based on erroneous advice from his manager, that he was not required to file his returns for three years after he returned from overseas. He has since been advised that his manager's tax advice was erroneous and that his unfiled tax returns raise security issues. He testified that he is working with a CPA on his current returns, but he submitted no evidence of advice from the CPA about his obligations to file his previous returns.

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(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;

AG ¶ 20(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;

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.

AG ¶ 20(a) is not established. Applicant's delinquent debts are numerous, recent, and were not incurred under circumstances making recurrence unlikely.

AG ¶ 20(b) is not established. Applicant has been employed in high-paying jobs since 2022. He submitted no evidence of conditions largely beyond his control.

AG ¶ 20(c) is not established. Applicant testified that he is currently working with a CPA to file his federal tax returns, but he submitted no evidence of the type of counseling contemplated by this mitigating condition.

AG ¶ 20(d) is not established. Applicant submitted no evidence that the debt alleged in SOR ¶ 1.i is resolved. He submitted evidence that he has resolved the debts in SOR ¶¶ 1.b through 1.h, but he did so only after receiving the SOR and realizing that they were an impediment to retaining his security clearance. Good faith means acting in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation. ISCR Case No. 99-0201 (App. Bd. Oct. 12, 1999). Resolution of a debt under pressure of qualifying for a security clearance is not a "good-faith effort." An applicant who waits until his or her clearance is in jeopardy before resolving debts may be lacking in the judgment expected of those with access to classified information. ISCR Case No. 16-01211 (App. Bd. May 30, 2018).

AG ¶ 20(g) is not established. He testified that he had a payment plan in effect for tax year 2024, but he submitted no documentation to support his testimony. He has taken no action to file his returns for tax years 2020, 2021, 2022, and 2023.

### **Whole-Person Analysis**

Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. An administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all the 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). 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 by his failures to timely file his federal tax returns and pay the taxes due, and he has not mitigated the security concerns raised by his delinquent non-tax debts.

### **Formal Findings**

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F (Financial Considerations): AGAINST APPLICANT

Subparagraphs 1.a-1.j:

Against Applicant

### **Conclusion**

I conclude that 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.

LeRoy F. Foreman  
Administrative Judge