



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:

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ISCR Case No. 23-02371

Applicant for Security Clearance)

Appearances

For Government: Patricia Lynch-Epps, Esq., Department Counsel

For Applicant: *Pro se*

06/06/2025

Decision

LOUGHREN, Edward W., Administrative Judge:

Applicant did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On February 2, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). Applicant responded to the SOR on February 14, 2024, and requested a hearing before an administrative judge. The case was assigned to me on November 21, 2024.

The hearing was originally scheduled for February 12, 2025, but Applicant did not appear. A continuance was granted after he was contacted and stated he was unable to connect to the hearing on Microsoft Teams. The hearing was convened as rescheduled on April 10, 2025. Government Exhibits (GE) 1, 2, 3, 5, and 6 were admitted in evidence without objection. The objection to GE 4 was sustained. The objection to GE 7 was overruled, and it was admitted in evidence. Applicant testified and called a witness, but he did not submit any documentary evidence beyond what he attached to his response

to the SOR. The record was held open for Applicant to submit additional documentary evidence. He did not submit anything.

Findings of Fact

Applicant is a 58-year-old employee of a defense contractor. He has worked for his current employer since about August 2017. He served on active duty from 1986 until he received a general under honorable conditions discharge in 1988. He is a high school graduate with certifications. He is not married, but he and his girlfriend have lived together for more than 20 years. He has two adult children. His girlfriend has two adult children. One of her children lives with them and contributes to the household's finances. (Tr. at 24-29; GE 1)

Applicant has a history of financial problems, including unfiled federal and state income tax returns, unpaid federal and state taxes, and delinquent debts. The SOR alleges the tax issues and 12 delinquent debts in amounts ranging from \$455 to \$9,970. However, the \$1,449 delinquent debt alleged in SOR ¶ 1.b and the \$1,619 delinquent debt alleged in SOR ¶ 1.k are duplicate accounts. The debts are listed on one or more credit reports obtained in November 2022, August 2023, or April 2025, except that the largest debt of \$9,970 (SOR ¶ 1.l) is not listed on any credit report. (Applicant's response to SOR; GE 5-7)

Applicant submitted a Questionnaire for National Security Positions (SF 86) in August 2022. He reported that he failed to file his 2014, 2015, 2016, and 2018 federal income tax returns; he failed to file his 2016 and 2018 state income tax returns; and he owed federal taxes for 2014, 2015, 2016, and 2018. He also reported a \$1,400 credit card debt and \$2,500 owed on a cosigned loan for a vehicle that had been repossessed. (GE 1)

Applicant was interviewed for his background investigation in January 2023. He discussed his unfiled tax returns. He stated that he had not filed income tax returns since 2013. He stated that he did not have the documentation to do the returns. He also stated that he did not have the "brain power" to do the returns himself, and he did not have the money to pay someone to prepare them for him. He estimated that he owed the IRS about \$300 or \$400 and his state at least \$150 for each year. He testified that he was a 1099 employee, with more difficult tax returns. He also admitted that he was scared of what he would owe. (Tr. at 51-52; GE 2)

Applicant retained tax professionals to prepare his tax returns and negotiate any payment plans with the IRS. He responded to interrogatories in August 2023. He provided information that his 2017 through 2022 federal and state income tax returns were filed in about April 2023. He also provided some IRS tax account transcripts, wage and income transcripts, and tax return transcripts. (Tr. at 53-58; Applicant's response to SOR; GE 2, 3)

The IRS tax account transcript for 2014 was obtained in November 2023. The tax return was received on time by the IRS in about March 2015. As of November 2023, with taxes, penalties, and interest, he owed \$4,847. (GE 2, 3)

Applicant did not submit IRS tax account transcripts for 2015 and 2016. He submitted wage and income transcripts, but they do not establish that returns were filed. He did not establish that his federal and state tax returns for 2015 and 2016 have been filed. (GE 2, 3)

The IRS tax account transcript for 2017 indicated that the tax return was received by the IRS in October 2023. As of November 2023, with taxes, penalties, and interest, Applicant owed \$1,624. He indicated in his response to interrogatories that he owed his state \$154, which did not include penalties and interest. (GE 2, 3)

The IRS tax account transcripts for 2018 and 2019 do not show that a return had been received, possibly because they had not yet been processed. Applicant indicated in his response to interrogatories that he owed the IRS \$1,203 and \$148, and his state \$102 and \$102. Those figures do not include penalties and interest. (GE 2, 3)

The IRS tax account transcript for 2020 indicated that the tax return was received by the IRS in August 2023. As of November 2023, with taxes, penalties, and interest, Applicant owed \$1,109. He indicated in his response to interrogatories that he owed his state \$127, which did not include penalties and interest. (GE 2, 3)

Applicant did not submit IRS tax account transcripts for 2021 and 2022. He indicated in his response to interrogatories that he owed the IRS \$169 and \$745, and his state \$103 and \$103. Those figures do not include penalties and interest. (GE 2, 3)

Applicant testified that he paid his back state taxes in 2024, but he did not submit any documentation of those payments. He thought he owed the IRS about \$13,000. He has not made any payments. He is waiting to hear from his tax professionals about a payment plan with the IRS. (Tr. at 22, 60-65; Applicant's response to SOR)

In addition to his tax issues, the SOR alleges 12 delinquent debts in amounts ranging from \$455 to \$9,970. The following is the status of the SOR debts.

Applicant denied owing the \$2,498 debt to a collection company on behalf of a bank, as alleged in SOR ¶ 1.a. He stated that he did not recognize the creditor. The debt is listed on all three credit reports in evidence. When he was interviewed for his background investigation in February 2023, he stated that he contacted the creditor and found that it was for an old personal loan he obtained. He did not submit any evidence that he disputed the debt with the creditor or the credit reporting agencies. (Tr. at 31-32; Applicant's response to SOR; GE 2, 5-7)

The \$1,449 delinquent debt alleged in SOR ¶ 1.b and the \$1,619 delinquent debt alleged in SOR ¶ 1.k are duplicate accounts. Applicant denied owing the debt. He stated that the debt was charged off, which he thought meant that it had been paid. He

made some payments on the debt and reduced the balance from \$1,619 to \$1,449. He did not submit any evidence of additional payments. (Tr. at 33-37, 47-48; Applicant's response to SOR; GE 2, 5-7)

Applicant admitted he owed the \$1,245 delinquent debt alleged in SOR ¶ 1.c, but he stated that he was making \$120 monthly payments. The credit reports support his statement that he has been making payments, as the balance on the account has been reduced from a high of \$1,265 in November 2022 to \$215 in May 2025. (Tr. at 37-39; Applicant's response to SOR; GE 2, 5-7)

Applicant denied owing the \$1,206 debt to a collection company on behalf of a bank, as alleged in SOR ¶ 1.d. He stated that he did not recognize the collection company. He stated that he had an account with the bank, but he paid the debt. When he was interviewed for his background investigation in February 2023, he stated that he contacted the creditor and was making monthly payments of \$24. He likely made a few payments because the debt was listed on the November 2022 credit report with a balance of \$1,258, but it is listed on the two more recent credit reports with a balance of \$1,206. He did not submit any evidence that he disputed the debt with the creditor or the credit reporting agencies. (Tr. at 40-41; Applicant's response to SOR; GE 2, 5-7)

Applicant's statement that he paid the \$710 delinquent debt alleged in SOR ¶ 1.e is accepted. The debt was listed on the November 2022 credit report with a balance of \$1,085. It was listed on the August 2023 credit reports with a balance of \$710. It is not listed on the April 2025 credit report. (Tr. at 41-42; Applicant's response to SOR; GE 2, 5-7)

Applicant admitted he owed the \$705 delinquent debt alleged in SOR ¶ 1.f, but he stated that he contacted the creditor and the collection company identified in the SOR and neither could locate the account. He stated that he had not contacted either in about a year. The debt is listed on all three credit reports. (Tr. at 43-44; Applicant's response to SOR; GE 2, 5-7)

Applicant's statement that he paid the \$647 delinquent debt alleged in SOR ¶ 1.g is accepted. The debt was listed on the November 2022 credit report with a balance of \$995. It was listed on the August 2023 credit reports with a balance of \$647. It is not listed on the April 2025 credit report. (Tr. at 44; Applicant's response to SOR; GE 2, 5-7)

Applicant denied owing the \$523 delinquent debt alleged in SOR ¶ 1.h. He stated in his response to the SOR that he paid the debt in full. He testified that the debt was charged off, which he thought meant that it had been paid. The debt was listed on the November 2022 credit report with a balance of \$733, but it is listed on the two more recent credit reports with a balance of \$523. He did not submit any evidence of additional payments. (Tr. at 44-45; Applicant's response to SOR; GE 2, 5-7)

Applicant's statement that he paid the \$496 delinquent debt alleged in SOR ¶ 1.i is accepted. The debt was listed on the November 2022 credit report with a balance of \$820. It was listed on the August 2023 credit reports with a balance of \$496. It is not

listed on the April 2025 credit report. (Tr. at 45-46; Applicant's response to SOR; GE 2, 5-7)

Applicant's statement that he paid the \$455 delinquent debt alleged in SOR ¶ 1.j is accepted. The debt was listed on the November 2022 credit report with a balance of \$725. It was listed on the August 2023 credit reports with a balance of \$455. It is not listed on the April 2025 credit report. (Tr. at 46-47; Applicant's response to SOR; GE 2, 5-7)

Applicant denied owing the \$9,970 delinquent debt alleged in SOR ¶ 1.l. Applicant stated that he cosigned an auto loan for his daughter, but the vehicle was repossessed. The debt is not listed on any of the credit reports in evidence. There is insufficient evidence for a finding that Applicant is liable for this debt. (Tr. at 48-51; Applicant's response to SOR; GE 1, 2, 5-7)

Applicant has received financial counseling. He stated that his finances have improved. He maintains a written budget. He lives a normal lifestyle, with no extravagant spending. He believes he should have about \$750 left over each month after he pays his bills, debts, and expenses. He has little in the bank because of unexpected expenses. The record was held open for him to submit additional information about his finances, but nothing was submitted. (Tr. at 66-72)

Applicant's supervisor testified that Applicant is a good employee who follows their processes. He is reliable and does a good job for the company. (Tr. at 74-75)

Policies

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. 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 of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See also EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security concern for financial considerations 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 guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable 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.

Applicant has a history of financial problems, including unfiled federal and state income tax returns, unpaid federal and state taxes, and delinquent debts. AG ¶¶ 19(a), 19(c), and 19(f) are applicable.

There is insufficient evidence for a finding that Applicant is liable for the \$9,970 delinquent debt alleged in SOR ¶ 1.l. That allegation is concluded for Applicant.

SOR ¶¶ 1.b and 1.k allege duplicate accounts. When the same conduct is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant's favor. See ISCR Case No. 03-04704 at 3 (App. Bd. Sep. 21, 2005). SOR ¶ 1.k is concluded for Applicant.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (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.

Applicant is credited with paying or paying most of the debts alleged in SOR ¶¶ 1.c (\$1,245), 1.e (\$710), 1.g (\$647), 1.i (\$496), and 1.j (\$455). Those debts and allegations are mitigated.

Applicant stated that he paid other debts, and he denied owing some other debts because they were charged off, which he thought meant that they had been paid. The remaining delinquent debts are established by credit reports. Credit reports are generally sufficient to establish the Government's *prima facie* case of Guideline F security concerns. See, e.g., ISCR Case No. 03-20327 at 3 (App. Bd. Oct. 26, 2006). He did not submit any evidence that he disputed the debts with the creditors or the credit reporting agencies, and he did not document any additional payments. The Appeal Board has held that "it is reasonable for a Judge to expect applicants to present documentation about the satisfaction of specific debts." See ISCR Case No. 09-07091 at 2 (App. Bd. Aug. 11, 2010) (quoting ISCR Case No. 04-10671 at 3 (App. Bd. May 1, 2006)).

The delinquent debts are problematic, but Applicant's tax issues have the most security significance. 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 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) This is true even when the tax returns are eventually filed, and the taxes are eventually paid.

Applicant retained tax professionals to prepare his tax returns and negotiate any payment plans with the IRS. His 2017 through 2022 federal and state income tax returns were filed in about April 2023. I also believe it is likely he filed his 2014 state income tax return when it was due. AG ¶ 20(g) is applicable to the tax-filing allegations for those years (SOR ¶¶ 1.m and 1.n). He did not document that he filed his 2015 and 2016 federal and state income tax returns, likely because the IRS does not pursue the matter after seven years. Since he owed federal and state taxes for every other year, it is reasonable to assume that that he may have owed taxes for those years as well. AG ¶ 20(g) is not applicable to his federal and state tax-filing obligations for 2015 and 2016 (SOR ¶¶ 1.m and 1.n).

Applicant's state income taxes have been paid. AG ¶ 20(g) is applicable to his paid state taxes (SOR ¶ 1.p). He has not paid his federal taxes, which he thought was about \$13,000. AG ¶ 20(g) is not applicable to his past-due federal taxes (SOR ¶ 1.o).

There is insufficient evidence for a determination that Applicant's financial problems will be resolved within a reasonable period. I am unable to find that he acted responsibly under the circumstances or that he made a good-faith effort to pay his taxes and the unmitigated consumer debts. His financial issues are recent and ongoing. They continue to cast doubt on his current reliability, trustworthiness, and good judgment. Except as noted above, the mitigating conditions are not applicable. Financial considerations security concerns are not mitigated despite the presence of some mitigation.

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 relevant 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), 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. I have incorporated my comments under Guideline F in my whole-person analysis. I also considered Applicant's favorable character evidence.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the financial considerations security concerns.

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.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	Against Applicant

Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	Against Applicant
Subparagraphs 1.i-1.l:	For Applicant
Subparagraphs 1.m-1.n:	Against Applicant (2015 and 2016 only)
Subparagraph 1.o:	Against Applicant
Subparagraph 1.p:	For Applicant

Conclusion

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Edward W. Loughran
Administrative Judge