DEPARTMENT OF WAR
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 25-00554
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Sakeena Farhath, Esq., Department Counsel
For Applicant: *Pro se*

04/01/2026

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 February 1, 2024, Applicant completed an Electronic Questionnaire for Investigations Processing (e-QIP) or security clearance application (SCA). (Government Exhibit (GE) 1) On May 7, 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 said his case will be submitted to an Administrative Judge for a determination as to whether to grant, deny, or revoke his security clearance. Specifically, the SOR set forth security concerns arising under Guideline F. (HE 1) On May 22, 2025, Applicant responded to the SOR. (HE 2) On August 29, 2025, Department Counsel was ready to proceed. 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 federal funding. On December 19, 2026, the case was assigned to me. On January 16, 2026, DOHA issued a notice scheduling the hearing for March 4, 2026. (HE 3) The hearing was held as scheduled, using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered eight exhibits; Applicant did not offer any exhibits; and all proffered exhibits were admitted into evidence without objection. (Tr. 12-14, 18-19; GE 1-GE 8) On March 19, 2026, DOHA received a copy of the transcript. Four post-hearing exhibits were received from Applicant and admitted without objection. (Applicant Exhibit (AE) A-AE D) The record closed on March 25, 2026. (Tr. 36, 38)

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.e. (HE 2) He also provided extenuating and mitigating information. For SOR ¶¶ 1.a and 1.b, he admitted that he did not file his federal income tax (FIT) and state income tax (SIT) returns as required; however, as to the allegations that they were not currently filed, he said, "I deny. I sent all I had as far as my taxes being filed. The IRS portal didn't have the account transcript filed." (HE 2) His admissions are accepted as findings of fact.

Applicant is a 55-year-old engineering technician employed by a Department of War (DoW) contractor since February of 2024. (Tr. 10-11) In 1991, he received a General Educational Development (GED) diploma. (Tr. 7) He has not attended college. (Tr. 8) He has not served in the military. (Tr. 8) He has never married, and his three children are ages 6, 8, and 18. (Tr. 8) He said he is current on his child support responsibilities. (Tr. 8) However, in the past he has had an arrearage in his child support. (Tr. 9-10) The issue of child support is not alleged in the SOR and will not be further addressed in this decision.

Financial Considerations

SOR ¶ 1.a alleges Applicant failed to timely file federal income tax (FIT) returns for tax years (TYs) 2020 and 2021. In his February 1, 2024 SCA, Applicant said he filed his TY 2020 and 2021 FIT returns; however, he forgot to file his FIT for TY 2022. (GE 1) He promised to file his FIT return for TY 2022 in a month. (GE 1) He estimated that he owed $12,000 in FIT. (GE 1)

At his hearing, Applicant said he learned he had not filed his TY 2018 and 2020 FIT returns from the IRS in October 2025. (Tr. 22, 24-25) When he responded to the SOR in July 2025, he mistakenly believed the information on the IRS website, which said $0 balance due for those years, and he interpreted this to mean his tax returns were filed. (Tr. 28)

After Applicant learned the tax returns were not filed, he contacted his employer to obtain W-2s; however, after he obtained the W-2s, the tax preparer who assisted him with taxes was too expensive. (Tr. 23-25) He said, "I don't know why they didn't get filed because, normally, everything gets filed. But they did not get filed. There was a mess on my part. This is 100-percent me." (Tr. 23) At his hearing, he said he planned to file his FIT returns for TYs 2018, 2020, and 2025 soon; however, he had not hired a tax preparer to assist in preparations of the tax returns. (Tr. 25-26) He believed his SIT returns for TYs 2018 and 2019 were not filed. (Tr. 29) He attributed his failure to timely file his FIT returns to "pretty much laziness and stupidity." (Tr. 27)

After his hearing, he provided IRS tax transcripts for TYs 2022 through 2024. (AE B) The record does not contain IRS tax transcripts for TYs 2020 and 2021.

SOR ¶ 1.b alleges Applicant failed to timely file his state income tax (SIT) returns for TYs 2022 and 2023. He said his SIT returns were filed by the end of October 2025. (Tr. 24, 28, 30) After the hearing, he provided state tax forms for TYs 2022 through 2025, which showed the following information: TYs 2022 and 2023 were filed on July 30, 2024; TY 2024 was filed on April 7, 2025; and TY 2025 on March 22, 2026. (AE C) He owed the following balances to the state tax authority: 2022 ($0); 2023 ($0); 2024 ($167); and 2025 ($3,200). (AE C) At the time of his hearing, he said he had not made any payments to the state because his tax preparer was reviewing the tax returns for accuracy and correctness. (Tr. 30)

SOR ¶¶ 1.c, 1.d, and 1.e allege Applicant is indebted to the Federal Government for delinquent taxes in the amounts of $7,833 for TY 2022, $4,781 for TY 2023, and $6,800 for TY 2024. He estimated that he owed the IRS $22,000 or $23,000; however, he said the IRS had not credited him with every payment he made. (Tr. 32) He said he made $800 monthly payments since October of 2025. (Tr. 33)

Applicant's April 25, 2025, and March 22, 2026 IRS tax transcripts show the information in the following table. (GE 2; AE B) Adjusted gross income is rounded to the nearest $1,000 and taxes are rounded to the nearest $100. It shows he had an installment program established for TY 2022 on September 9, 2024, and he made monthly payments to the IRS from November 18, 2024, to June 18, 2025, of $158 to $240. (GE 2 at 3-4) In August 2025, he received a revised IRS payment plan. (Tr. 31-32) He increased his monthly payments to $800, and he made those monthly payments until March 18, 2026. (Tr. 31-32; AE B)

Tax Year	Date Tax Return Filed	Adjusted Gross Income	Taxe Owed (O) Tax Refund (R)	Exhibit
2022	July 30, 2024	$93,000	O-$7,200	GE 2 at 3-4; AE B
2023	July 30, 2024	$47,000	O-$4,800	GE 2 at 5; AE B
2024	Apr. 15, 2025	$149,000	O-$6,900	GE 2 at 7; AE B

Applicant's current IRS balance for the TYs is as follows: 2020 ($200); 2021 ($1,400); 2022 ($3,600); TY 2023 ($5,300); and 2024 ($7,600). (AE A at 4) On March 25, 2026, Applicant said, "My 2025 taxes have been filed and with adjustments made in taxes taking out and extra money put aside each pay period I get a return of roughly $2900 which of course will be taken from the IRS, along with state [refund] of $3950." (AE A) He did not explain why the state tax document he provided showed a state tax debt of $3,200 for TY 2025. (AE C)

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. 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 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 condition 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).

Applicant failed to file, as required, FIT returns for TYs 2020 and 2021 and his SIT return for 2022. His SIT for TY 2023 was filed in July 2023, which is sufficiently timely to mitigate this security concern. He owes a FIT debt for TYs 2022, 2023, and 2024 of about $16,500.

AG ¶ 20(a) does not apply to the SOR debts. "It is also well established that an applicant's ongoing, unpaid debts 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 because Applicant did not assert any circumstances partially or fully beyond his control, which adversely affected his ability to timely file his FIT for TYs 2020 and 2021, to pay his FIT for TYs 2022, 2023, and 2024, and to file his SIT return for TY 2022.

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. In regard to the failure to timely file his 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) (emphasis in original). *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. 15-1031 (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.

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)) 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).

In this instance, Applicant admitted he failed to file, as required, FIT returns for TYs 2020 and 2021 and SIT returns for 2022. He owes a FIT debt for TYs 2022, 2023, and 2024. At the time the record closed, Applicant had not provided documentation proving he filed his overdue tax returns. He provided an update showing his installment agreement with the IRS was current. The total owed to the federal government for TYs 2020 through 2024 is $18,100. For purposes of this decision, I assume all required tax returns were filed by October of 2025 as he stated at his hearing, and he continued with an installment agreement he had in mid-2025. I have credited him with meeting the requirements of AG ¶ 20(g). However, these positive measures are insufficient to fully mitigate SOR ¶¶ 1.a through 1.e because several of his tax returns were filed late, and he did not provide a good reason for failing to timely file his tax returns. His 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) that evidence as a whole did not support mitigation).

In ISCR Case No. 06-10320 at 2 (App. Bd. Nov. 7, 2007), the Appeal Board said:

> The application of disqualifying and mitigating conditions and whole-person factors does not turn simply on a finding that one or more of them apply to the particular facts of a case. *See, e.g.,* ISCR Case No. 01-14740 at 7 (App. Bd. Jan.15, 2003). Thus, the presence of some mitigating evidence does not alone compel the Judge to make a favorable security clearance decision. As the trier of fact, the Judge must weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence, or vice versa.

Applicant did not prove that he was unable to make greater progress sooner in the filing of his overdue tax returns, establishing IRS installment payment plans, and paying his delinquent FIT debt. He made important progress in 2025 and 2026; however, it is not enough under all the circumstances and considering the evidence "as a whole." Applicant's failures regarding his FITs and SITs 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 55-year-old engineering technician employed by a DoW contractor since February of 2024. In 1991, he received a GED diploma.

The evidence supporting denial of Applicant's security clearance is detailed in the financial considerations analysis 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 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.e:	Against Applicant

Conclusion

I conclude that it is not clearly consistent with the interests of national security of the United States to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge