DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS

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| In the matter of: | ) | |
| | ) | |
| | ) | ISCR Case No. 25-01081 |
| | ) | |
| Applicant for Security Clearance | ) | |

**Appearances**

For Government: Karen Moreno-Sayles, Esq., Department Counsel
For Applicant: *Pro se*

07/24/2026

**Decision**

FOREMAN, LeRoy F., Administrative Judge:

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

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on November 3, 2023. On November 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 on February 3, 2026, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on April 8, 2026, and the case was assigned to me on April 21, 2026. On April 28, 2026, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted by video teleconference on May 28, 2026. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 3 were admitted in evidence without objection.

Applicant testified but did not present the testimony of any other witnesses or submit any documentary evidence. DOHA received the hearing transcript on June 8, 2026. I kept the record open until June 15, 2026, to enable Applicant to submit documentary evidence regarding his tax returns. Shortly after the hearing adjourned, he sent links to documentation for tax years 2018 and 2019, but the links could not be opened. On May 29, 2026, Department Counsel contacted Applicant and offered to provide a DOD SAFE link for the documentation. He did not respond to Department Counsel's offer of assistance in submitting his documentation. Department Counsel contacted him again on June 13, 2026, and he did not respond. The email correspondence regarding Applicant's attempted post-hearing submission and Department Counsel's offer to assist him is included in the record as Hearing Exhibit I. I closed the record on July 21, 2026.

## Findings of Fact

SOR ¶ 1.a alleges that Applicant failed to timely file federal income tax returns for tax years 2019 through 2023. SOR ¶ 1.b alleges that he failed to timely file state income tax returns for tax years 2018 through 2023. In Applicant's answer to the SOR, he admitted both allegations. His admissions are incorporated in my findings of fact.

Applicant is a 55-year-old solution architect employed by a defense contractor since February 2021. He has a high-school education. He has been employed by federal contractors since February 2008. He married in June 2001 and has a 20-year-old son and a 29-year-old stepson. He was cleared for a public trust position in January 2006.

Applicant responded to DCSA interrogatories in November 2024 and provided IRS tax transcripts reflecting that he had not filed federal income tax returns for tax years 2019 through 2023. (GX 3) When Applicant was interviewed by a security investigator in May 2024, he admitted that he had not filed federal and state income tax returns for tax years 2019 through 2023. He attributed his failure to several family-related events. His mother-in-law was hospitalized in January 2021 and passed away in March 2021. His child was hospitalized from November 2021 to April 2022, had a kidney removed, and passed away in 2023. (GX 2)

As of the date of the hearing, Applicant had not filed any of the past-due federal and state income tax returns alleged in the SOR. At the hearing, he testified that he has attention-deficit hyperactivity disorder (ADHD), which makes it difficult for him to concentrate on administrative matters such as income tax returns. Until recently he was a "1099" employee with no automatic deductions for federal and state income tax, which made him responsible for keeping his federal and state tax payments current. His ADHD and the family tragedies caused him to neglect filing his tax returns. He hired a new accountant in June 2024 to assist him in filing his past-due returns. He testified that his past-due federal and state returns have been filed, but he did not provide any documentation at the hearing to support his testimony. (Tr. 16-19) After the hearing, when he proffered the links to documentation for tax years 2018 and 2019, he did not state what the links would show. He has not responded to Department Counsel's offer to assist him with a post-hearing submission. He has submitted no evidence showing that he has filed his past-due federal and state tax returns.

## 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”).

The following mitigating conditions are potentially relevant:

> 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;
>
> AG ¶ 20(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
>
> 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.

None of the above mitigating conditions are established. Applicant’s failures to timely file his federal and state income tax returns are recent and numerous. He has submitted no evidence showing that his failure to file his tax returns occurred under circumstances largely beyond his control or under circumstances making recurrence unlikely. He credibly testified about several emotional events that interfered with his ability to pay attention to his tax obligations, but those situations ended three years ago. He testified at the hearing that he had filed his past-due federal and state tax returns, but he has provided no evidence to support his testimony. An applicant who claims that a financial problem has been resolved is expected to submit documentary evidence to support his claim. *See* ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 19, 2016).

Applicant attempted to provide evidence after the hearing about the status of his tax returns for 2018 and 2019, but he did not respond when he was informed that his post-hearing submission could not be opened, nor did he state what the proffered evidence would show. Even assuming that he filed tax returns for 2018 and 2019, he has not offered any evidence showing that the returns for tax years 2020 through 2023 were filed, nor has he offered evidence of unusual circumstances or conditions largely beyond his control that affected his ability to timely file his returns.

**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 not mitigated the security concern raised by his failure to timely file his federal and state tax returns.

## Formal Findings

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

Paragraph 1, Guideline F (Financial Considerations): AGAINST APPLICANT

Subparagraphs 1.a and 1.b: Against Applicant

## Conclusion

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

LeRoy F. Foreman
Administrative Judge