DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 25-01313
	)	
Applicant for Security Clearance	)	

Appearances

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

08/10/2026

Decision

HOGAN, Erin C., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Based on several mitigating factors, eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on February 14, 2024. (GE 1) On February 5, 2026, 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 (EO) 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) implemented by the DOD on June 8, 2017.

On March 4, 2026, Applicant timely answered the SOR and requested a hearing before an administrative judge. Department Counsel forwarded the case to the DOHA Hearing Office on April 8, 2026. The case was assigned to me on May 1, 2026. On May 14, 2026, a notice of hearing was issued scheduling the hearing on June 4, 2026, via video-teleconference. The hearing was held on that date. The Government offered four exhibits which were admitted in evidence as Government Exhibits (GE) 1 - 4 without objection. Applicant offered three exhibits which were marked as Applicant Exhibits (AE) A - C, and admitted without objection. The transcript (Tr.) was received on June 15, 2026.

Some details in the decision were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

Findings of Fact

Applicant, age 29, has been an employee of a government contractor since 2023 and is seeking a security clearance. This is his first time applying for a security clearance. He has an associate degree. He is single and has no children. (Tr. 16-17, GE 1)

The SOR alleges that Applicant failed to file federal income tax returns for tax years (TY) 2020 and 2021 (SOR ¶ 1.a: AE C at 1-2); that he failed to timely file federal income tax returns for TY 2019, 2022, and 2023 (SOR ¶ 1.b: GE 1 at 45-46; GE 2 at 10-11, 40-51; GE 3 at 11); and he failed to timely file state income tax returns for TY 2019 through 2024. (SOR ¶ 1.c: GE 2 at 36-38; GE 3 at 11) Applicant admitted all the allegations in the SOR.

On April 12, 2018, Applicant went motorcycle riding with a friend. The two decided to race each other on Interstate (I) 95. Applicant hit a guardrail while driving over 90 miles per hour (mph). He sustained serious injuries to his pelvis, both knees, his right ankle and his left hand. He was in the hospital for several months and then transferred to a rehabilitation facility. He was unable to walk and was in a wheelchair for almost nine months. He was unable to work. In 2019, he was approved for Social Security Disability Insurance (SSDI) which helped him cover some expenses. He was unemployed from April 2018 to April 2022. (Tr. 18-21; GE 1 at 19, 37; GE 2 at 10, 27)

Upon his discharge from the rehabilitation facility, Applicant stayed with various friends until he was able to walk again. He was attending outpatient rehabilitation and was still unable to work. He said he was supposed to live with his father, but his father told him it was too much for him. (Tr. 19)

As Applicant's physical condition improved, he was able to fix dirt bikes in order to make extra money. The Covid-19 pandemic in 2020 set him back a little. He eventually took classes in order to be qualified to work in information technology (IT) believing it was the best option considering his physical limitations. He was initially hired by Company A. He worked there for 10 months and continued his job search. In August 2023, he was hired by his current employer, Company B, and has worked continuously for them on a full-time basis. (Tr. 19-21; GE 1)

In Applicant's response to the SOR, dated March 4, 2026, he admitted that he did not timely file his federal income tax returns for TY 2020 and 2021 (SOR ¶ 1.a) and TY 2019, 2022, and 2023. (SOR ¶ 1.b) In response to the allegation in SOR ¶ 1.c, he admitted that he did not timely file his state income tax returns for TY 2019, 2020 and 2021. He received SSDI during these tax years and did not understand that he was required to file income tax returns during the period he received disability insurance payments. He denied that he failed to file his state income tax returns for TY 2022 through 2024. He has filed all federal and state income tax returns from 2019 to 2024. He was in the process of preparing his 2025 income return and indicated it would be filed on April 15, 2026. (Response to SOR)

When Applicant began to file his late tax returns, he experienced some initial problems, but filed his 2019, 2020 and 2021 state and federal tax returns. He hired a tax professional to file his income tax returns for 2024. He filed his 2025 federal tax returns on his own. (Tr. 26 – 30)

The status of Applicant's federal income tax returns are:

TY 2019: The return was received by the IRS on June 10, 2025, and processed on May 11, 2026. He did not owe a balance for TY 2019. (Tr. 21; GE 2 at 36; AE B at 2)

TY 2020: The return was received by the IRS on March 2, 2026. He did not owe a balance on TY 2020, because he had no taxable income. (Tr. 26-27; AE A at 1; AE C at 1)

TY 2021: The return was received by the IRS on March 2, 2026. He did not owe ta balance on TY 2021, because he had no taxable income for TY 2021. (Tr. 28-30; AE A at 2; AE C at 2)

TY 2022: The return was received by the IRS on May 8, 2024, and processed on June 3, 2024. He received a refund of $474. (Tr. 28; AE C at 3)

TY 2023: The return was received by the IRS on May 8, 2024, and processed on June 3, 2024. He received a refund of $127. (Tr. 29; AE C at 5)

TY 2024: The return was received by the IRS on March 3, 2025, and processed on April 15, 2025. He received a refund of $531. (Tr. 29; AE C at 6)

TY 2025: The return was received by the IRS on April 15, 2026, and processed on April 20, 2026. He received a refund of $958. (Tr. 29; AE C at 7)

Applicant provided a Letter of Good Standing from his state's Department of Taxation, dated February 13, 2026. The letter indicates that upon review of his account, they found no outstanding assessments or delinquent notices on file. It did not include any audits or reviews that were in progress, or that were to be performed in the future. (AE D at 25) In a letter dated April 16, 2026, the state Department of Taxation provided copies of Applicant's state tax returns. They noted that they did not find a state tax return for TY 2021. (AE D at 5) Applicant had filed the 2021 state tax return on February 23, 2026. The return was processed on April 21, 2026. (AE D at 6) All of Applicant's state tax returns were filed. He either received a refund or did not earn enough money to owe taxes. (AE D)

Applicant admits that he should have taken the initiative and filed all of his tax returns before he applied for a security clearance. He was going through a lot, and he did not focus on filing his tax returns. He has learned that he should never put things off and let life defeat him. He intends to file his future income tax returns as soon as possible. (Tr. 32-33)

Applicant describes his financial situation as "pretty good." He has about $700 in checking. He took out a $6,500 loan in 2024. The loan has a current balance of $900 and is almost paid off. He refinanced his credit cards so he could get a cheaper rate and a lower monthly payment. The total balance of his credit cards is about $26,000. He purchased a car for $13,000 and is timely on his car payments. His retirement account has a balance of approximately $18,000. He still has health-related issues as a result of his April 2018 motorcycle crash. He works every day to get his body stronger in order to accommodate the injuries as best as he can. His employer provides good health insurance so he does not have a lot of medical bills. (Tr. 32-34)

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." (*Egan* 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." (EO 10865 § 2)

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the AG. 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." (EO 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. (*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. 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. (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*, 484 U.S. at 531; AG ¶ 2(b))

Analysis

Guideline F: Financial Considerations

The concern under this guideline is set out in AG ¶ 19:

> 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, 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.

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. (ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012)).

AG ¶ 19 notes several disqualifying conditions that could raise security concerns. The disqualifying conditions that are relevant to Applicant's case are:

> (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.

AG ¶ 19(a) and ¶ 19(c) do not apply. Applicant did not owe state or federal income taxes for the tax years alleged in the SOR. He has no additional delinquent accounts. AG ¶ 19(f) applies regarding Applicant's failure to timely file his federal and state income tax returns for tax years 2019 – 2024.

AG ¶ 20 describes conditions that could mitigate security concerns. The following are potentially applicable in this case:

> (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce, or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and
>
> (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

AG ¶ 20(b) applies because Applicant was seriously injured in a motorcycle accident in April 2018. He was unable to walk for over eight months and underwent extensive physical rehabilitation. He was unemployed from April 2018 to April 2022 as a result of his injuries and as a result of the COVID-19 pandemic. He was more focused on his health than filing his state and federal income tax returns in a timely manner. Once he became employed with a DOD contractor, he realized that he needed to file his federal and state income tax returns. He initially thought that he did not have to file tax returns during the years that he received disability payments. Once he realized his mistake, he began to file his late state and federal income tax returns. At the close of the record, all of his state and federal income tax returns were filed, and he does not owe the federal government any taxes.

AG ¶ 20(f) applies. Applicant initially believed that he did not have to file federal and state income tax returns when he was receiving disability payments. When he learned that he was mistaken, he started to file his federal and state income returns. At the close of the record, he provided proof that all federal and state income tax returns were filed and that he owed no past tax debts. He filed his 2024 and 2025 income tax returns on time and intends to file his federal and state income tax returns on a timely basis in the future.

The DOHA Appeal Board has held that failure to comply with tax laws suggests that an applicant has a problem with abiding by well-established government rules and systems. Voluntary compliance with rules and systems is essential for protecting classified information. *See, e.g.,* ISCR Case No. 16-01726 at 5 (App. Bd. Feb. 28, 2018). A person who fails repeatedly to fulfill his or her legal obligations, such as filing tax returns and paying taxes when due, 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. 17-01382 at 4 (App. Bd. May 16, 2018).

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) explained an applicant's responsibility for proving the applicability of mitigating conditions is 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's failure to timely file his income tax returns occurred under unusual circumstances. He was seriously injured in a motorcycle accident in April 2018. He was unable to work over a period of four years. Once he was physically able, he attended classes to become qualified to work in IT. He initially thought that he did not have to file federal and state income tax returns during the years he received disability payments. He discovered this was incorrect when he applied for a security clearance. He proactively filed his federal and state income tax returns and did not owe taxes to either the IRS or his state Department of Taxation. Applicant has overcome a lot of hardship since 2018. He said he learned a valuable lesson and intends to file his federal and state taxes on a timely basis in the future. Under these unique circumstances, the security concerns raised under Financial Considerations are mitigated.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall commonsense judgment based upon careful consideration of the adjudicative guidelines, each of which is to be evaluated in the context of the whole person. 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 I have considered the 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 that Applicant mitigated the security concerns raised under financial considerations.

Formal Findings

Formal findings 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:	FOR APPLICANT
Subparagraphs 1.a – 1.c:	For Applicant

Conclusion

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

Erin C. Hogan
Administrative Judge