DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 25-00533
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Cynthia Ruckno, Esq., Department Counsel
For Applicant: *Pro se*

06/05/2026

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Clearance is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on May 30, 2024. On July 14, 2025, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline F. The DCSA acted 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 the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016), which became effective on June 8, 2017.

Applicant answered the SOR in an undated document and requested a hearing before an administrative judge. Department Counsel was ready to proceed on December 18, 2025. The case was assigned to me on March 6, 2026. On March 20, 2026, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted by video teleconference on April 28, 2026. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 3 were admitted in evidence without objection.

Applicant testified and submitted Applicant's Exhibits (AX) A and B, which were admitted without objection. At the request of Department Counsel, I kept the record open until May 28, 2026. Applicant timely submitted AX C through F, which were admitted without objection. DOHA received the hearing transcript on May 11, 2026. The record closed on May 28, 2026.

Findings of Fact

In Applicant's answer to the SOR, he admitted both allegations in the SOR. His admissions are incorporated in my findings of fact.

SOR ¶ 1.a alleges that Applicant failed to timely file a federal income tax return for tax year 2020. SOR ¶ 1.b alleges that Applicant failed to timely file a state income tax return for the same tax year. In his answer to the SOR, he admitted his failure to timely file his tax returns during to "oversight and confusion" during the COVID-19 pandemic. He stated that he had paid the federal and state taxes due for tax year 2020.

Applicant is a 33-year-old software engineer employed by a defense contractor since May 2024. He has never married. He received a bachelor's degree in August 2015. He worked for several non-federal employers after graduation. He received a public trust clearance in March 2023 to enable him to work on a contract with a federal agency. After that contract ended, he was unemployed from November 2023 until he was hired by his current employer, who sponsored him for a security clearance.

In Applicant's response to DCSA interrogatories in April 2026, he stated that he discovered that his federal and state returns for tax year 2020 had not yet been filed when he started collecting financial information for his response to the interrogatories, which asked for tax transcripts for tax years 2020, 2021, 2022, and 2023. (GX 3 at 2). In his answer to the SOR, he stated that he was in the process of completing the 2020 return.

At the hearing, Applicant submitted a copy of his federal and state income tax returns for tax year 2020, both prepared by his accountant and dated March 10, 2026. The returns reflect that he was entitled to a refund of $263 on his federal taxes and a refund of $923 on his state taxes. (AX and B) Applicant testified that he mailed the returns "about three months" before the hearing. Because the returns were filed late, they could not be filed electronically, and the IRS transcript dated April 27, 2026 (the day before the hearing) reflected "no tax return filed." (AX A).

After the hearing, Applicant submitted an IRS transcript from May 28, 2026, reflecting that the federal return was filed on May 25, 2026. (AX C) The record does not reflect when the state return was processed. The post-hearing exhibits were admitted without objection.

Policies

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to "control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. *See Egan* at 531. Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record." See ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019). It is "less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n,* 383 U.S. 607, 620 (1966). "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. ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan* at 531.

Analysis

Guideline F, Financial Considerations

The security concern under this guideline is set out in AG ¶ 18:

> Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. *See* ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's admissions and the evidence submitted at the hearing establish two disqualifying conditions under this guideline: AG ¶ 19(c) ("a history of not meeting financial obligations") and AG ¶ 19(f) ("failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required").

Two mitigating conditions are potentially applicable:

> AG ¶ 20(a): the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment; and
>
> AG ¶ 20(g): the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

AG ¶ 20(a) is established. Applicant's failure to timely file his federal and state returns occurred in the spring of 2021, more than five years ago. He had timely filed his returns for tax years before 2020 and for the years after 2020. In his answer to the SOR, he attributed his oversight to the "confusion and disruptions caused by the COVID-19 pandemic." He discovered that he had neglected to file his returns for 2020 after he received the DCSA interrogatories asking for tax transcripts for tax years 2020, 2021, 2022, and 2023. His accountant completed the tax returns in March 2026, and he mailed them to the appropriate tax authorities. He was sincere and credible at the hearing. I am satisfied that his one-time negligence more than five years ago is unlikely to recur and does not cast doubt on his current reliability, trustworthiness, and good judgment.

AG ¶ 20(g) is established. Applicant's accountant completed the returns in March 2026, and they have been submitted to the appropriate tax authorities.

Whole-Person Analysis

Under AG ¶ 2(c), the 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. An administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all the relevant circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

> (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the

individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

I have incorporated my comments under Guideline F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concern raised by his failure to timely file his federal and state tax returns for tax year 2020.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F (Financial Considerations):	FOR APPLICANT
Subparagraphs 1.a and 1.b:	For Applicant

Conclusion

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

LeRoy F. Foreman
Administrative Judge