DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 25-01259
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Alison O'Connell, Esq., Department Counsel
For Applicant:

06/09/2026

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 January 25, 2018. On January 5, 2026, the Defense Counterintelligence and Security Agency (DCSA) sent her 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 January 27, 2026, admitted all the allegations in the SOR, and requested a decision on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on March 20, 2026. A complete copy of the file of relevant material (FORM) was sent to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. The FORM consists of 13 exhibits. Government Exhibits (GX) 1 and 2 are the pleadings in the case. GX 3 through 13 are the evidence in support of the allegations in the SOR. GX 3 through 13 are admitted in evidence.

Applicant received the FORM on March 23, 2026, and submitted Applicant's Exhibits (AX) A through F, which are admitted in evidence. The case was assigned to me on June 2, 2026.

Findings of Fact

In Applicant's answer to the SOR, she admitted all the allegations in the SOR, with explanations. Her admissions are incorporated in my findings of fact.

Applicant is a 52-year-old employee of a defense contractor. She married in April 1995 and divorced in July 2005. She has two adult children. The record does not reflect her level of education. She was cleared for a public trust position in April 2016.

SOR ¶ 1.a alleges failure to timely file federal income tax returns for "at least" tax years 2009 through 2024 and that, as of the date of the SOR, failure to file federal income tax returns for tax years 2009 through 2016. SOR ¶ 1.b alleges failure to timely file a state income tax return for "at least" tax year 2016.

SOR ¶¶ 1.c, 1.d, and 1.e are garbled, alleging that Applicant is "indebted to the ***State*** of [redacted] for past due ***Federal*** income taxes" for tax years 2017, 2023, and 2024, and that the taxes remain unpaid. Applicant correctly interpreted these allegations to apply only to unpaid state income taxes and submitted her evidence accordingly.

Applicant filed an SCA in January 2018, in which she disclosed that she had failed to file her federal income tax returns for tax years 2011 through 2016 and failed to file her state income tax return for tax year 2016. (GX 3 at 31-34) When she was interviewed by a security investigator in September 2018, she admitted that she had not timely filed her income tax returns because she did not receive her IRS W-2 forms from her employers. However, she also told the investigator that her main reason for not timely filing the federal income tax returns was fear of the IRS and procrastination. She told the investigator that she lived in a state that did not have an income tax from 2011 to 2015, and she admitted that she did not file a state tax return for 2016, because she did not want to deal with it. She told the investigator that she was trying to catch up financially after losing a job. She said she was trying to keep current on her house payments, saving money for house repairs, and sending money to her two children, who were in college (GX 4 at 5-6)

For reasons not reflected in the record, no action was taken to adjudicate Applicant's January 2018 SCA until she received DCSA interrogatories in March and October 2025. She responded to the March 2025 interrogatories in June 2025 by submitting IRS transcripts reflecting that showing that no returns were filed for tax years 2009 through 2016. (GX 4 at 9-26) She responded to a second set of interrogatories in

October 2025 by submitting IRS transcripts reflecting that she had filed her federal returns for tax years 2017, 2019, and 2020 through 2024. (GX 5 through 12) In December 2025, her tax preparer submitted an affidavit stating that he had prepared the 2018 federal tax return for her and mailed it, but it apparently was lost in the mail, and he was working to locate the missing return and would resubmit it if necessary. (GX 13).

Applicant did not submit any evidence regarding her state income tax returns. However, the record contains a letter dated April 29, 2025, from the state tax authority, which responded to a request for a state tax transcript for 2016, and it states, “We do not have any returns on file.” (GX 4 at 27)

In Applicant’s response to the FORM, she submitted evidence that she had made a payment to the state tax authority of $3,819 in January 2026 (AX A); state tax payments of $5,356 and $1,157 in February 2026 (AX B and C); and a state tax payment of $70 in March 2026 (AX D) She submitted a state tax transcript reflecting that her state taxes were paid in full for tax years 2016, 2017, 2023, and 2024 (AX E) She also submitted an IRS tax transcript reflecting that her federal tax return for tax year 2018 was filed in March 2026. (AX F)

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 in the FORM 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 condition is potentially applicable:

> 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(g) is applicable, but not sufficient to mitigate the security concerns in this case. The establishment of some mitigating evidence does not compel a favorable security-clearance decision. ISCR Case No. 11-14784 (App. Bd. Jan. 17, 2014). The fact that an applicant has filed the past-due returns does not preclude careful consideration of an applicant's security worthiness based on longstanding prior behavior evidencing irresponsibility. ISCR Case No. 12-05053 (App. Bd. Oct. 30, 2014).

Failure to file tax returns suggests that an applicant has a problem with complying with well-established governmental rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information. ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002). A clearance adjudication is not directed at collecting debts. Neither is it directed toward inducing an applicant to file tax returns. Rather, it is a proceeding aimed at evaluating an applicant's judgment and reliability. *See* ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008).

In this case, Applicant took no action to file her past-due tax returns until it was apparent to her that they were an impediment to obtaining a security clearance. Applicants who begin to address their security-significant conduct only when their personal interests are at stake may be lacking in judgment and reliability. ISCR Case No. 16-01211 (App. Bd. May 30, 2018). Her belated actions are insufficient to mitigate the security concerns.

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). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate her 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 by her failure to timely file her federal and state income tax returns and pay the taxes due.

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-1.e: 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