



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



In the matter of:)
)
) ISCR Case No. 25-00991
)
Applicant for Security Clearance)

Appearances

For Government: Troy L. Nussbaum, Esq., Department Counsel
For Applicant: Jackson Peters, Personal Representative

05/20/2026

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 September 21, 2024, Applicant completed an Electronic Questionnaire for Investigations Processing (e-QIP) or security clearance application (SCA). (Government Exhibit (GE) 1) On September 12, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant 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 October 7, 2025, Applicant responded to the SOR. (HE 2) On December 18, 2025, Department Counsel was ready to proceed. On January 5, 2026, the case was assigned to me. On January 14, 2026, DOHA issued a notice scheduling the hearing for March 3, 2026. (HE 3) The hearing was held as scheduled, using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered six exhibits; Applicant did not provide any exhibits; and all proffered exhibits were admitted into evidence without objection. (Tr. 10-12, 15-17, GE 1-GE 6) On March 19, 2026, DOHA received a copy of the transcript. Applicant provided one post-hearing exhibit, which was admitted into evidence. (Applicant Exhibit (AE) A (136 pages)) The record closed on May 6, 2026. (Tr. 74, 77)

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 admitted the allegations in SOR ¶¶ 1.a through 1.h. (HE 2) He also provided extenuating and mitigating information. His admissions are accepted as findings of fact.

Applicant is a 45-year-old sandblaster who has been employed by a Department of War (DoW) contractor since April of 2024. (Tr. 21; GE 1 at 13) From about October of 2023 to about April of 2024, he was employed as a painter. (Tr. 21) He was unemployed for four or five months in 2023 and from May 2019 to May 2020. (Tr. 21, 24) In 2012, he received a high school diploma. (GE 1 at 12) In 2015, he received a certification from a truck-driving institute. (Tr. 19) His hourly wage is \$33, and he receives extra pay for overtime work. (Tr. 20) He has never served in the military. (Tr. 25)

Applicant was married from 2012 to 2016. (Tr. 25) He and his first spouse had six children, and they range in age from 14 to 24. (Tr. 23, 25) His children do not live with him, and he is paying child support for four of them. (Tr. 23, 47) In 2017, he married his current spouse who is a nurse practitioner. (Tr. 23, 26, 30) Her annual salary is about \$150,000. (Tr. 27) They have separate bank accounts and file separate income tax returns. (Tr. 27) In the last several years, he and his spouse have taken some cruises and gone on some vacations outside of the United States. (Tr. 28-29)

Financial Considerations

SOR ¶ 1.a alleges that Applicant failed to timely file, as required, federal income tax (FIT) returns for the tax years (TY) 2008, 2009, 2013, 2016, 2020, 2023, and 2024. In his responses to DOHA interrogatories in August of 2025, he said he had not filed the FIT returns for TYs 2008, 2009, 2013, 2016, and 2020. (Tr. 54; GE 2) At his hearing, he was

unsure whether those FIT returns were filed; however, ultimately, he said he believed he did file them. (Tr. 54-59) In his SOR response and at his hearing, he said he filed his FIT returns for TYs 2023 and 2024. (Tr. 51; HE 2) His August 8, 2025, and March 27, 2026, IRS tax transcripts provided the information in the following table. Tax information is not included for TYs not alleged in the SOR as not being filed. TY 2009 was alleged in the SOR; however, that tax return was filed. A failure to file his TY 2010 FIT return was not alleged in the SOR, and his IRS tax transcript indicated no tax return was filed for that year. Adjusted gross income is rounded to the nearest \$1,000.

Tax Year	Date Return Filed or IRS Status	Adjusted Gross Income	Tax Owed (O) Tax Refund (R)	Exhibit
2008	No Data Found			GE 2 at 7
2009	May 6, 2011	\$17,000	\$0	GE 2 at 8; AE A at 91
2010	No Data Found			GE 2 at 9
2013	No Data Found			AE A at 93
2016	No Tax Return Filed			GE 2 at 15
2020	No Tax Return Filed			AE A at 95
2023	Return Not Present for This Account			AE A at 97
2024	Return Not Present for This Account			AE A at 99

For TY 2009, \$305 was transferred from his refund to address a tax debt for TY 2006. (AE A at 91) For TY 2011, \$3,202 was transferred to pay a tax debt for TY 2006. (GE 2 at 10)

Applicant provided copies of his TY 2025 FIT and state income tax (SIT) returns. (AE A at 118-123) He owes \$4,101 in FIT taxes for TY 2025. (AE A at 75) He indicated that he was taking dependent deductions for two of his daughters, and that they lived with him more than half of 2025. (AE A at 118) The IRS rejected his TY 2025 FIT. (AE A at 124) The IRS did not indicate why the tax return was rejected.

Applicant provided a TY 2023 SIT return; however, it did not include numbers for his income, and it was not dated and signed. (AE A at 55-59) Some of the income numbers are supposed to be transferred or copied from his FIT return for that TY to his SIT return. His TY 2023 SIT shows a \$112 refund; however, it is unclear how that refund was determined. (AE A at 59)

Applicant provided a TY 2024 SIT return in which he owes \$102. (AE A at 63-65) This SIT return is not dated or signed. (AE A at 67) He provided IRS Wage and Income transcripts for TYs 2020, 2021, 2022, 2023, and 2024. (AE A at 101-110, 133-135) IRS Wage and Income transcripts do not show when or whether FIT returns are filed or whether taxes are currently owed or refunded.

SOR ¶ 1.b alleges that Applicant is indebted to the Federal Government for delinquent taxes for about \$4,253 for TYs 2021 and 2022. He said he is paying \$100 monthly to address this FIT debt. (Tr. 61) He did not provide proof of the payments.

SOR ¶ 1.c alleges that Applicant failed to timely file, as required, SIT returns for tax years 2008 through 2016, 2020, and 2024. He has not filed these 11 SIT returns. (Tr. 62; HE 2)

SOR ¶ 1.d alleges that Applicant is indebted to a state for a SIT debt for about \$2,478 for TYs 2023 and 2024. He said he was paying \$100 monthly to address this SIT debt. (Tr. 63) He provided documentation showing on May 3, 2026, he made the following payments to the state tax authority: TY 2008 (\$116); TY 2010 (\$25); TY 2012 (\$25); and 2024 (\$25). (AE A at 1-14)

SOR ¶ 1.e alleges that Applicant filed for Chapter 13 bankruptcy in about June 2018. He converted this Chapter 13 to a Chapter 7 bankruptcy in April 2020, and this bankruptcy discharged his nonpriority unsecured debts in about August of 2020. (Tr. 30) He filed for bankruptcy because he was underemployed or unemployed; he had a problem with a vehicle; and he was unable to pay his debts. (Tr. 30-38) He has not received any financial counseling after his bankruptcy discharged his debts. (Tr. 64)

SOR ¶¶ 1.f and 1.g allege Applicant has two medical accounts placed for collection for about \$1,798 and \$819. He went to the emergency room because he had chest pains, and he was not admitted as an inpatient. (Tr. 40-41) At the time of his medical emergency, he did not have medical insurance. (Tr. 40) In his SOR response, he admitted the two debts, and he said he “attempted to make several payment arrangements.” (HE 2) At his hearing, he said he did not remember specific information about contacting the two creditors. (Tr. 40-47) He did not describe any payments to address the two medical debts. (Tr. 40-47)

SOR ¶ 1.h alleges that Applicant owes child support that is past due for about \$5,000. Applicant said he pays about \$700 monthly for child support for four of his children. (Tr. 49) He pays whatever the court ordered, and he is unaware of whether his payments address any arrearages. (Tr. 50) After his hearing, he provided documentation from the state child support agency establishing he had made monthly payments of \$915 to address his debt for more than one year. (AE A at 19, 23, 25, 27) On April 9, 2026, his child support arrearage for two children is \$4,450 for one child and \$21,078 for the other child. (AE A at 29) The documentation does not show how much of his monthly payment is addressing the arrearage.

Applicant provided an April 28, 2026 payment plan to address a non-SOR telecommunications debt for \$479. (AE A at 17) Applicant’s July 2, 2025 CBR shows nine accounts in paid as agreed status. (GE 6).

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).

Non-tax Financial Issues

Bankruptcy

SOR ¶ 1.e alleges that Applicant filed for Chapter 13 bankruptcy in about June 2018. He converted this Chapter 13 to a Chapter 7 bankruptcy in April 2020, and this bankruptcy discharged his nonpriority unsecured debts in about August of 2020. He filed for bankruptcy because he was underemployed or unemployed; he had a problem with a vehicle; and he was unable to pay his debts. He had a good reason for filing for bankruptcy, and he showed good faith and good judgment in the resolution of his debts through bankruptcy. AG ¶¶ 20(b) and 20(d) apply and SOR ¶ 1.e is mitigated.

Post-bankruptcy debts.

SOR ¶¶ 1.f and 1.g allege Applicant has two medical accounts placed for collection for about \$1,798 and \$819. He went to the emergency room because he had chest pains, and he was not admitted as an inpatient. At that time, he did not have medical insurance.

SOR ¶ 1.h alleges that Applicant owes child support that is past due for about \$5,000. He pays whatever the court ordered, and he is unaware of whether his payments address any arrearages. Applicant provided documentation from the state child support agency establishing he had made monthly payments of \$915 to address his debt for more than one year. On April 9, 2026, his child-support arrearages for two children are \$4,450 for one child and \$21,078 for the other child. The documentation does not show how much of his monthly payments are addressing his arrearages.

Applicant provided an April 28, 2026 payment plan to address a non-SOR telecommunications debt for \$479. Applicant’s July 2, 2025 CBR shows nine accounts in paid as agreed status.

Applicants are not required “to be debt-free in order to qualify for a security clearance. Rather, all that is required is that an applicant act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by ‘concomitant conduct’ that is, actions which evidence a serious intent to effectuate the plan.” ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017) (denial of security clearance remanded) (citing ISCR Case No.13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014)). There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). See *also* ISCR Case No. 23-01434 at 2-3 (App. Bd. May 7, 2024).

Applicant provided proof of his financial responsibility with respect to SOR ¶¶ 1.e through 1.h because he has an overall track-record of paying his non-tax debts. There are clear indications that the non-tax financial problems are being resolved, and his finances unrelated to his taxes are under control. AG ¶ 20(d) applies to SOR ¶¶ 1.e through 1.h.

Tax Financial Issues

SOR ¶ 1.a alleges and the record establishes that Applicant failed to timely file, as required, FIT returns for the tax years (TY) 2008, 2013, 2016, 2020, 2023, and 2024. There is no corroborating documentary evidence that these six FIT returns are filed.

SOR ¶ 1.b alleges and the record establishes that Applicant is indebted to the Federal Government for delinquent taxes for about \$4,253 for TYs 2021 and 2022. He said he is paying \$100 monthly to address this FIT debt. Since he did not provide proof of the payments, he is not credited with mitigation of this debt.

SOR ¶ 1.c alleges and the record establishes that Applicant failed to timely file, as required, SIT returns for tax years 2008 through 2016, 2020, and 2024. He did not prove that he has filed these 11 SIT returns.

SOR ¶ 1.d alleges and the record establishes that Applicant is indebted for a SIT debt for about \$2,478 for TYs 2023 and 2024. He said he was paying \$100 monthly to address this SIT debt. He provided documentation showing on May 3, 2026, he made the following payments to the state tax authority: TY 2008 (\$116); TY 2010 (\$25); TY 2012 (\$25); and 2024 (\$25). This single \$25 payment to address his \$2,478 tax debt is insufficient to mitigate SOR ¶ 1.d

AG ¶ 20(a) does not apply to the SOR ¶¶ 1.a through 1.d. “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) does not apply. Applicant’s periods of underemployment and unemployment and his difficulties with a vehicle do not mitigate his tax issues. He did not assert a good enough reason or other circumstances partially or fully beyond his control, which caused him not to timely file multiple FIT and SIT returns and pay required taxes for such long periods of time.

A willful failure to timely make (means complete and file with the IRS) a FIT return is a misdemeanor-level federal criminal offense. Title 26 U.S.C. § 7203, willful failure to file return or supply information, reads:

Any person . . . required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to . . . make such return, keep such records, or supply such

information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor. . . .

A willful failure to make return, keep records, or supply information when required, is a misdemeanor offense without regard to the existence of any tax liability. *Spies v. United States*, 317 U.S. 492 (1943); *United States v. Walker*, 479 F.2d 407 (9th Cir. 1973); *United States v. McCabe*, 416 F.2d 957 (7th Cir. 1969); *O'Brien v. United States*, 51 F.2d 193 (7th Cir. 1931). For purposes of this decision, I am not considering Applicant's failure to timely file his FIT returns against him as a crime. Regarding the failure to timely file FIT returns, the Appeal Board has commented:

Failure to file 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. ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002). As we have noted in the past, a clearance adjudication is not directed at collecting debts. See, e.g., ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). By the same token, neither is it directed toward inducing an applicant to file tax returns. Rather, it is a proceeding aimed at evaluating an applicant's judgment and reliability. *Id.* 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).

ISCR Case No. 14-04437 at 3 (App. Bd. Apr. 15, 2016). See ISCR Case No. 15-01031 at 4 (App. Bd. June 15, 2016) (citations omitted); ISCR Case No. 14-05476 at 5 (App. Bd. Mar. 25, 2016) (citing ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002)); ISCR Case No. 14-01894 at 4-5 (App. Bd. Aug. 18, 2015).

The Appeal Board in ISCR Case No. 15-01031 (App. Bd. June 15, 2016) explained that in some situations, even if no taxes are owed when tax returns are not timely filed, grant of access to classified information is inappropriate. In ISCR Case No. 15-01031 (App. Bd. June 15, 2016), the applicant filed his 2011 FIT return in December 2013, his 2012 FIT return in September 2014, and his 2013 FIT return in October 2015. He received FIT refunds of at least \$1,000 for each year. Nevertheless, the Appeal Board reversed the administrative judge's decision to grant access to classified information because the tax returns were not timely filed.

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).

AG ¶ 20(g) is not fully applicable. Applicant intends to file all required tax returns and pay his taxes. However, these good intentions are not sufficient to mitigate SOR ¶¶ 1.a, 1.b, and 1.c. His overall handling of his taxes leaves lingering security concerns. See ISCR Case No. 24-02104 at 2 (App. Bd. Jan. 26, 2026) (affirming denial of security clearance and noting despite some mitigation under AG ¶ 20(g) because 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.

Applicant did not prove that he was unable to make greater progress sooner in the filing of his overdue tax returns and the paying of his tax debt. Under all the circumstances, and considering the evidence “as a whole,” Applicant's failures regarding his FIT and SIT issues in SOR ¶¶ 1.a through 1.d are not 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 45-year-old sandblaster who has been employed by a DoW contractor since April of 2024. From about October of 2023 to about April of 2024, he was employed as a painter. He was unemployed for four or five months in 2023 and from May 2019 to May 2020. In 2015, he received a certification from a truck-driving institute.

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. 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 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
Subparagraphs 1.a through 1.d:	Against Applicant
Subparagraphs 1.e through 1.h:	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.

Mark Harvey
Administrative Judge