



DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

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ISCR Case No. 25-01328

Applicant for Security Clearance

Appearances

For Government:
Rhett E. Petcher, Esq., Department Counsel

For Applicant:
Pro se

06/25/2026

Decision

NAGEL, Jeff A., 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

Applicant submitted a Questionnaire for National Security Positions on September 4, 2024 (Questionnaire). On December 22, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (Financial Considerations). The action was taken 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) effective within DoD after June 8, 2017.

On March 2, 2026, Applicant responded to the SOR in writing (Answer) and requested that this case be decided on the written record in lieu of a hearing. In his Answer, he admitted to all tax issues alleged in the SOR. On April 20, 2026, Department Counsel submitted the Government's written case in a File of Relevant Material (FORM). A complete copy of the FORM, consisting of Government's Exhibits (GE) 1 to 4 and the Government's arguments in support of the SOR, was received by Applicant on April 30, 2026. He was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns, but did not respond within the specified 30-day period. The case was assigned to me on June 22, 2026, and all exhibits were admitted without objection.

Findings of Fact

Applicant is 62 years old. He has worked for the same defense contractor in various capacities since 2011 and is now an aircraft mechanic. He completed his application for a security clearance in connection with this employment. Applicant was married from 1983 – 1990 and from 1997 – 1999. He has two grown children. He attended some high school but did not graduate and served in the Army National Guard from 1981 – 1988. (GE 2 at 5, 8-9, 11-12, 14-17, 25; GE 3 at 2)

SOR Paragraph 1 (Guideline F: Financial Considerations)

The Government alleged that Applicant is ineligible for a security clearance because he has delinquent and unresolved tax issues. I find the following facts regarding the history and status of the tax issues:

1.a. Federal tax returns (2016 – 2023): Applicant acknowledged his failure to file his 2016 – 2023 federal tax returns in his Questionnaire and during his interview with a defense investigator on November 4, 2024. He offered no excuse or explanation to the investigator, stating "I have no answer, I just didn't do it." In his Questionnaire, he elaborated that he "intend(ed) to file when employment benefits start," without further explanation. Applicant has not provided any evidence of having yet filed any of the tax returns alleged in the SOR. (Answer; GE 2 at 25-28)

Whole Person Evidence

Applicant submitted no comments or explanations in his Answer as whole person evidence in mitigation of the security concerns alleged in the SOR. The comments and explanations Applicant included in his Questionnaire, interrogatories, and response to the defense investigator, however, were reviewed in their entirety.

Policies

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list

potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context 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, "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

A person who seeks access to classified information enters into 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information.

Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of Executive Order 10865, "Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

SOR Paragraph 1 (Guideline F: Financial Considerations)

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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 facts of this case establish the following disqualifying condition set forth in AG ¶ 19 to the allegation under Guideline F:

(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 burden therefore shifts to Applicant to mitigate security concerns under Guideline F. The guideline includes the following conditions in AG ¶ 20 that can mitigate security concerns arising from Applicant's financial history:

(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, or a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

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

The record evidence fails to establish AG ¶ 20(a), (b), (d), or (g) for the tax issues alleged as Applicant has not filed his tax returns for eight years, nor has he provided any documentation regarding agreements with, or payments to, taxing authorities. Applicant's statement that he will file his taxes "when employment benefits start" does not constitute

sufficient evidence to meet his burden to show compliance with tax laws and regulations. [ISCR 22-02168 at 4 (App. Bd. Nov. 18, 2024)]. As a result, there is insufficient evidence for a determination that Applicant's financial problems have been resolved or will be resolved within a reasonable period. I am unable to find that he acted reasonably or responsibly under the circumstances or that he made a good faith effort to deal with his tax issues. Applicant's financial issues are ongoing and continue to cast doubt on his current reliability, trustworthiness, and good judgment. None of the mitigating conditions are sufficiently applicable to mitigate the security concerns.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for national security eligibility 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 national security eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the above whole-person factors and the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. I have also given the appropriate weight to Applicant's military service as well as the statements in his Answer, interrogatories, and to the defense investigator. Overall, however, the Guideline F issues in the record evidence leave me with questions and doubts as to Applicant's suitability for national security eligibility and a security clearance.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:

AGAINST APPLICANT

Subparagraph 1.a:

Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, I conclude that it is not clearly consistent with the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

JEFF A. NAGEL
Administrative Judge