



DEPARTMENT OF WAR  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 25-00569  
)  
Applicant for Security Clearance )

For Government: Daniel P. O'Reilley, Esq., Department Counsel  
For Applicant: *Pro se*

04/21/2026

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**Decision**

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HARVEY, Mark, Administrative Judge:

Guideline F (financial considerations) security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On August 2, 2024, Applicant completed a Questionnaire for National Security Positions or security clearance application (SCA). (Government Exhibit (GE) 1) On June 27, 2025, 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. (Hearing Exhibit (HE) 1)

The SOR detailed reasons why DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and said her case will be submitted to an Administrative Judge for a determination as to whether to grant, deny, or revoke her security clearance. Specifically, the SOR set forth security concerns arising under Guideline F. (HE 1) On

August 19, 2025, Applicant responded to the SOR. (HE 2) On December 17, 2025, Department Counsel was ready to proceed. On January 5, 2026, the case was assigned to me. On January 16, 2026, DOHA issued a notice setting the hearing for March 2, 2026. (HE 3) The hearing was held as scheduled, using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered four exhibits; Applicant offered two exhibits; and all proffered exhibits were admitted into evidence without objection, except GE 4. (Tr. 11, 16-18; GE 1-GE 4; Applicant Exhibit (AE) A-AE B) Applicant objected to admission of information about her bankruptcy in 2011 because it is not relevant and not recent. (Tr. 17) The exhibit has low relevance because the bankruptcy occurred almost 14 years ago. However, it does show a history of financial issues. Applicant's objection goes to weight and not admissibility of GE 4, and I overruled the objection. (Tr. 17) On March 19, 2026, DOHA received a copy of the transcript. On March 17, 2026, I received two post-hearing exhibits from Applicant; they were admitted into evidence without objection; and the record closed on April 7, 2026. (Tr. 72, 78; AE C; AE D; HE 4)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

### **Findings of Fact**

In Applicant's SOR response, she denied SOR ¶¶ 1.a, 1.b, and 1.c. (HE 2) She also provided extenuating and mitigating information.

Applicant is a 44-year-old software engineer who has been employed by a Department of War (DoW) contractor for 18 months. (Tr. 6, 8; AE B) In 2000, she graduated from high school, and in 2005, she received dual bachelor's degrees in computer engineering and electrical engineering. (Tr. 6-7; AE B) In 2012, she received a master's degree in computer science, and in 2023, she received a master's degree in management information technology. (Tr. 7; AE B) She has not served in the U.S. military. (Tr. 7) In 2015, she married, and her children are ages 11, 12, 17, and 17. (Tr. 8) She received an excellent performance evaluation in 2025 to 2026 from her employer.

### **Financial Considerations<sup>1</sup>**

Applicant worked for the same corporation from 2010 to May of 2024. (Tr. 22) Her starting pay was about \$65,000 or \$70,000, and in May of 2024, her annual salary was \$157,000. (Tr. 23-24) Her current annual salary is about \$144,000. (Tr. 25, 57) Her husband is self-employed and has a trucking business. (Tr. 25) In a good year, he can earn \$100,000. (Tr. 26) They own three residential properties, and Applicant manages them. (Tr. 26) The annual income from the three rental properties is about \$40,000. (Tr. 26-27)

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<sup>1</sup> In this decision, adjusted gross income is rounded to the nearest \$1,000 and taxes owed or refunded are rounded to the nearest \$100.

From 2018 to 2021, Applicant and her husband had a business, which relied on customers in a retail-type environment. (Tr. 28) They also purchased some rental properties. (Tr. 29-31) The business was funded from Applicant's 401(k) account and loans. (Tr. 28) The COVID-19 pandemic and a licensing issue caused the business to fail. (Tr. 28, 54) She lost about \$200,000 on this business. (Tr. 53)

In Applicant's August 2, 2024 SCA she disclosed that she had not filed her federal income tax (FIT) returns for tax years (TY) 2018 through 2022. (GE 1) She said her FIT preparer was working on her tax returns. (GE 1) Applicant said her FIT problems started for the following reason:

Because we hadn't filed in five years, that is what started all the process. So because it had been a while since we filed because there was just a lot that went on in that period of time, we had already filed [her FIT for TY 2018], but they audited [TY 2018] and [then added] additional [taxes]. So [her FIT return for TY 2018] was filed, but they went back and reviewed it and added on the business [tax] debt. Then we had to go back in and have somebody take another look at it because business and our personal income [were] supposed to be separated.

So that is what drove this whole IRS audit situation [which] was because we had not filed in five years. And so -- you know, because that would have been 2023, I think, is when this all started because there had been a delay in filing and that is what started this process. (Tr. 69)

SOR ¶ 1.a alleges Applicant failed to file, as required, FIT returns for TYs 2021 and 2022. As of the date of the SOR, the FIT returns are unfiled.

In her August 19, 2025 SOR response, Applicant said her "Amended federal income tax returns were filed for the years in question, but adjustments had not been made by the Internal Revenue Service as of date of this Statement of Reasons. 2021 has been completed, but 2022 is still under investigation due to identity theft that occurred that year." (HE 2)

SOR ¶ 1.b alleges Applicant failed to file, as required, state income tax (SIT) returns for TYs 2019 through 2023. As of the date of this SOR the SIT returns are unfiled.

In her August 19, 2025 SOR response, Applicant said, "Amended [state] income tax returns were filed for the years in question." (HE 2) She provided correspondence from her tax preparer indicating her TY 2021 SIT was completed; however, the letter was undated. Her TY 2022 SIT correspondence was dated December 1, 2024, and her TY 2023 SIT correspondence was dated May 2, 2025. There was no correspondence for TYs 2019 and 2020. (HE 2)

SOR ¶ 1.c alleges Applicant is indebted to the Federal Government for delinquent taxes in the approximate amount of \$362,400 for TYs 2018 through 2022. As of the date of this SOR the taxes are unpaid.

In her August 19, 2025 SOR response, she said:

The total amount of taxes I am indebted to by the Federal Government for tax years 2018-2022 is still being calculated as amended returns remain in progress as of the date of this Statement of Reasons. Due to recent government shutdowns and other government circumstances, I have been advised that this process may take some time before the final amount is accurately determined. In the meantime, I have established a voluntary payment plan through a 3rd party service known as Pay1040, where a monthly payment of \$250/month is paid directly to the Internal Revenue Service until that final amount indebted to the Federal Government for tax years 2018-2022 has been determined. (HE 2)

Applicant provided a July 22, 2025 IRS letter which states her TY 2021 FIT return was dated December 1, 2024 (about two years past due), and showed a balance owed of \$66,500. (HE 2)

Applicant's TY 2018 FIT return was filed on October 26, 2020. (Tr. 32) Her IRS tax transcript shows she owes \$149,100 for TY 2018. (Tr. 33) She has been aware of the magnitude of her FIT bill for about three years. (Tr. 34)

Applicant started sending the IRS \$250 monthly around June of 2025, and she plans to continue these payments until she learns the final amount of her FIT debt. (Tr. 35-38, 59; HE 2) She is paying \$50 monthly for each TY from 2018 through 2022 (five TYs). (Tr. 41; HE 2) The IRS blocked some of the \$50 payments and for several months no payments were made. (Tr. 63-65) Before the IRS review started, the IRS wanted about \$2,300 monthly. (Tr. 35)

The IRS filed substitute FIT returns for TYs 2018 and 2019. (Tr. 41) Her tax advisor filed revised FIT returns for TYs 2018 and 2019. (Tr. 42-43; GE 3 at 15) Applicant said her FIT return for TY 2024 was mailed to the IRS; however, the IRS website did not show it as filed. (Tr. 46-48)

Applicant's IRS tax transcripts indicated the filing status for the following TYs: 2017 (married filing joint); 2018 (married filing joint); 2019 (married filing joint); 2020 (married filing separate); 2021 (single); and 2023 (single). (Tr. 40; HE 2; GE 2) Her IRS tax transcript for TY 2018 indicated on December 2, 2024, an "additional tax assessed by examination" of \$69,100 and "interest charged for late payment" of \$33,700. (GE 2 at 11) Her IRS tax transcript for TY 2019 indicated on December 2, 2024, an "additional tax assessed by examination" of \$86,800 and "interest charged for late payment" of \$33,600. (GE 2 at 13) Her IRS tax transcript for TY 2021 indicated an additional tax assessed by examination on February 10, 2025, of \$19,700. (HE 2)

On March 2, 2026, Applicant's tax preparer said her FIT owed for TYs 2018 to 2024 totaled \$20,000, and her refunds totaled \$11,700. (AE C at 3) For SIT, she owed \$11,600 for the following TYs: 2018 (\$3,100); 2019 (\$3,100); 2020 (\$3,400); and 2022 (\$2,000). (AE C at 3) Her SIT refunds totaled \$1,700 and are follows: 2021 (\$400); 2023 (\$700); and 2024 (\$600). (AE C at 3) The correspondence from her tax preparer did not explain why the taxes owed were so much lower than the IRS calculations indicated on her IRS tax transcripts. The amended FIT and SIT tax returns are not part of the record.

Information from Applicant's IRS tax transcripts and her tax preparer is shown in the following table.

Tax Year Revised (R)	Date Tax Returns Filed	Adjusted Gross Income	Taxes Owed (O) or Refund (R)	Exhibit or Cite
2017	June 18, 2018	\$102,000	R-\$6,800	GE 2 at 9; AE A at 1
2018	Mar. 23, 2020	\$350,000	O-\$137,500	GE 2 at 10
2018-R	2025 or 2026		O-\$500	AE C at 3
2019	Feb. 1, 2021	\$389,000	O-\$165,700	Tr. 54-55; GE 2 at 12
2019-R	2025 or 2026		O-\$2,300	AE C at 3
2020	Nov. 8, 2021	\$90,000	O-\$15,000	Tr. 38-39; HE 2
2020-R	2025 or 2026		O-\$15,200	AE C at 3
2021	Apr. 28, 2023	\$119,000	O-\$19,000	Tr. 44; HE 2; GE 3 at 12-13
2021-R	2025 or 2026		R-\$2,400	AE C at 3
2022	Not Available		O-\$21,000	Tr. 44; GE 3 at 14; AE A at 19
2022-R	2025 or 2026		O-\$2,000	Tr. 58; AE C at 3
2023	Apr. 15, 2024	\$50,000	R-\$2,500	GE 2 at 18-19
2023-R	2025 or 2026		R-\$2,500	Tr. 58; AE C at 3
2024	Not Available			AE A at 23
2024-R	2025 or 2026		R-\$9,900	Tr. 58; AE C at 3

The IRS tax transcript for TY 2018 shows a credit transferred from TY 2023 of \$2,480. (Tr. 60) Her passport is flagged because of her FIT debt. (Tr. 60-61) She was notified of an IRS lien on her property. (Tr. 61) The lien was for TYs 2018 and 2019. (AE A at 31, 33) The IRS placed a levy on her bank account, and she paid \$2,812 to release the levy. (Tr. 61-63)

In her SOR response, Applicant said her FIT debt for TYs 2018 through 2022 is still being calculated as the IRS assesses the amended returns from her tax preparer. (HE 2) She has established a voluntary payment plan where a \$250 monthly payment is paid to the IRS until the final amount indebted to the Federal Government for TYs 2018 through 2022 is determined. (HE 2) The revised FIT returns included deductions for expenses, and inclusion of these deductions may explain the substantial reductions in the taxes she owes. (Tr. 55)

On May 22, 2025, the IRS provided the following balances for TYs 2018 through 2022: 2018 (\$141,100); 2019 (\$170,200); 2020 (\$13,600); 2021 (\$18,100); and 2022 (\$19,400). (GE 3 at 10-11) On March 3, 2026, the IRS wrote Applicant that her FIT returns for TYs 2018 and 2019 were under review. (AE C at 11) She has about \$70,000 in savings and could borrow about \$150,000 on the equity in her home, which she could use to pay her tax debt. (Tr. 49)

The SOR did not allege a security concern pertaining to Applicant's student loans. Her student loan payments have been deferred, and before the deferment, they were on an income-based payment plan. (Tr. 50) She said she was making \$50 to \$150 monthly payments. (Tr. 50-52) On December 1, 2025, the federal student loan company said her student loans totaled \$236,442. (AE D) Her student loans are not shown as delinquent, and they do not raise a security risk at this time.

### **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 War or his designee to grant applicant 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. An unfavorable decision should not be construed to suggest that it is based, in whole or in part, on any express or implied determination about an applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the

President, Secretary of War, 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 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 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 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 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 failed to file, as required, FIT returns for TYs 2021 and 2022. She failed to file, as required, SIT returns for TYs 2019 through 2023. On May 22, 2025, the IRS provided the following FIT balances for TYs 2018 through 2022: 2018 (\$141,100); 2019 (\$170,200); 2020 (\$13,600); 2021 (\$18,100); and 2022 (\$19,400). A tax preparer filed FIT returns for these five years in 2024 through 2026 and believes Applicant's taxes are significantly less than the IRS calculations. The IRS is reviewing the tax preparer's submissions. Applicant has made \$250 monthly payments for most months since about June of 2025.

Some circumstances partially or fully beyond Applicant's control adversely affected her finances. She and her husband had a business which failed in part due to a license issue and the COVID-19 pandemic. Identity theft delayed the filing of her TY 2022 FIT and SIT returns. However, "[e]ven if [an applicant's] financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the [administrative judge] could still consider whether [the applicant] has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005); ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999)). She did not present sufficient evidence that she acted responsibly under the circumstances with respect to the financial issues in the SOR because she did not establish her inability to make more progress sooner to file and pay her taxes. The late filing of her TY 2022 FIT and SIT returns is mitigated. AG ¶ 20(b) is partially established.

A willful failure to timely make (meaning complete and file with the IRS) a FIT return is a misdemeanor-level federal criminal offense. Title 26 U.S.C. § 7203, willful failure to file return or supply information, reads:

Any person . . . required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to . . . make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor. . . .

A willful failure to make return, keep records, or supply information when required, is a misdemeanor offense without regard to the existence of any tax liability. *Spies v. United States*, 317 U.S. 492 (1943); *United States v. Walker*, 479 F.2d 407 (9th Cir. 1973); *United States v. McCabe*, 416 F.2d 957 (7th Cir. 1969); *O'Brien v. United States*, 51 F.2d 193 (7th Cir. 1931). For purposes of this decision, I am not considering Applicant's failure to timely file her FIT returns against her as a crime. In regard to the failure to timely file FIT returns, the 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). See ISCR Case No. 15-01031 at 4 (App. Bd. June 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 Appeal Board in ISCR Case No. 15-01031 (App. Bd. June 15, 2016) explained that in some situations, even if no taxes are owed when tax returns are not timely filed, grant of access to classified information is inappropriate. In ISCR Case No. 15-01031 (App. Bd. June 15, 2016), the applicant filed his 2011 FIT return in December 2013, his 2012 FIT return in September 2014, and his 2013 FIT return in October 2015. He received FIT refunds of at least \$1,000 for each year. Nevertheless, the Appeal Board reversed the administrative judge's decision to grant access to classified information.

The Appeal Board clarified that even in instances where an “[a]pplicant has purportedly corrected [his or her] federal tax problem, and the fact that [applicant] is now motivated to prevent such problems in the future, does not preclude careful consideration of [a]pplicant's security worthiness in light of [his or her] longstanding prior behavior evidencing irresponsibility” including a failure to timely file FIT returns. See ISCR Case No. 15-01031 at 3 & n.3 (App. Bd. June 15, 2016) (characterizing “no harm, no foul”

approach to an applicant's course of conduct and employing an "all's well that ends well" analysis as inadequate to support approval of access to classified information with focus on timing of filing of tax returns after receipt of the SOR).

In ISCR Case No. 15-06440 at 4 (App. Bd. Dec. 26, 2017) the Appeal Board reversed the grant of a security clearance, discussed how AG ¶ 20(g) applied, and noted:

The timing of the resolution of financial problems is an important factor in evaluating an applicant's case for mitigation because an applicant who begins to resolve financial problems only after being placed on notice that his clearance was in jeopardy may lack the judgment and self-discipline to follow rules and regulations over time or when there is no immediate threat to his own interests.

In this instance, Applicant has had ongoing FIT and SIT debts since 2019 when her TY 2018 federal and state taxes were due. For SIT, she owed \$11,700 for the following TYs: 2018 (\$3,100); 2019 (\$3,100); 2020 (\$3,400); and 2022 (\$2,000). The FIT returns not timely filed and not alleged in the SOR, and her SIT debts not timely paid and not alleged in the SOR will not be considered for disqualification purposes; however, they will be considered in the mitigation assessment of her overall FIT and SIT compliance.

At the time the record closed, Applicant was paying the IRS \$250 monthly; however, she did not have an installment agreement with the IRS. She was ineligible for an IRS installment agreement until all tax returns were filed and processed. I have credited her with some mitigation under AG ¶ 20(g) for making these \$250 monthly payments. However, her overall handling of her taxes from 2019 to present leaves lingering security concerns. See ISCR Case No. 24-02104 at 2 (App. Bd. Jan. 26, 2026) (affirming denial of security clearance and noting despite some mitigation under AG ¶ 20(g) that evidence as a whole did not support mitigation).

In ISCR Case No. 06-10320 at 2 (App. Bd. Nov. 7, 2007), the Appeal Board said:

The application of disqualifying and mitigating conditions and whole-person factors does not turn simply on a finding that one or more of them apply to the particular facts of a case. See, e.g., ISCR Case No. 01-14740 at 7 (App. Bd. Jan.15, 2003). Thus, the presence of some mitigating evidence does not alone compel the Judge to make a favorable security clearance decision. As the trier of fact, the Judge must weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence, or vice versa.

Applicant did not prove that she was unable to make greater progress sooner in the filing of her overdue tax returns, withholding proper amounts from her income, and establishing installment payment plans. Under all the circumstances, and considering the evidence "as a whole," Applicant's failures regarding her FITs and SITs are not 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.

Applicant is a 44-year-old software engineer who has been employed by a DoW contractor for 18 months. In 2000, she graduated from high school, and in 2005, she received dual bachelor's degrees. In 2012, she received a master's degree in computer science, and in 2023, she received a master's degree in management information technology. She received an excellent performance evaluation from 2025 to 2026 from her DoW employer. She is an exceptionally well-educated and intelligent person.

The evidence against grant of a security clearance is detailed in the financial considerations section, *supra*, and this evidence is more substantial than the evidence of mitigation. Applicant's failure to take timely, prudent, responsible, good-faith actions regarding her FIT and SIT issues raises unmitigated questions about her reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont*, 913 F. 2d at 1401. "[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant's eligibility for access to classified information." ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No.12-00270 at 3 (App. Bd. Jan. 17, 2014)).

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 failed to mitigate financial considerations security concerns.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards resolution of her tax issues, she may well be able to demonstrate persuasive evidence of her security clearance worthiness.

### **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, and 1.c: Against Applicant

### **Conclusion**

I conclude that it is not 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 denied.

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Mark Harvey  
Administrative Judge