



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



In the matter of:	)	
	)	
	)	ISCR Case No. 25-00193
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Nicole Smith, Esq., Department Counsel  
For Applicant: *Pro se*

04/15/2026

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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 February 9, 2023. On May 27, 2025, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline F. 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 19, 2025, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on December 12, 2025. The case was assigned to me on February 18, 2026. On February 20, 2026, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted on March 19, 2026. I convened the hearing as scheduled. Government Exhibits (GX) 1, 2, and 3 were admitted in evidence without objection.

Applicant testified but did not present the testimony of any other witnesses. He submitted Applicant's Exhibits (AX) A, B, and C, which were admitted without objection. I kept the record open until April 1, 2026, to enable him to submit additional evidence. He timely submitted AX D, which was admitted in evidence. The record closed on April 1, 2026. DOHA received the transcript on April 2, 2026.

### **Findings of Fact**

Applicant is a 36-year-old aerospace ground equipment mechanic employed by a federal contractor. He has worked for his current employer since August 2025. (Tr. 23). He served on active duty in the U.S. Air Force from September 2011 to July 2017 and received a general discharge under honorable conditions based on suspected marijuana use. He attended college while on active duty but did not receive a degree. He received a security clearance during his service in the Air Force. His application for a current clearance is pending adjudication. He is 100% disabled for reasons not reflected in the record. He married in March 2012, divorced in October 2017, and married in June 2025. (Tr. 21). He has a five-year-old son who is autistic.

The SOR alleges that Applicant is indebted to the federal government for delinquent taxes in the amount of \$38,897 for tax years 2017, 2020, 2021, 2022, and 2023 (SOR ¶ 1.a) and that he is indebted to a state government for delinquent taxes in the approximate amount of \$8,363 (SOR ¶ 1.b). Applicant admitted both allegations in his answer to the SOR. His admissions are incorporated in my findings of fact.

When Applicant responded to DOHA interrogatories in May 2025, he disclosed that he owed federal income taxes of about \$5,600 for tax year 2017; \$1,277 for tax year 2020; \$8,600 for tax year 2021; \$12,500 for tax year 2022; and \$10,600 for tax year 2023. (GX 3 at 13) He also disclosed that he owed about \$8,363 in state income taxes. (GX 3 at 14) He also disclosed that he did not file his federal income tax returns for tax years 2018 through 2022 until February through March of 2023. He testified that he did not file those returns due to "fear of owing." (Tr. 31) He testified that tax year 2017 was paid off in February 2026 and tax year 2020 was paid off in July 2025. (Tr. 29-30)

After the hearing, Applicant provided documentation showing that the debt for tax year 2017 was paid. (AX D) He claimed that the debt for tax year 2020 was paid, but he provided no documentation supporting his claim. His remaining unpaid tax debts are

\$9,523 for tax year 2021; \$13,565 for tax year 2022; and \$11,778 for tax year 2023. (Tr.32; AX C)

Applicant testified that he receives disability pay of \$4,604 per month. He intends to use his disability pay as well as the income from his job to resolve his remaining tax debt. (Tr. 33-34)

Applicant submitted evidence of a payment plan for his federal tax debt, providing for payments of \$378 per month (GX 3 at 16) and an installment plan for his state tax debt, providing for payments of \$207 per month (GX 3 at 33). He provided documentation that he is making the payments as agreed on his federal tax debt (AX C; AX D), but he provided no documentation of payments on his state tax debt.

In February 2026, Applicant started a limited liability company that engages in buying and selling jewelry, coins, and precious metals. (Tr. 25) The cost of starting the company was about \$5,000. He chose to invest in his own company instead of using the \$5,000 to pay his tax debts because several friends who are successful entrepreneurs have told him about the tax benefits of passive income. (Tr. 38)

Applicant testified that he is an avid gambler. He started having significant gambling income in 2017 and incurring a tax liability on his income. He estimated that he had \$30,000 in gambling income in 2017 and each subsequent year through 2023, and the taxes withheld from his winning were insufficient to pay the taxes due. He quickly realized that he was falling behind on paying the taxes on his income and could not afford to catch up. He was afraid to file his income tax returns on time because he was frightened by the amount he owed. (Tr. 41-43) His father, who is retired from the military, explained the implications of failing to file returns and pay taxes, “shook some sense into [him],” and convinced him to start working on the problem. (Tr. 43-44)

Applicant’s current supervisor, a retired U.S. Air Force aerospace mechanic flight chief, submitted a letter stating that Applicant “embodies all the values and characteristics I expect out of my airmen and civilian employees.” (Enclosure 1 to SOR response) His maintenance branch manager submitted a letter stating that Applicant “exemplifies what we look for in an employee. [He] is a hard worker who takes the initiative and is a positive influence on his peers.” (Enclosure 2 to SOR response)

## **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 War 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 War 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).

Applicant’s admissions and the evidence submitted at the hearing establish the disqualifying conditions under this guideline:

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.

The following mitigating conditions are potentially applicable:

AG ¶ 20(a): the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

AG ¶ 20(g): the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

AG ¶ 20(a) is not established. Applicant's tax delinquencies are recent, ongoing, and did not occur under circumstances making recurrence unlikely.

AG ¶ 20(d) is not established. Good faith means acting in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation. ISCR Case No. 99-0201, 1999 WL 1442346 at \*4 (App. Bd. Oct. 12, 1999). Payment of debts under pressure of qualifying for a security clearance is not "good faith."

AG ¶ 20(g) is not established. Failure to file tax returns suggests that an applicant has a problem with complying with well-established governmental rules and systems. ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002). A clearance adjudication is not directed at collecting debts. 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. See ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). The fact that Applicant has filed his past-due returns "does not preclude careful consideration of [his] security worthiness based on longstanding prior behavior evidencing irresponsibility." ISCR Case No. 12-05053 (App. Bd. Oct. 30, 2014).

The mere existence of a payment arrangement with an appropriate tax authority does not compel a favorable decision. As with the application of any mitigating condition, an administrative judge must examine the record evidence and decide whether the favorable evidence outweighs the unfavorable evidence, or *vice versa*. The timing of corrective action is an appropriate factor to consider in the application of mitigating condition 20(g) as well as in considering aspects of other overlapping mitigating conditions. In this case, Applicant did not begin to address his tax delinquencies until he submitted his SCA and realized that they were an impediment to obtaining a security clearance. 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).

Even though Applicant has filed his past-due tax returns and initiated a payment agreement, he still does not fully appreciate the seriousness of his obligation to resolve his tax debts. In February 2026, he invested \$5,000 into a private business venture instead of using those funds to pay his past-due taxes.

### **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 that guideline and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his federal and state tax delinquencies.

### **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 and 1.b:

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