



**DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ISCR Case No. 25-01583
)
)
Applicant for Security Clearance)

Appearances

For Government:
Lauren A. Shure, Esq., Department Counsel

For Applicant:
Pro se

05/20/2026

Decision

CEFOLA, Richard A., Administrative Judge:

Applicant did not mitigate the security concerns raised under the Financial Considerations adjudicative guideline. National security eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a Questionnaire for National Security Positions on October 9, 2024 (Questionnaire). On February 6, 2026, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (Financial Considerations). The action was taken under Executive Order 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) effective within DoD after June 8, 2017.

On February 10, 2026, Applicant responded to the SOR in writing (Answer) and requested that this case be decided on the written record in lieu of a hearing. In his

Answer, he admitted to the tax issues and bankruptcy filing alleged in the SOR. On March 10, 2026, Department Counsel submitted the Government's written case in a File of Relevant Material (FORM). Therein, Department Counsel amended SOR ¶ 1.b by adding the second sentence below (in italics):

1.b. You filed Chapter 13 Bankruptcy in 2023. You are currently participating in a repayment agreement under the supervision of a Trustee and are scheduled to repay your debt on or about March 1, 2029.

Department Counsel also amended the SOR by adding allegation ¶ 1.c:

1.c You failed to timely file, as required, a Federal income tax return for tax year 2021. As of the date of this Statement of Reasons, the tax return remains unprocessed by the Internal Revenue Service.

A complete copy of the FORM, consisting of Government's Exhibits (GE) 1 to 6 and the Government's arguments in support of the SOR, was received by the Applicant on March 12, 2026. He was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns, which he did on March 14, 2026 (Response). Therein, he included Applicant's Exhibit (AE) A, a 2021 IRS Account Transcript, and AE B, a Certificate of Appreciation from his employer. Also included were a statement and arguments by Applicant, but he did not specifically respond to the SOR amendments. I labeled this statement as AE C and consider the responses to be denials to both SOR ¶¶ 1.b and 1.c. The case was assigned to me on May 11, 2026, and all exhibits were admitted without objection.

Findings of Fact

Applicant is 52 years old and is presently employed as a software engineer for a DoD contractor where he has worked since September 2024. He was married from 1997 – 2001 and again from 2003 – 2005. He has two adult children. (GE 3 at 5, 10, 19-21, 23)

SOR Paragraph 1, Guideline F (Financial Considerations)

The Government alleged that Applicant is ineligible for a security clearance because he has unresolved federal tax issues and a Chapter 13 bankruptcy filing in 2023. I find the following facts regarding the history and status of the taxes and debts:

1.a. Federal tax returns for 2018 and 2019: In his Answer, Applicant admitted that he failed to file returns in 2018 and 2019, suggesting that he simply forgot. In his Questionnaire answers, he instead explained that he did not think he needed to file a tax return in 2018 given his low income of \$7,000 (he did not reference his 2019 taxes).

When discussing the situation with a DoD investigator on February 5, 2025, he reiterated his misunderstanding that he did not have to file taxes in 2018 but asserted that

he had in fact filed from 2019 onward. In his Response, without specifically stating that he ultimately filed the returns, he implied as much by suggesting he had been unsuccessful to date in retrieving the transcripts from the IRS. There is no evidence in the record, however, of Applicant having filed federal tax returns for either year. (Answer; Response; GE 3 at 31-32; GE 6 at 2)

1.b. Chapter 13 Bankruptcy 2023: In his Answer, Applicant admitted to the bankruptcy filing. He likewise acknowledged having filed the petition in his answers to the Questionnaire. In the petition, Applicant listed over \$36,000 in unsecured claims in addition to over \$15,000 in secured claims (automobile). Applicant attributes the debts to a loss of income in 2012, as well as his decision to work as a self-employed musician from 2015 – 2018. He resumed work in the software industry in 2018, where he has been steadily employed since. His current adjusted gross income is approximately \$127,000 per year. He ultimately filed for bankruptcy in 2023 after receiving notice of a potential wage garnishment. Applicant's bankruptcy plan was approved, and he has been making payments of \$700 per month to the bankruptcy trustee. (Answer; Response; GE 3 at 30-31; GE 4 at 2, 35, 45; GE 5 at 11-12; GE 6 at 1)

1.c. Federal tax return for 2021: Applicant did not respond to this amended allegation, but in his Response did provide a copy of his 2021 IRS tax account transcript which shows the return was filed on September 20, 2025. He was issued a refund of \$1,400 which was offset against the \$1,069 he owed in interest and penalties. (Response; AE A)

Whole Person Evidence

Applicant provided a three-page statement in his Response elaborating on the financial challenges he faced since 2012 including reduced wages, family medical issues, and self-employment struggles. He also explained his hard work as an employee and father, as well as his efforts to improve his financial status.

Policies

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process.

The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context 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, “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who seeks access to classified 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information.

Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of Executive Order 10865, “Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

SOR Paragraph 1, Guideline F (Financial Considerations)

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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 facts of this case establish the following potentially disqualifying conditions set forth in AG ¶ 19 to all of the allegations under Guideline F:

- (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 burden therefore shifts to Applicant to mitigate security concerns under Guideline F. The guideline includes the following conditions in AG ¶ 20 that can mitigate security concerns arising from Applicant's financial history:

- (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, or a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (d) the individual 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.

The record evidence fails to establish AG ¶ 20(a), (b), (d) or (g) for the conduct alleged in SOR ¶ 1.a. Applicant acknowledged the issue of at least the 2018 tax return in his Questionnaire in October 2024, to a DoD investigator in February 2025, and in his response to interrogatories in August 2025. In his Response he avers to having taken "immediate steps" to rectify the situation. But the mere implication that at some point he filed the tax returns in question does not provide sufficient evidence to meet his burden. [ISCR 22-02168 at 4 (App. Bd. Nov. 18, 2024)]. SOR ¶ 1.a is found against Applicant.

The record evidence does, however, establish AG ¶ 20(a), (b), (d) or (g) for the conduct alleged in SOR ¶¶ 1.b and 1.c. Applicant clearly has a less-than-ideal financial

history, but long before issuance of the SOR he filed a Chapter 13 petition to rectify his situation, and he is abiding by its terms. The fact that he will not complete the repayment plan until 2029 is not *per se* disqualifying, particularly without any evidence of subsequent financial concerns. SOR ¶ 1.b is found for Applicant. Additionally, in 2025, Applicant belatedly filed his 2021 tax return, from which he was due a refund. Again, this timing was poor, but it predates the SOR and reflects his efforts to pull his financial situation together. SOR ¶ 1.c is found for Applicant.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for national security eligibility 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 national security 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 above whole-person factors and the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case.

I have given the appropriate weight to Applicant's statements in his Response, his workplace recognition, and his responses to interrogatories. Overall, the Guideline F issues in the record evidence leave me with questions and doubts as to Applicant's suitability for national security eligibility and a security clearance.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraphs 1.b. – 1.c:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, I conclude that it is not clearly consistent with the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

RICHARD A. CEFOLA
Administrative Judge