



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



In the matter of:)
)
) ISCR Case No. 25-00742
)
Applicant for Security Clearance)

Appearances

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

05/26/2026

Decision

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 10, 2023, Applicant completed an Electronic Questionnaire for Investigations Processing (e-QIP) or security clearance application (SCA). (Government Exhibit (GE) 1) On February 5, and July 3, 2025, he responded to Defense Counterintelligence and Security Agency (DCSA) interrogatories. (GE 2, GE 3) On August 14, 2025, the DCSA issued a statement of reasons (SOR) to him 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 stated his case would be submitted to an Administrative Judge for a determination whether to grant, deny, or revoke his security clearance. Specifically, the SOR set forth security concerns arising under Guideline F. (HE 1) On August 29, 2025, Applicant responded to the SOR. (HE 2) On March 5, 2026, Department Counsel was ready to proceed. On March 15, 2026, the case was assigned to me. On March 26, 2026, DOHA issued a notice scheduling the hearing for May 1, 2026. (HE 3) The hearing was held as scheduled, using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered three exhibits; Applicant offered 24 exhibits; and all proffered exhibits were admitted into evidence without objection. (Tr. 16-19, 118, GE 1-GE 3; Applicant Exhibits (AE) A-AE X) On May 14, 2026, DOHA received a copy of the transcript.

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, he denied the allegation in SOR ¶ 1.a. (HE 2) He also provided extenuating and mitigating information.

Applicant is a 53-year-old manager in cybersecurity who has been employed by a government contractor for 19 months. (Tr. 6-8) In 1991, he graduated from high school. (Tr. 6) In 2010 or 2011, he received a bachelor's degree in information technology (IT), and in 2012, he received a master's degree in IT. (Tr. 7) He has not served in the military. (Tr. 7) In 2011, he married, and his three stepchildren are in their 20s. (Tr. 8-9) From 2001 until 2021, he was the sole proprietor of a business providing IT services. (Tr. 22-23) From 2019 to 2021, he worked for a government contractor, and he continued his IT services on a part-time basis. (Tr. 24) He was unemployed from November of 2022 to March of 2023. (Tr. 25-26)

Applicant proffered, and I admitted his spouse's security clearance decision. (Tr. 105-106, 115-118; AE X) She works for a government contractor, and an administrative judge recently approved her access to classified information. (Tr. 37-38) See ISCR Case No. 25-00626 (A.J. Apr. 2, 2026) (Applicant's spouse's decision). They file their tax returns as married filing jointly, and the decision addresses their delinquent federal income taxes (FIT). (Tr. 37) The administrative judge granted his spouse access to classified information. (AE X)

Financial Considerations¹

SOR ¶ 1.a alleges that Applicant is indebted to the IRS for delinquent FIT in the approximate amount of \$181,000 for tax years (TY) 2015-2017 and 2019-2021.

¹ All amounts are rounded to nearest \$1,000.

In his August 10, 2023 SCA, Applicant disclosed his FIT debt for TYs 2015, 2016, 2017, and 2019 in the following amounts: 2015 (\$12,000); 2016 (\$4,000); 2017 (\$25,000); 2019 (\$8,000). (GE 1 at 37-39) He related that he had been working with multiple tax advisors over the years. *Id.*

In his SOR response, Applicant said:

I have been actively working with my accountant, [B.P.] and the local IRS office to address all outstanding IRS tax obligations. My efforts include: Full payment of back taxes and interest for years 2019, 2020, and 2021; Submission of Form 843 to request an abatement of penalties for tax years 2019 and 2020 (To my knowledge, there were no penalties for 2021 because of COVID.); Filing of amended tax returns for the years 2015, 2016, and 2017, with payments made, in good faith, for the amended amounts; and I am currently awaiting IRS decisions on the 2015 and 2017 amendments **and have requested clarification on the denial of the 2016 amendment.**

* * *

Additionally, I hired [a tax negotiation firm (TNF)] in 2021 to resolve these tax issues, paying them \$18,000 based on their assurances. They failed to fulfill their promises, leading to my termination of their services in 2024 via a new Power of Attorney issued to [B.P.].

* * *

In the event that our amendments are denied by the IRS, and at the recommendation of the local IRS office and our accountant, we are prepared to request a reconsideration and, if necessary, an Offer in Compromise.

Our intentions have always been to work with the IRS to resolve this issue as quickly as possible. My wife and I live well within our means, have excellent credit, and honor our financial commitments. I sincerely do not believe that this should cause me to lose my security clearance. (HE 2 (Exhibits in text omitted; emphasis added)) See *also* Tr. 78-82 (Applicant Summary of Case).

From 2010 to about 2013, Applicant had medical problems. (Tr. 59-63) He had cash-flow problems; he did not timely file his TY 2013 and 2014 FIT returns; and he was unable to pay his taxes when due for TYs 2013 and 2014. (Tr. 59-62) For TY 2017, some of his refund was transferred to address a tax debt for TYs 2014 and 2014. (Tr. 59; GE 3 at 39) His pay was garnished to address a state income tax debt in around 2016. (Tr. 63; GE 1) There is no evidence of unresolved state income tax debts. Failure to timely file his TY 2013 and 2014 FIT returns, timely pay his TY 2013 and 2014 FIT, and a state income

tax debt will not be considered for disqualification purposes; however, they will be considered in the mitigation and whole-person assessments.

In 2019, Applicant learned that the IRS has audited his FIT returns for TYs 2015 through 2017 and denied the deductions for all of his business expenses. (Tr. 30-32) He said the IRS “came at me with a really high number. I think, at that time, I don’t remember the total. It could have been a quarter of a million. It could have been less. So it was a big amount.” (Tr. 40)

Applicant learned that his donations to his church were incorrectly deducted as business expenses. (Tr. 33) He blamed the error on his temporary tax preparer, T.N. (Tr. 31) The IRS has not confirmed the reason the deductions were not allowed. (Tr. 33) His accountant indicated that the improper deduction might have triggered the audit or raised a “red flag.” (Tr. 34) He estimated that their annual religious deduction may have been about \$8,000 to \$9,000. (Tr. 34)

The following exchanges occurred at Applicant’s hearing:

Administrative Judge: Now, would it be fair to say that it’s obvious that a businessman cannot take a business expense deduction for a personal charitable deduction? Isn’t that obvious?

Applicant: It is now.

Administrative Judge: Well, I mean, wasn’t it obvious at the time those tax returns were filed?

Applicant: To tell you the truth, I gave it to her to file and I did not -- I just trusted that she did it right. (Tr. 74)

Administrative Judge: You’re sure you didn’t know that you couldn’t deduct a charitable deduction as a business expense until this was addressed with your accountant?

Applicant: Okay. It makes sense. It does make sense. And it is a, you know -- it makes sense that you should not do that. Did I know that [T.N.] did it that year? No. And did I look over the tax documents? No. Did I make sure that she, you know, filed accurately or did I just trust her? I just trusted her to get it done.

Administrative Judge: I mean, that’s a very large deduction. I mean, you guys, it’s great that you’re tithing and all of that, but that’s a very large deduction, isn’t it?

Applicant: It normally is, yes. (Tr. 76-77)

In 2019, Applicant hired a tax adviser, D.P., who suggested that their TY 2016 FIT would also be audited in addition to the audits for TYs 2015 and 2017. (Tr. 39) D.P. suggested that he wait until they received additional information from the IRS. (Tr. 39) In 2020, D.P. passed away. (Tr. 44-45; AE O) In 2020, the IRS was not responding to questions because of the COVID-19 pandemic. (Tr. 45) In 2021, the IRS informed Applicant that the IRS was auditing his TY 2016 FIT. (Tr. 46) The IRS sent a large tax bill without providing their rationale for the bill. (Tr. 47) After D.P. passed away, Applicant paid a TNF about \$18,000 to help with his FIT. (Tr. 48; HE 2, Ex. E) He contacted the TNF on a quarterly basis to check on progress. (Tr. 48) TNF advised him not to pay his taxes because the taxes could be resolved as a package. (Tr. 51-52) Applicant said the TNF told him that

[he] could roll that total into our payment plan or whatever it is that we end up with to pay off the IRS, so that payment plan would have covered that total amount and [he] wouldn't have had to just pop up that money right then. So [he] could have just paid it in a monthly installment instead of paying it in a lump sum. It was a bad decision. (Tr. 53)

In June of 2024, Applicant terminated the TNF from resolving his tax issues. (Tr. 48) In December of 2024, he went to the IRS office. (Tr. 48) The IRS suggested that he file amended tax returns for TYs 2015, 2016, and 2017 because he disagreed with the amounts from the IRS audits. (Tr. 49, 55) He filed amended the FIT returns as suggested. He also paid the FIT for TYs 2019, 2020, and 2021, which amounted to about \$45,000. (Tr. 49) One of the reasons for the delinquent payment of his FIT was that his business suffered a cash-flow problem during the COVID-19 pandemic. (Tr. 50-51)

Applicant said his certified public accountant (CPA) "believes the IRS will accept my amended return amounts and what he has provided to them for the amended returns." (Tr. 42) For TY 2015, he paid \$15,000; for TY 2016, he paid \$5,000; and for TY 2017, he paid \$10,000. (Tr. 43; AE K) He believed these amounts were correct; however, he may owe interest and penalties for those three years. (Tr. 43) In 2025 and 2026, he paid a total of \$82,000 in taxes and fees. (Tr. 44)

Applicant's FIT returns are not final for TYs 2015, 2016, and 2017. He is planning to wait for the IRS "to either accept or deny [his] amendments. If they accept [his] amendments, there's no need for the offer in compromise. If they deny [his] amendments, that's the next step in if [he] can't pay what their total is. So if they come back, they could negotiate a different total." (Tr. 56)

On July 3, 2025, the IRS website showed the following tax debts for eight TYs: 2015 (\$1,000); 2016 (no entry); 2017 (\$37,000); 2020 (\$11,000); 2021 (\$8,000); 2022 (\$0); 2023 (\$0); and 2024 (\$0). (GE 3 at 24-33)

For TY 2015, Applicant's undated amended FIT return shows an original adjusted gross income (AGI) of \$92,000, a reduction in AGI of \$47,000, and a correct AGI amount of \$45,000. (AE A, line 1) It also shows the original tax of \$19,000, a reduction in FIT of \$10,000, and a correct FIT amount of \$9,000. (AE A, line 10) The FIT amount owed on

his amended return for all taxes was \$15,000. (AE A, line 20) B.P. prepared the amended FIT return. (AE A)

For TY 2016, Applicant's January 28, 2020 amended FIT return shows an original AGI of \$168,000, a reduction in AGI of \$118,000, and a correct AGI amount of \$50,000. (AE B, line 1) It shows the original tax of \$48,000, a reduction in FIT of \$43,000, and a correct FIT amount of \$5,000. (Tr. 58; HE 2, Ex. D, lines 11, 20) A tax service filed the amended return. (AE B) In his SOR response, Applicant said the IRS rejected the amended return. (HE 2) FIT for TY 2016 is the largest unresolved tax issue in this case.

For TY 2017, Applicant's undated amended FIT return, received by the IRS on July 31, 2025, shows an original AGI of \$89,000, a reduction in AGI of \$2,000, and a correct AGI amount of \$86,000. (AE C, line 1) It shows the original tax of \$11,000, a reduction of \$10,000, and a correct amount of \$2,000. (Tr. 58; HE 2, Ex. D, line 10) The amount owed on his amended return due to other taxes is \$10,000. (AE B, line 20) B.P. prepared the amended tax return. (AE C) On July 3, 2025, the IRS website showed he owed \$37,000 for TY 2017 (GE 3 at 24). This included an \$11,000 self-employment tax (GE 3 at 39); however, Applicant said these FIT amounts do not take into consideration his amended tax return. (Tr. 58)

Applicant's May 11, 2026 IRS tax transcript for TY 2019 shows he filed his FIT return on July 27, 2020. (AE E) His AGI was \$144,000; taxes due were \$24,000; and taxes withheld were \$4,000. (Tr. 53; AE E) On August 1, 2025, he paid \$27,000, and on February 19, 2026, he paid \$5,000. (AE E) The current balance owed is \$0. (AE E) The reason he did not establish a payment plan with the IRS for five years is because the TNF advised him not to do so. (Tr. 68-69)

Applicant's May 11, 2026 IRS tax transcript for TY 2020 shows he filed his FIT return on September 12, 2021. (AE L) His AGI was \$163,000; taxes due were \$23,000; and taxes withheld were \$8,000. (Tr. 54; AE L) On January 25, 2021, he paid \$8,000, and on August 1, 2025, he paid \$10,000. (AE L) On January 16, 2026, he paid \$1,000. (AE L) The current balance owed is \$0. (AE L) He did not pay his taxes when due for TY 2020 because he had a cash flow problem due to the COVID-19 pandemic. (Tr. 70-71)

Applicant's May 11, 2026 IRS tax transcript for TY 2021 shows he filed his FIT return on April 15, 2022. (AE Q) His AGI was \$160,000; taxes due were \$21,000; and taxes withheld were \$14,000. (Tr. 54; AE Q) On August 1, 2025, he paid \$8,000. (AE Q) The current balance owed is \$0. (AE Q) He said he did not pay the FIT when due because the TNF said they "would roll that into their resolution. They stated that they would roll these three years into the resolution." (Tr. 72)

Applicant used \$75,000 from a home equity line of credit (HELOC) to pay the IRS in 2025. (Tr. 67-68) The monthly cost for the interest-only loan is \$400. (Tr. 67-68) His financial situation is stable. He and his spouse have steady income, a substantial monthly remainder, and retirement savings. Applicant is more knowledgeable about business matters and making decisions than his spouse. (Tr. 75-76)

Applicant provided checks showing on August 1, 2025, he paid the IRS \$45,000, and on September 25, 2026, he paid the IRS \$30,000. (HE 2, Ex. D) The following table summarizes his tax payments in 2025.

Tax Year	Tax Paid	Date Tax Paid	Exhibit
2015	\$15,000	Sept. 25, 2025	AE K; HE 2
2016	\$5,000	Sept. 25, 2025	AE K; HE 2
2017	\$10,000	Sept. 25, 2025	AE K; HE 2
2019	\$27,000	Aug. 1, 2025	AE E; AE K
2020	\$10,000	Aug. 1, 2025	AE K; AE L
2021	\$8,000	Aug. 1, 2025	AE K; AE Q
Total	\$75,000		

On July 8, 2025, B.P. wrote:

[W]e have amended the 2015 & 2017 individual income tax returns. The IRS has balances of an estimated \$90,000 and \$32,000 for these tax years respectively. We expect to reduce the 2015 balance to \$15,000 and 2017 to \$10,000, plus adjustment penalties and interest [respectively]. Once these balances are adjusted we will assist in the setup of a payment plan with the IRS. (HE 2, Ex. A)

Character Evidence

Applicant’s brother-in-law has known Applicant for 16 years and a coworker and friend has worked with Applicant for one year. (Tr. 86) The general sense of the character evidence is that he is credible, reliable, trustworthy, responsible, and conscientious. He is acting in good faith to resolve his tax issues.

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. Thus, nothing in an unfavorable decision should be construed to suggest that it is based on any express or implied determination about an applicant’s allegiance, loyalty, or patriotism. An unfavorable decision 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. Sept. 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 conditions 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).

On February 5, and July 3, 2025, Applicant responded to DCSA interrogatories. The SOR was issued on August 14, 2025. SOR ¶ 1.a alleges that Applicant has a FIT debt in the approximate amount of \$181,000 for TYs 2015-2017 and 2019-2021. There is a significant reduction from \$181,000 in the amount of FIT currently owed.

On July 3, 2025, the IRS website showed the tax debts for eight TYs as follows: 2015 (\$1,000); 2016 (no entry); 2017 (\$37,000); 2020 (\$11,000); 2021 (\$8,000); 2022 (\$0); 2023 (\$0); and 2024 (\$0).

On August 1, 2025, Applicant paid the IRS \$45,000, and his IRS tax transcripts show for TYs 2020 and 2021 that his balances are \$0. On September 25, 2025, he paid

the IRS \$30,000 as a good faith payment to address his tax debt for TYs 2015, 2016, and 2017. He borrowed the funds to pay the IRS using a HELOC.

AG ¶ 20(a) does not apply to the SOR ¶ 1.a. “It is also well established that an applicant’s ongoing, unpaid debts [and history of not timely filing tax returns and paying taxes] demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions.” ISCR Case No. 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017)).

AG ¶ 20(b) partially applies. Applicant’s medical issues, death of D.P. in 2020, Applicant’s periods of underemployment and unemployment, and reduced income during the COVID-19 pandemic are circumstances beyond his control, which reduced his ability to pay his taxes.

AG ¶ 20(b) is not fully applicable because Applicant failed to supervise the person who completed his tax returns for TYs 2015, 2016, and 2017. Applicant operated a business for more than 15 years at the time he filed these three tax returns, and he should have known that he could not deduct charitable contributions as a business expense. He said that he was unaware of this tax rule when his tax returns were filed for TYs 2015, 2016, and 2017, and that he trusted his tax advisor to accurately complete his tax returns. His tax preparer prepared his tax returns, and he did not carefully check them for accuracy before they were filed. For three consecutive years, TYs 2019, 2020, and 2021, he failed to withhold sufficient funds or pay his taxes when due. In ISCR Case No. 22-02168 at 4 (App. Bd. Nov. 18, 2024), the Appeal Board said, “Applicant’s tax delinquencies were predominantly caused by his failures to have sufficient amounts withheld from his pay or to pay his tax obligations on a quarterly basis as required. Such failures were, by their nature, within his control. *Id.* (citation omitted).

For TY 2019, Applicant’s taxes due on filing were \$24,000; taxes withheld were \$4,000; and the tax debt including interest and penalties was not paid until February 19, 2026. For TY 2020, his taxes due on filing were \$23,000; taxes withheld were \$8,000; and taxes, penalties, and interest were not paid until January 16, 2026. For TY 2021, his taxes due on filing were \$21,000; taxes withheld were \$14,000; and on August 1, 2025, he paid \$8,000, resolving that year’s tax debt. These tax debts were not resolved until after Applicant received the SOR.

The record reflects some positive developments for Applicant—mostly in 2025. In 2020, a tax service filed an amended return for TY 2016; however, he said that amendment was not accepted by the IRS. In 2021, he hired TNF to resolve his tax issues and paid them \$18,000. His reliance on advice not to pay his taxes when due cannot fully mitigate his delay in resolving his tax issues. In 2024, he hired B.P. who filed amended tax returns for TYs 2015 and 2017. Applicant and his tax advisors have consulted with the IRS over the last two years. In 2025, Applicant paid the IRS \$75,000. Aside from the FIT issues, his finances are in excellent condition. He is receiving financial advice from B.P.; there are clear indications that the problem is being resolved; and his finances are under control. AG ¶ 20(c) is applicable.

Applicant's tax payments in 2025 were made after he was put on notice that the DCSA was questioning his FIT debt. He made a \$30,000 payment to the IRS after he received the SOR. The Appeal Board has emphasized that the timing of corrective actions and whether they reflect a genuine effort to resolve debts are critical factors in assessing mitigation. AG ¶ 20(d) is partially applicable because he made good-faith payments totaling \$75,000 in 2025.

Applicant timely filed tax returns for TY 2015, 2016, and 2017, which contained improper business deductions for charitable contributions. The IRS disallowed all business deductions, and he filed amended tax returns with business deductions. For TY 2016, Applicant's January 28, 2020 amended FIT return shows an original AGI of \$168,000, a reduction in AGI of \$118,000, and a correct AGI amount of \$50,000. It shows the original tax of \$48,000, a reduction of \$43,000, and a correct amount of \$5,000. In his SOR response, he said the IRS rejected the amendment. On Sept. 25, 2025, he paid \$5,000. It is unclear how much the IRS is currently seeking for TY 2016. AG ¶ 20(e) is partially applicable because Applicant cannot be given full credit for disputing his tax debt based on a history of filing erroneous deductions, and he failed to fully pay his taxes for TY 2016 after the IRS denied his request for amendment.

AG ¶ 20(g) is partially applicable. Applicant has paid his FIT for TYs 2020 to 2024. After consulting with the IRS, he has attempted to resolve his tax delinquencies for TYs 2015, 2016, and 2017 by filing amended tax returns and paying the amounts owed according to the amended FIT returns. The IRS has not indicated whether the amended FIT returns are accepted, and the IRS currently has outstanding balances owed for those TYs. No payment plans acceptable to the IRS are in existence, and Applicant has owed delinquent FIT since TY 2013.

In ISCR Case No. 24-02193 at 5 (App. Bd. Feb. 19, 2026) (citing ISCR Case No. 17-01807 at 3-4 (App. Bd. Mar. 7, 2018)), the Appeal Board said:

The mere filing of delinquent tax returns or the existence of a payment arrangement with an appropriate tax authority does not compel a Judge to issue a favorable decision. As with the application of any mitigating condition, the 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 for the Judge to consider in the application of mitigating condition 20(g) as well as in considering aspects of other overlapping mitigating conditions, such as, in determining whether an applicant acted responsibly under the circumstances, whether an applicant's past financial deficiencies are unlikely to recur, or whether an applicant initiated good-faith efforts to resolve financial problems.

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).

Applicant’s overall handling of his taxes leaves lingering security concerns. See ISCR Case No. 24-02104 at 2 (App. Bd. Jan. 26, 2026) (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.

Under all the circumstances, and considering the evidence “as a whole,” Applicant’s failures to pay his FIT when due are not fully 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 commonsense 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 53-year-old manager in cybersecurity who has been employed by a government contractor for 19 months. In 2010 or 2011, he received a bachelor's degree in IT, and in 2012, he received a master's degree in IT. From 2001 until 2021, Applicant was the sole proprietor of a business providing IT services. From 2019 to 2021, he worked for a government contractor, and he continued his IT services on a part-time basis.

Applicant's brother-in-law has known Applicant for 16 years and a coworker and friend has worked with Applicant for one year. The general sense of the character evidence is that he is credible, reliable, trustworthy, responsible, and conscientious. He is acting in good faith to resolve his tax issues.

The evidence supporting denial of Applicant's security clearance is detailed in the financial considerations section, *supra*, and this evidence is more substantial than the evidence of mitigation.

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*, *Dorfmont*, 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. I specifically find that Applicant's statements about his finances handling of his taxes were credible; however, he 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 continued effort to establish and maintain his financial responsibility, he may well be able to demonstrate persuasive evidence of his 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

Subparagraph 1.a:

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.

Mark Harvey
Administrative Judge