



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



In the matter of: )  
)  
) ISCR Case No. 14-03929  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Caroline E. Heintzelman, Esq., Department Counsel  
For Applicant: *Pro se*

08/13/2015

**Decision**

CURRY, Marc E., Administrative Judge:

Appellant failed to provide documentation supporting his contention that he was satisfying his delinquent debts through payment plans. Clearance is denied.

**Statement of the Case**

On November 8, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) 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 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 September 1, 2006.

On November 18, 2014, Applicant answered the SOR, admitting subparagraph 1.c and denying the remainder. On February 26, 2015, Department Counsel prepared a File of Relevant Material (FORM) consisting of documents supporting the Government's allegations. Applicant received the FORM on April 6, 2015, and was informed that he

had until May 6, 2015 to submit a response. Applicant did not submit one, whereupon the case was assigned to me on May 21, 2015.

### **Findings of Fact**

Applicant is a 38-year-old married man with one child. He has been married since 2003 and has been a homeowner since 2004. (Item 2 at 7, 14) He is a high school graduate and is currently working towards a bachelor's degree. (Item 1 at 9; Item 3 at 5) He has been working for a defense contractor since 2001. His current position is in the field of production control. (Item 1 at 10)

Appellant has 11 past-due debts totalling \$31,760. (Item 5) He admits subparagraph 1.c, but provided no information about any payment plan. He denies subparagraph 1.d on the basis that it is not his debt, and he denies the remainder of the debts on the basis that he has contacted the creditors and is now paying them on time. These contentions are not supported by any documentary evidence.

### **Policies**

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied together with the factors listed in the adjudicative process. 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 access to classified information will be resolved in favor of 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 applicant or proven by department counsel. . . ." The applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

### **Analysis**

#### **Guideline F, Financial Considerations**

Under this guideline, "failure or inability 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 information."

(AG ¶ 18) Applicant has incurred approximately \$31,760 of delinquent debt. AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations,” apply.

The following mitigating conditions 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, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;

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

(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.

Appellant failed to provide documentary evidence supporting his contention that he has developed payment plans for any of his delinquent debts. He provided no evidence supporting the basis of his dispute of the debt listed in subparagraph 1.d. Under these circumstances, none of the mitigating conditions apply.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). They are as follows:

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.

The length of time that Appellant has been married, held the same job, and owned a home is indicative of a stable, secure life. He also deserves credit for trying to improve his career opportunities by attending college. However, these positive facts are not sufficient to overcome the security risk generated by his excessive delinquent debts, absent supporting documentation that he is taking steps to satisfy them.

### **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.k:	Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, 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.

MARC E. CURRY  
Administrative Judge