



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



In the matter of:)
)
) ISCR Case No. 24-01661
)
Applicant for Security Clearance)

Appearances

For Government: Jenny Bayer, Esq., Department Counsel
For Applicant: *Pro se*

05/28/2026

Decision

DRISKILL, A. M., Administrative Judge:

Applicant mitigated the security concerns under Guideline F (Financial Considerations). Eligibility for access to classified information is granted.

Statement of the Case

On June 18, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F. Applicant responded to the SOR on July 17, 2025, and requested a decision on the written record in lieu of a hearing. The Government’s written case was submitted on November 26, 2025. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on January 14, 2026. He timely submitted documentation consisting of 118 pages of tax documentation and 192 pages of medical records (FORM Response). The case was assigned to me on March 16, 2026.

On March 19, 2026, I reopened the record to allow for the admission of additional evidence. Applicant timely submitted Applicant’s Exhibits (AE) A through J, and the record closed on May 22, 2026. The Government exhibits included in the FORM (Items 3-4), AE A-J, and Applicant’s FORM Response are admitted in evidence without objection.

Findings of Fact

The SOR alleges Applicant failed to file Federal (SOR ¶ 1.a) and State A (SOR ¶ 1.b) income tax returns for tax years (TY) 2020 – 2023. He admitted both allegations. The allegations are supported by Applicant’s 2024 security clearance application (SCA) and his response to interrogatories, including his 2024 subject interviews (SI) with a government investigator and tax records. (Items 3-4)

Applicant is 42 years old. He served in the U.S. Army from 2006 to 2011, receiving an honorable discharge. He married in 2005 and has been separated from his spouse since 2012. He does not have children. He reported attending high school for four years from 1999 to 2003 but reported that he did not receive a diploma. He attended two months of vocational school in 2004, but he did not receive a degree or diploma.¹ He received welding training while unemployed between 2014 and 2018 and became homeless after he stopped attending. He was homeless for about a year before moving into the local Veterans Affairs (VA) Medical Center. He has worked for a defense contractor since 2023. (Items 3-4)

In his 2024 SCA, Applicant reported failing to pay his Federal and state income taxes for TY 2021, “due to financial issues at the time.” He estimated the taxes due to be about \$500. He stated he was currently in a better financial situation and would take care of them that month. He also reported that he was utilizing a credit assistance company and that he had had one delinquent debt that he resolved in 2023. (Item 3)

In his May 2024 SI, Applicant stated that he had not filed his state or Federal tax returns due to procrastination. He admitted that, in addition to TY 2021, he had also not filed his TY 2022 or 2023 tax returns. He was not sure if he owed any delinquent taxes. (Item 4)

In his December 2024 response to interrogatories, Applicant reported failing to file TY 2020-2023 Federal and State A tax returns and provided documentation substantiating his failure to file. (Item 4)

In his July 2025 Answer to the SOR, Applicant stated that he had gone through “hard times,” but he had since filed his tax returns and was on a payment plan to “get back on track.” He stated, “[m]y taxes will be paid in full in due time all I need is the opportunity.” (Item 2)

Applicant’s FORM Response contains a number of documents. He included a letter stating that he has not missed any payments in his payment agreement with State A and that he just needed more time to finish paying off his tax debt. He stated his current job is allowing him the stability and income to resolve his tax issues. Two payment arrangement coupons from State A indicate that Applicant is on a \$263.13 per month, 37-month payment plan and, as of January 2026, he had made eight payments leaving him

¹ Given that he was able to enlist in the U.S. Army, it is reasonable to infer that Applicant either did receive a high school diploma or obtained his General Educational Development (GED) certification prior to his enlistment. His medical records in his FORM Response indicate he has a high school diploma and describe him as a high school graduate.

with a current payoff amount of about \$5,587. It appears his repayment plan started in May 2025. (FORM Response)

Applicant included a number of documents from his tax preparer, including copies of his Federal and State A tax returns. These documents reflect:

- TY 2024 returns were completed on February 25, 2025, with a Federal refund of \$48 and a State A refund of \$64.
- TY 2023 returns were completed on April 8, 2025, with a Federal refund of \$6 and a State A balance due of \$4,108.
- TY 2022 returns were completed on February 25, 2025, with a Federal balance due of \$548 and a State A balance due of \$1,186. Documentation for this year indicates Applicant authorized his tax preparer to e-file his Federal and State A tax returns.
- TY 2021 returns were completed on February 25, 2025, with a Federal balance due of \$788 and a State A balance due of \$72.
- TY 2020 returns were completed on February 25, 2025, with a Federal balance due of \$584 and a State A refund of \$25.

The FORM Response did not include evidence that the returns were received by the Internal Revenue Service (IRS) or State A. (FORM Response)

The FORM Response also contains extensive VA medical records printed in April 2018, dating back to 2012. The majority of the records concern Applicant's period of homelessness in 2018 and document him asking for, and actively participating in, mental health counseling, alcohol abuse counseling, and housing assistance. (FORM Response)

Applicant's exhibits reflect the following Federal tax return information:

- The TY 2019 return was timely filed and there is a zero balance. (AE A)
- Applicant's Exhibit B is a May 21, 2026 letter from the IRS acknowledging Applicant's request for his TY 2020 account transcript and stating that they were unable to process his request.
- The TY 2021 return was received on March 3, 2025, and has an account balance plus accruals of \$1,627.93. (AE C)
- The TY 2022 return was received on April 8, 2025, and has an account balance plus accruals of \$1,365.19. (AEs D and E)
- The TY 2023 return was received April 8, 2025, and has a zero balance. (AE F)
- The TY 2024 return was timely filed and there is a zero balance. (AE G)
- The TY 2025 return was timely filed and there is a zero balance. (AE H)

A State A payment arrangement coupon dated May 4, 2026, reflects that Applicant has made 12 payments on his payment plan with a current payoff amount of \$4,483.97 and a payment of \$226.26 due on May 15, 2026. (AE K) His most recent bank statement reflects a timely thirteenth payment made on May 13, 2026, in the amount of \$300.30. (AE I)

Applicant's manager, Mr. G, provided a letter of support, attesting to Applicant's "professionalism, reliability, and strong work ethic." Mr. G explained that Applicant is a nuclear security officer responsible for the protection of classified information, company property, and the safety of tens of thousands of employees and contractors. He praised Applicant's attention to detail, leadership, and effective communication as well as his high level of integrity. (AE J)

Policies

This case is adjudicated under Executive Order 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.

"[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*, 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. 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*, 484 U.S. at 531.

Analysis

Guideline F, Financial Considerations

The 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. 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 evidence establishes the following disqualifying conditions under this guideline:

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.

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(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.

Applicant failed to file his Federal and State A tax returns due to financial difficulty and procrastination. All of Applicant's Federal and State A tax returns at issue on the SOR have now been filed, notably all before the SOR was issued. He timely filed his last two tax years' returns. Although not alleged, he has been on a tax payment plan with State A since before the SOR was issued and has made timely payments since that time. It appears he is making larger-than-required payments on this debt and is paying it down faster than the set terms of the arrangement.

Applicant has a small amount of Federal tax debt that is not alleged on the SOR. He did not provide any information on the current status of that debt, however, he has created a recent track record of responsible behavior toward his tax issues, specifically: (1) he filed all outstanding tax returns months before receiving the SOR; (2) he has made responsible efforts to pay his State A tax debt; (3) the last two years' worth of returns were filed on time; and (4) he has been gainfully employed for several years, which has enabled him to have the means to address his financial issues. Given these factors, I believe he will work to resolve his Federal tax debt as he has with his State A debt and that this relatively small amount of debt does not indicate a larger lingering security concern.

Applicant's responsible actions toward his tax issues, combined with his current, steady employment, indicate that his failure to file occurred under such circumstances that it is unlikely to recur, and it does not cast doubt on his current reliability, trustworthiness, or good judgment. To the degree that his failure to file was due to conditions beyond his control, he acted responsibly under the circumstances by filing all his returns before the SOR was issued. AG ¶¶ 20(a), 20(b), 20(d), and 20(g) are all established.

Whole-Person Concept

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. In applying the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a

security clearance by considering the totality of the applicant's conduct and all 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). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003). 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 mitigated the security concerns raised under Guideline F, financial considerations.

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:	FOR APPLICANT
Subparagraphs 1.a – 1.b:	For Applicant

Conclusion

I conclude it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is granted.

A. M. Driskill
Administrative Judge