



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



In the matter of:)	
)	
)	ISCR Case No. 25-00089
)	
Applicant for Security Clearance)	

Appearances

For Government: Brian L. Farrell, Esq., Department Counsel
For Applicant: *Pro se*

03/10/2026

Decision

HALE, Charles C., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application on November 16, 2024. On March 17, 2025, the Department of War (DoW) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline F. The DoW acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense 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).

Applicant answered the SOR on June 27, 2025, and requested a decision on the written record without a hearing. Department Counsel submitted the Government's written case on December 11, 2025. A complete copy of the file of relevant material (FORM) was received by Applicant, on January 7, 2026, and she elected to respond. Her February 5, 2026 Response, which included Applicant Exhibits (AE) A through AE E was received by the Government on February 24, 2026. The SOR and Answer, Government Exhibits (GE) 1 and GE 2, as well as Applicant's Response (AE E) are the pleadings in the case. GE 3 through 7 and AE A through AE D are admitted into evidence without objection. Applicant submitted a lengthy rebuttal to GE 8, a summary of interview, which I have treated as an objection and GE 8 is not admitted. The case was assigned to me on March 2, 2026.

Findings of Fact

In Applicant's Answer to the SOR, she admitted the allegations in SOR ¶¶ 1.a and 1.b and stated both her Federal and state 2016 tax returns had been filed, and she was "almost complete" with her 2015 taxes. Her admissions are incorporated in my findings of fact. Applicant worked closely with the Government prior to the FORM being issued and provided a partial copy of her 2016 federal tax return, which was undated, and evidence that she filed and paid her 2024 federal taxes. (FORM at 4; GE 7.)

Applicant is a 67-year-old widow. Her husband passed away in January 2016. In addition to her husband's death in early 2016, her father-in-law passed away in April 2016; her mother passed away in May 2016; and her good friend passed away in October 2016. (GE 3; Answer; Response.)

SOR ¶¶ 1.a and 1.b: failure to timely file Federal and state income tax returns for tax years 2015 and 2016. Applicant admits the allegation and notes no money was owed. In her Response she states, "I am now aware that the eligibility for security clearance is just as concerned about the actual filing of taxes, and not simply the payment of taxes I might have owed. I admit my initial mistake and have rectified all tax issues. I apologize for any alarm this may have caused." She offered her Federal return for 2015 and 2016 Federal tax transcript along with corresponding state documents. She stated the Federal transcript for 2015 was not yet available given the recency of her filing in January 2026. (Response; AE A; AE B; AE C; AE D.) In her Response she notes:

I paid all the taxes I owed after 2016 and in 2015 and 2016 no taxes were owed. I have a zero for taxes. In fact, in 2015 and 2016 combined including Federal and state taxes, a very large sum of money would have been refunded to me if I had filed the taxes within three years of their due date. (Response.)

Applicant has timely filed her federal and state income tax returns for all years after 2016 and has established an eight-year track record of timely filings.

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*, 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 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. . . . An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . . Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

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 documentary evidence in the record establish the following disqualifying condition under this guideline:

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; 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.

AG ¶ 20(a) is established. Applicant's unfiled tax returns were the result of tragic period in her life. Given the unique circumstances and her otherwise unblemished tax filing history it is unlikely to recur.

AG ¶ 20(b) is not fully established. Applicant attributed her tax issues to death of her husband and several others in 2016. These tragedies are beyond her control and impacted her ability to file her taxes. However, given the lengthy delay it cannot be the cause for her failure to file her Federal and state taxes as required until 2026. She has not acted responsibly.

AG ¶ 20(g) is established. Applicant offered evidence she had filed the tax returns for the years in question. Applicant does not present a perfect case in mitigation, but perfection is not required. In 2016, Applicant was grieving the loss of four people who were very close to her, as a result, she fell behind on filing her federal and state income tax returns for tax years 2015 and 2016. She has no other history of failing to file her taxes aside from this limited window, which was created by unique circumstances. She recognizes filing her taxes is her duty regardless of whether she is getting a refund, and she will continue to do so, or she will lose her security clearance. After 2016, she has established an eight-year track record of timely filing her federal and state taxes. Under the circumstances of this case, I find that her taxes no longer generate security concerns about her judgment, reliability, trustworthiness, and ability to protect classified information. The financial considerations security concerns are mitigated.

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). 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 mitigated the concerns raised by her financial considerations.

Formal Findings

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

Paragraph 1, Guideline F: FOR APPLICANT

Subparagraphs 1.a – 1.b: For Applicant

Conclusion

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

Charles C. Hale
Administrative Judge