



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



In the matter of:)
)
) ISCR Case No. 25-01190
)
Applicant for Security Clearance)

Appearances

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

05/26/2026

Decision

HALE, Charles C., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on November 28, 2023. On September 19, 2025, the Department of Defense (DoD) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline F. The DoD acted under Executive Order (Exec. Or.) 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) promulgated in Security Executive Agent Directive 4, National Security Adjudicative Guidelines (December 10, 2016).

Applicant answered the SOR on October 16, 2025, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on December 12, 2025, and the case was assigned to me on March 2, 2026. On March 25, 2026, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled for April 9, 2026. I convened the hearing as scheduled. Government Exhibits (GE) 1 through 7 were admitted in evidence without objection. Applicant's Answer included one exhibit that was marked as Applicant Exhibit (AE) A and he testified. The record was left open until May 7, 2026, for either side to offer additional evidence.

Applicant's request for the record to remain open longer was granted without objection. Applicant timely submitted Applicant Exhibits (AE) A through E. Any page citations to these exhibits will use the pdf page number and AE B will be cited as either AE B1 or AE B2. The record closed on May 21, 2026. DOHA received the transcript (Tr.) on April 23, 2026.

Findings of Fact

In Applicant's Answer he admitted all six allegations, SOR ¶¶ 1.a through 1.f. SOR ¶¶ 1.a through 1.c involve delinquent credit card debt and SOR ¶¶ 1.d through 1.f pertain to failure to file and pay his Federal and state tax returns. His admissions are accepted as findings of fact.

Applicant is a 75-year-old financial analyst. He earned his bachelor's and master's degrees in the 1970s. He held a security clearance in 2010 when he was working for the federal government. He has been married for over 48 years. He and his spouse raised three children. One of their children dealt with drug addiction and passed away and they raised that child's daughter. He paid for his daughter's drug rehabilitation treatment, which was costly, but he "willingly and gladly" did in hopes of saving his daughter. His opening statement was moved into evidence without objection. (GE 1; Tr. 13-20, 21, 26- 32 53-55, 69-70.)

Applicant has worked for his sponsor since 2023. His SCA reflects he has been employed continuously since 2010 until the COVID pandemic. In April 2020, he was let go due to the COVID pandemic and from May of 2020 until November of 2023 he was self-employed. During this period of self-employment, he earned approximately \$100,000 even though he only worked for about six months during this period. He did not report these earnings on a Tax Form 1099. Every time he was ready to make a tax payment the money went to his daughter. (Tr. 28-30, 31-22.)

Applicant stated on his SCA:

My finances went a bit haywire during the pandemic. I did not file federal and state taxes when I had income. My wife on the other hand, did have employers that took both federal and state income taxes out of her income. (GE 1 at 43.)

Applicant has not had any financial counseling. None of the credit card debts alleged on the SOR, SOR ¶¶ 1.a through 1.c, were delinquent when he engaged a law firm to help resolve his debts. He hopes to regain some financial stability when he is able to refinance his home, which was appraised on April 30, 2026, at a million dollars. In his post-hearing submission, he stated they were currently refinancing the mortgage, and the interest rate would decrease from 8.25% to 6.5%. (Tr. 40, 54-56, 64-65; AE B1 at 8; AE D at 1.)

Applicant admitted in SOR ¶ 1.a that he was indebted to a credit card company for an account that had been charged off in the approximate amount of \$24,930. He stated in his Answer that he was in a structured settlement with the creditor that had been negotiated by a law firm. He provided a screen shot indicating the settlement amount was \$16,151.20 and that he had made 14 of 36 payments. He stated his final payment of \$706.30 on July 28, 2027, would settle the account. (Answer; AE A.) His response to Government interrogatories back in June of 2025 showed he had made nine of 36 payments with a current payment of \$100. (GE 2 at 3.) He testified consistent with his Answer and response to Government interrogatories. He stated that the account was not delinquent and on the advice of the law firm, he allowed the account to become delinquent to be able negotiate a settlement to resolve the outstanding debt. (Tr. 37-38, 40, 64.) This debt is being resolved.

Applicant admitted in SOR ¶ 1.b that he was indebted to a credit card company for an account that had been charged off in the approximate amount of \$10,530. He stated in his Answer that the law firm had not been able to reach a settlement agreement with the credit card company, but he expressed hope that they could reach a settlement agreement between June and August of 2026. He stated he had increased the amount paid into an escrow account by \$105, which would increase his monthly payment to \$1,400 per month. (Answer.) His response to Government interrogatories in June of 2025 indicated he expected resolution in the coming months. (GE 2 at 3.) He testified this creditor would not negotiate. The Government offered an exhibit that showed the creditor's December 2025 motion for default for failure to plead had been granted against Applicant. The pleadings showed the debt was now over \$32,000. (GE 7; Tr. 40.) He admitted that the account was not delinquent and on the advice of the law firm he allowed the account to become delinquent in order to be able to negotiate a settlement to resolve the outstanding debt. (Tr. 40-43, 64-65.) His post-hearing submission showed the debt enrolled with the law firm and zero settlement payments had been made on the account. (AE C at 4.) This debt is not resolved.

Applicant admitted in SOR ¶ 1.c that he was indebted to a credit card company for an account that had been charged off in the approximate amount of \$3,935. He stated in his Answer that he had reached an agreement with the creditor in August 2024 and had made his final payment in July of 2025. He provided a screen shot indicating the balance at settlement was \$7,678 and the settlement amount was \$4,992. The screenshot states that the debt is resolved. (Answer; AE A.) His response to Government interrogatories back in June of 2025 showed he had made ten of 12 payments with a current payment of \$416. (GE 2 at 3.) He testified consistent with his Answer and response to Government interrogatories. He admitted that the account was not delinquent and on the advice of the law firm, he allowed the account to become delinquent to be able negotiate a settlement to resolve the outstanding debt. (Tr. 40-43, 65.) This debt is resolved.

Applicant admitted the tax allegations and cited his family's tragedy and his period of self-employment for his failure to file federal and state tax returns for tax years 2020 through 2023 (SOR ¶¶ 1.d and 1.f). He also admitted his debt to the Federal government for unpaid taxes for tax years 2020, 2021 and 2022 in the approximate amount of \$45,000

(SOR ¶ 1.e). As of the hearing he had no formal arrangements to pay his tax debts with the IRS. (Tr. 66-67.) Applicant acknowledged that his payments to assist his daughter, vice making tax payments was “not legal, but that was the choice” he and his wife were making. (Tr. 31-31.)

In his Answer he stated he was working with a tax company to resolve his “past income tax arrears,” adding, “we will be working with the Federal Government to resolve these shortly.” During his interview he told the investigator he would be hiring a tax company. At the hearing he testified his taxes had not been filed and that he was waiting on documents. He acknowledged he had not filed his taxes for 2024 or 2025 but was ready to file, which I have only considered for whole person evidence. (Tr. 32-37.) In response to Government interrogatories in June of 2025 he did not provide any tax transcripts. (GE 2.) He stated, “I’ve been not diligent. Laggard. There are a lot of different words you could use for it. And I’m not going to sugarcoat it; I didn’t do what I should have done.” (Tr. 36.) In his post-hearing statement, he stated:

I am also working with [tax relief company] to address my outstanding tax matters. I recently uploaded income tax information for the years 2020 through 2025. Although some records are still missing, [tax relief company] can obtain the remaining information directly from IRS transcripts. (AE D at 1.)

These allegations are not resolved.

Applicant testified at length to his family’s long history of service to the country as well as the discipline required to accomplish the swimming feats he detailed in his testimony. In his post-hearing submission, he stated that in his forties he began participating in open-water swimming events to raise funds for two charities and that he was able to raise more than \$200,000. (Tr. 13-20, 71-72; AE D at 3.) In his post-hearing submission, he raised for the first time that he and his wife faced health challenges. She underwent surgery for sciatica, and he had a hip replaced and had completed rehabilitation and was now moving well, with only minor lingering issues. (AE D at 3.)

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 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, *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 this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, 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 in order 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 that are potentially applicable 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; 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.

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the Appeal Board 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).

AG ¶ 20(a) and 20(b) are not established for SOR ¶¶ 1.b and 1.d through 1.f. Applicant testified he still had not filed his outstanding Federal income tax returns after receiving the Government's interrogatories. He still has unpaid Federal taxes of over \$45,000 and is not under a payment plan. Additionally, he has unfiled state tax returns. His failure to file his taxes was not infrequent, and he waited to address his tax issues only after his security clearance was in jeopardy, which cast doubt on his current reliability, trustworthiness, and good judgment.

Applicant did provide evidence to support his testimony that he had resolved two of three credit card debts through a payment plan established by a law firm. AG ¶ 20(a) and 20(b) are established for SOR ¶¶ 1.a and 1.c but not for SOR ¶ 1.b, which was the subject of a default judgment in December of 2025.

AG ¶ 20(g) is not established. Applicant failed to timely file his Federal and state income tax returns for tax years 2020, 2021, 2022 and 2023. Failure to timely file Federal and state income 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. See ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002). 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). Applicant's explanation that he prioritized other financial matters over filing his taxes, while sympathetic, is not a legal justification. His failure in ensuring he was compliant with tax laws demonstrates poor judgment and lack of reliability required to be granted access to

classified information. See ISCR Case No. 17-03049 (App. Bd. May 15, 2018) (citing ISCR Case No. 14-04437 at 3 (App. Bd. Apr. 15, 2016)).

Under all the circumstances, Applicant has not mitigated his failure to timely file his Federal or state income tax returns for the tax years in question or resolve his Federal tax debt for the tax years in question.

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. I found Applicant's family history of service to the country to be lengthy and noteworthy as well as the discipline to accomplish the swimming feats he detailed in his testimony. My comments under Guideline F are incorporated in my whole-person analysis.

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 establishing a track record of timely filing his tax returns and a

payment plan, he may well be able to demonstrate persuasive evidence of his security clearance worthiness in the future.

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.b, 1.d-1.f:	Against Applicant
Subparagraphs 1.a, 1.c:	For 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.

Charles C. Hale
Administrative Judge