



**DEPARTMENT OF WAR
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ISCR Case No. 24-01144
)
Applicant for Security Clearance)

Appearances

For Government: Lauren A. Shure, Esq., Department Counsel
For Applicant: *Pro se*

05/08/2026

Decision

MURPHY, Braden M., Administrative Judge:

Applicant failed to file U.S. federal income tax returns for several years that he lived overseas. He did not provide sufficient documentation to establish that those returns have since been filed as required or that his tax filing issues are unlikely to recur. He therefore did not provide sufficient evidence to mitigate financial considerations security concerns. Applicant’s eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on August 31, 2023. On October 9, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). The DCSA issued the SOR under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and Security Executive Agent Directive (SEAD) 4, *National Security Adjudicative Guidelines* (AG), effective June 8, 2017.

Applicant answered the SOR on January 9, 2025, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The case was assigned to me on July 10, 2025. On July 28, 2025, DOHA issued a notice scheduling the hearing for September 17, 2025, via video-teleconference through an online platform.

The hearing convened as scheduled. Department Counsel offered Government's Exhibits (GE) 1 through 3, which I admitted without objection. Department Counsel also offered two documents for purposes of administrative notice (AN). Those documents were marked as AN I and AN II and included in the record without objection. Applicant testified but did not offer any exhibits. I held the record open until September 30, 2025, to provide Applicant the opportunity to submit additional evidence. He timely submitted several documents, all explained in an email. I marked the email as Applicant's Exhibit (AE) A. He submitted two documents from the IRS relating to his U.S. tax filings (AE B, AE C) and a related tax filing receipt (AE D). He submitted documentation of yearly tax assessments from tax years 2013-2023 from Pacific Country 2 (PC 2), where he had lived at the time. I have grouped them together as AE E. His 2024 performance evaluation and a related matrix are AE F and AE G, respectively. All these documents were admitted without objection. DOHA received the hearing transcript (Tr.) on September 25, 2025.

This decision was delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a federal government shutdown due to a lapse in funding. The decision was further delayed due to my own caseload and schedule. As a result, I emailed the parties on March 30, 2026, to provide a status update and afford Applicant a brief opportunity to submit additional information. On April 10, 2026, he responded and said he had no further evidence to submit. As a result, the record remained closed. (Hearing Exhibit (HE) III)

On April 21, 2026, Applicant advised that he had resigned his job with his sponsoring employer, effective May 1, 2026. I informed Applicant that, under paragraphs 4.4 and 4.41 of the Directive, a decision would still be issued in his case since his hearing had commenced. I gave Department Counsel the opportunity to comment by May 1, 2026 but she did not do so, nor did Applicant offer further comment. (HE III)

Findings of Fact

SOR ¶ 1.a alleged that Applicant failed to file several years of federal income tax returns (tax years (TY) 2015 – 2022) and that the returns remained unfiled as of the date of the SOR. In his SOR Response, Applicant admitted SOR ¶ 1.a with an explanation. His admission is incorporated into the findings of fact. Additional findings follow.

Applicant is 39 years old. He has never married but has a long-time cohabitant, with whom he has a young child. He earned a bachelor's degree from a U.S. university in 2007 and a second bachelor's degree from a university in PC 2 in 2016. (GE 1; Tr. 39-40, 70-72)

Applicant is American by birth, but he has lived and worked overseas for many years. In 2012, when he was 24, he was in Caribbean Country 1 working on a sailboat when he accepted an offer to crew another sailboat on a trip to the western Pacific, in exchange for free room and board and a flight back home to the United States when the trip ended. Instead of returning to the U.S., Applicant chose to remain in PC 2, where he eventually settled and remained for several years, beginning in 2013. He initially worked odd jobs, but eventually he earned degrees in drafting and naval architecture, while working part time in the field, earning less than \$25,000 USD annually. Once he earned his second bachelor's degree, he began working full time, and his annual salary increased to about \$65,000 USD. (GE 1, GE 2; Tr. 21-30, 62-66, 70-71)

Applicant remained in PC 2 until 2022, when he returned to the United States with his cohabitant and young child. They moved in with his parents while he looked for work. He soon took a job in naval architecture. He submitted an SCA in August 2023. At the time of the hearing, Applicant was living and working in an overseas U.S. territory while in a job with a successor employer. He and his family moved there in June 2025. (GE 1; Tr. 30-33, 72-75)

When he submitted his SCA, Applicant disclosed several years of unfiled U.S. federal income tax returns (2016-2021) and said he was working on filing them. He explained that he was unaware while he was living and working overseas that he still had a responsibility as a U.S. citizen living abroad to file U.S. tax returns, even though he had complied with tax filing requirements in PC 2. He also said he did not believe he owed any back taxes to the IRS, either because he did not earn enough income in certain tax years or because PC 2 had a higher tax rate. (GE 1, GE 2, GE 3)

In his interrogatory responses, Applicant included documentation from the IRS for the tax years at issue showing that they had no record of any tax returns from him. (GE 2, GE 3; Tr. 61) The SOR therefore resulted. As noted above, it alleges unfiled federal income tax returns for all the years Applicant was living and working in PC 2 (tax years 2015-2022). (SOR ¶ 1.a)

Little had changed by the time of the hearing, in September 2025, since Applicant provided no documents at the time regarding the status of his unfiled returns, although he said he had been researching what he had to do. (Tr. 44, 56) After the hearing, Applicant provided a few documents from the IRS and other sources regarding his past-due returns, with an explanatory email. As of 2012, he owed \$0.00 for tax year 2008 (not alleged). (AE B) In September 2024, he filed his 2020 federal return. (AE D) As of September 2025, the IRS showed he had a \$3,800 credit for that tax year. (AE C). He provided no documentation for any other alleged past-due tax year, though he said he would address tax year 2023 next. (AE A; Tr. 76-77)

As a foreign resident of PC 2 from 2015 to early 2023, Applicant was required under PC 2 tax law to file tax returns there each year, and to pay taxes on his employment income. (AN II) There is no indication that he did not do so each year, as required. (Tr. 65-66, 74-75)

While foreign earned income may be excluded for U.S. citizens living overseas, they are still required to file an annual federal income tax return with the IRS, if their gross income is over a certain amount. During the years at issue here, that amount was between \$10,350 and \$12,950. (AN I) Applicant exceeded the filing requirement in gross income (in U.S. Dollars (\$USD)) for every year he lived in PC 2 except for tax year 2013 (not alleged). (AE A) In preparing the chart detailing his annual income in tax years 2013 to 2022 in PC 2, Applicant said he used current conversion rates (rather than conversion rates during the tax years at issue) to convert his PC 2 income into \$USD. (AE A) His conversions are therefore approximate, rather than exact. (Tr. 66-69)

Though he otherwise had no documents regarding U.S. tax filings for the years he lived overseas, after the hearing Applicant submitted documentation of yearly tax assessments from PC 2 (2013-2023) along with a helpful chart detailing his PC 2 tax assessments and payments for those years. Essentially, documentation from PC 2 tax authorities shows that he received tax credits each year but for tax year 2018, when he owed \$814 in PC 2 currency. (AE A, AE E) It is also noteworthy that what he provided from PC 2 were annual tax assessments for 2013-2023, not tax returns that he filed there. Still, only 2018 listed a small balance.

Applicant's tax filings or taxes currently owed to PC 2 (if any) are not at issue. The issue, and alleged security concern, is the status of his U.S. federal tax filings to the IRS for his years overseas. Applicant testified that he initially did not intend to remain in PC 2 as long as he did and always planned to return to the U.S. "next year." (Tr. 35) Once he began working full time he became very busy. By at least 2015, he realized that he was earning enough income that he was required to file taxes with PC 2, and he did so regularly. In subsequent years (2016-2018) he was only working part time so his income declined. (Tr. 35-42, 66-69) Applicant testified that he was told he did not have to file a U.S. federal return for any year in which he made less than \$16,000 USD. (Tr. 42-43) (In fact, according to AN I, the filing threshold was slightly less than that).

Applicant said he had been told he would likely not owe any U.S. taxes for any prior years but also believed he risked an audit if he filed. However, he acknowledged that he had a requirement to file his past-due returns. (Tr. 44-46) He acknowledged that his tax filing issues became burdensome, particularly due to his nomadic lifestyle, but he said he is not trying to avoid paying taxes, and he intends to address them. (Tr. 59, 76-77) No tax debt is alleged, and the personal financial statement he submitted with his interrogatory response shows he has ample income for his needs and shows no financial issues. (GE 2, GE 3)

Applicant said he had filed his 2023 federal tax return since he had returned to the United States from PC 2. He said he filed his TY 2023 return and received a refund, but his TY 2024 return was unfiled at the time of the hearing. He said he filed electronically but his return was rejected by the tax software and that he has to mail in a physical copy. (Tr. 49-54, 69-70, 72-79)

Applicant submitted a 2024 performance review. He is well regarded at work. He exhibits attention to detail and is dedicated to the mission. He is an excellent and highly skilled professional. (AE F, AE G)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.” *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain a favorable security decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. 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 of potential, rather than actual, risk of compromise of classified information.

Analysis

Guideline F, Financial Considerations

The security concern for financial considerations is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. . . . An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

The guideline sets forth several conditions that could raise security concerns under AG ¶ 19. The following is potentially applicable in this case:

(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.

Applicant lived and worked in foreign country PC 2 from about 2013 to early 2023. As a U.S. citizen living abroad, he had a responsibility to file U.S. federal income tax returns for those tax years, even if he complied with PC 2 tax filing requirements while he was there. While he may not have been aware of that responsibility initially, he eventually realized that he had U.S. tax filing responsibilities even while living and working abroad.

SOR ¶ 1.a alleges that Applicant failed to file federal income tax returns for tax years 2013-2022 as required. Applicant admitted the allegation, while asserting that there may have been some years when his annual income was below the filing threshold. The Government's evidence (AN I) suggests that Applicant's income each year (estimated in AE A) surpassed the filing threshold, at least so as to establish a *prima facie* case. AG ¶ 19(f) is established.

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 towards 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) (emphasis added). See ISCR Case No. 14-05476 at 5 (App. Bd. Mar. 25, 2016); ISCR Case No. 14-01894 at 4-5 (App. Bd. Aug. 18, 2015).

Conditions that could mitigate financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

(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; 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.

At this point, the issue is not whether Applicant owes any past-due federal income tax debt to the IRS for his years overseas. The issue is whether he has complied with federal tax filing requirements, or, at least, whether he has acted reasonably in trying to remedy the problem (and whether it is likely to recur in the future). Applicant rightly disclosed several years of unfiled federal income tax returns on his April 2023 SCA. He is not a tax cheat, and his issues are caused more by his life circumstance and to inattention than anything nefarious. However, he has undertaken little to no responsible action to address his tax issues since returning to the U.S. and disclosing them on his SCA. This despite ample and repeated warnings that his past-due tax returns were a security concern – on his SCA, in his background interview, in two interrogatories from the Government, an SOR, and a hearing.

Applicant established that one tax return at issue (2020) was filed in 2024. He provided no updated information to establish any other tax filings. Tax returns for subsequent years (2024 at least, and possibly 2023 as well) also remained unfiled at the time of the hearing – and for those years, he was no longer living overseas. Applicant is well spoken and intelligent. He has lived a nomadic life for several years – a life that has likely hampered his ability to keep good records and to comply with federal tax filing requirements. But the fact remains he has applied for a security clearance with the U.S. federal government. It is reasonable to expect him to comply (or to act responsibly while attempting to comply) with federal tax filing requirements like any other citizen.

Applicant has the burden to establish that the allegation(s) in the Statement of Reasons are sufficiently resolved, or are being resolved, so that they are no longer a security concern. He has not done so. He has not established that any mitigating condition sufficiently applies to mitigate the security concern arising from his unfiled federal income tax returns.

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 relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis.

I considered Applicant's history and background, his excellent work record, and his efforts to resolve his tax issues so far. Applicant needs to file his past-due returns with the IRS and establish a track record of compliance with federal tax filing requirements in order to mitigate the security concerns in this case and to establish that he warrants access to classified information. This is not to say that Applicant cannot be a suitable candidate for classified access in the future. But as of now, he has not met his burden. Overall, the record evidence leaves me with questions and doubts as to Applicant's

eligibility for access to classified information. Applicant did not mitigate financial considerations security concerns.

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

In light of all of the circumstances, it is not clearly consistent with the interests of national security to grant Applicant a security clearance. Eligibility for access to classified information is denied.

Braden M. Murphy
Administrative Judge