DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 25-01117
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Troy L. Nussbaum, Esq., Department Counsel
For Applicant: *Pro se*

08/11/2026

Decision

DRISKILL, A. M., Administrative Judge:

Applicant did not mitigate the security concerns under Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

On September 17, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F. Applicant responded to the SOR on September 26, 2025 (Answer) and requested a decision on the written record in lieu of a hearing. The Government's written case was submitted on June 2, 2026. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on June 5, 2026, and he did not respond. The case was assigned to me on July 31, 2026. The Government exhibits included in the FORM (Items 4-9) are admitted in evidence without objection.

Findings of Fact

The SOR alleges Applicant is indebted to the Federal government for delinquent taxes for tax years (TY) 2015-2019 and 2021-2023 in the total amount of $27,962

(SOR ¶¶ 1.a-1.h); he is indebted to State A for delinquent taxes for TY 2023, 2021, and 2019 in the total amount of $2,380 (SOR ¶¶ 1.i-1.k); and he has 14 delinquent consumer debts totaling $17,062 (SOR ¶¶ 1.l-1.y). He admitted all the allegations without further explanation. (Items 1-3)

Applicant is 57 years old. He has some college education but did not earn a degree. He was married from 1992 to 2005 and remarried in 2008. He has four children. This is his first security clearance application. He has worked for his current employer since June 2015. (Items 4, 9)

On his March 2024 security clearance application (SCA), Applicant reported that he had failed to file and pay Federal income taxes for TY 2014 because he was injured at work and experienced financial hardship from not being able to work. He reported that he owed about $14,000 and was in a payment agreement with the Internal Revenue Service (IRS). He reported two IRS liens, one in 2014 and one in 2018, both in the amount of $14,000. He stated he was injured in a car accident in 2019, he could not walk or work for several years, and his situation was exacerbated by the COVID-19 pandemic. He stated he was in a non-collectible status with the IRS, but for the 2014 lien he also stated he was making payments. (Item 4)

In his November 2024 response to Government interrogatories, Applicant explained that he was injured at work in 2013 and needed surgery. He was out of work for a year and could not pay his taxes. Then he was severely injured in a car accident in November 2019. He could not work for ten months, and all of his financial obligations were put on hold. He stated that he is still having financial hardship, but that he was working with a tax company to assist him with his taxes. He completed a personal financial statement (PFS) in November 2024 reflecting a negative net monthly remainder of $1,649. A second PFS from February 2025 reflects a negative net monthly remainder of $716. He was asked about a number of consumer debts, and he reported that he had not paid any except for the debt alleged in SOR ¶ 1.x and two debts not alleged on the SOR. He reported that his state taxes totaled $2,497.83, and he was making automatic $50 per month payments to the state. (Item 8)

In the November 2024 interrogatory response, Applicant provided several IRS tax account transcripts which reflect the following:

- TY 2015: Timely filed, $712.32 balance. No payments have been made.
- TY 2016: Timely filed, $1,362.63 balance. No payments have been made.
- TY 2017: Timely filed, $5,714.34 balance. No payments have been made.
- TY 2018: Filed May 2020, $5,256.31 balance. No payments have been made.
- TY 2019: Filed August 2021, $3,461.31 balance. One $25 payment was made in April 2020 which was dishonored. The penalty for filing after the due date was removed in September 2022.
- TY 2021: Timely filed, $3,154.29 balance. No payments have been made.
- TY 2022: No tax return filed. (Item 8)

The November 2024 interrogatory response also includes State A taxable year summaries, dated February 2025, reflecting the following:

- TY 2014-2016: $0 balance.
- TY 2019: $538.62 balance, $50 monthly payments made since October 2024.
- TY 2020: $0 balance.
- TY 2021: $854.55 balance, no payments made.
- TY 2023: $986.48 balance, no payments made. (Item 8)

In his March 2025 response to Government interrogatories, Applicant further explained that, after his 2013 injury, he was forced to resign. This financially devastated him for years. He stated he was trying to "pick up the pieces from the last ten years of financial and physical issues in my life." (Item 9 at 4) Regarding the Government request for TY 2014 IRS account transcripts, Applicant stated that he was recovering from his work injury that year and his taxes "got lost," and he did not file taxes because he was on worker's compensation. Similarly, for the TY 2020 request, he stated he was in physical therapy that year and taxes were not on his mind during his recovery. (Item 9)

Applicant included updated tax account transcripts in the March 2025 interrogatory response which reflect the following updates from the previous submission:

- TY 2017: $5,848.59 balance.
- TY 2018: $5,379.80 balance.
- TY 2020: Timely filed, $0 balance.
- TY 2021: $3,245 balance.
- TY 2022: Filed March 2025, $3,619.85 balance.
- TY 2023: Filed November 2024, $4,332.46 balance. (Item 9)

Applicant's March 2024 credit bureau report (CBR) lists SOR ¶¶ 1.l-1.t, 1.v-1.y. The February 2025 CBR lists SOR ¶¶ 1.l-1.v. His credit report is currently frozen. (Items 5-7)

Policies

This case is adjudicated under Executive Order 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.

"[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*, 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. 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*, 484 U.S. at 531.

Analysis

Guideline F, Financial Considerations

The 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. 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 evidence in the FORM and Applicant's admissions establish the following disqualifying conditions under this guideline:

> AG ¶ 19(a): inability to satisfy debts;
>
> 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 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;
>
> 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;

> AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; 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.

Applicant reported that he paid the debt in SOR ¶ 1.x and it is no longer reported on his credit report. AG ¶ 20(d) is established, and that allegation is found for Applicant.

Applicant provided evidence that he has been making monthly payments on his State A TY 2019 debt (SOR ¶ 1.k) since October 2024, almost a year before the SOR was issued. AG ¶ 20(g) is established, and that allegation is found for Applicant.

None of the mitigating conditions are fully established for the remaining allegations. Applicant experienced two debilitating accidents several years apart, and the COVID pandemic exacerbated his situation, affecting his ability to work for the better part of a decade. These are all clearly conditions largely beyond his control; however, there is scant evidence that he acted responsibly under the circumstances. He stated he retained tax assistance but provided no proof of how that assistance has helped him resolve his tax issues. Although he has addressed the debts in SOR ¶¶ 1.k and 1.x, those efforts are dwarfed by the enormity of his remaining debt. The rest of the debts remain delinquent; therefore, the financial concerns are recent and ongoing. He has not sufficiently established that his financial problems are being resolved or are under control.

Whole-Person Concept

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. In applying the whole-person concept, an 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. 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). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. *See* ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003). 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 concerns raised under Guideline F, financial considerations.

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 and maintain 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-1.j:	Against Applicant
Subparagraph 1.k:	For Applicant
Subparagraphs 1.l-1.w:	Against Applicant
Subparagraph 1.x:	For Applicant
Subparagraph 1.y:	Against Applicant

Conclusion

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

A. M. Driskill
Administrative Judge