



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



In the matter of:)	
)	
)	ISCR Case No. 14-01184
)	
Applicant for Security Clearance)	

Appearances

For Government: Eric Borgstrom, Esq. Department Counsel
For Applicant: *Pro se*

10/20/2014

Decision

CURRY, Marc E., Administrative Judge:

Between 2007 and 2011, Applicant incurred approximately \$111,000 of debt. At least \$55,000, owed to three creditors listed in the Statement of Reasons (SOR), was delinquent. Applicant’s financial distress occurred primarily because of circumstances beyond his control. Since late 2011, he has negotiated the reduction of more than 60% of his debts with the help of a debt resolution agency, and developed a payment plan for the remainder of the debts, to which he has adhered. Under these circumstances, I conclude Applicant has mitigated the financial considerations security concern.

Statement of the Case

On April 30, 2014, the Department of Defense Clearance Adjudication Facility (DOD CAF) issued an SOR to Applicant detailing security concerns under Guideline F, Financial Considerations. DOD CAF acted 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) implemented by the DOD on September 1, 2006.

Applicant answered the SOR on May 13, 2014, admitting subparagraph 1.a, and denying subparagraphs 1.b and 1.c. He requested a decision on the written record instead of a hearing. On July 29, 2014, Department Counsel prepared a File of Relevant Material (FORM). Applicant received the FORM on August 16, 2014, and he filed a response on August 27, 2014. The case was assigned to me on September 3, 2014.

Findings of Fact

Applicant is a 45-year-old married man with two children, ages 13 and 9. He is a high school graduate and has taken some college courses. Since 2008, Applicant has been working for a defense contractor as a systems engineer.

In 2007, Applicant began job hunting with the intention of relocating to an area close to where he was raised. In June 2007, after receiving and accepting an offer, Applicant quit his job and moved. Upon relocating, Applicant's new employer told him that his start date was going to be postponed for a few weeks. Initially, this did not pose a problem, as Applicant and his wife used savings to support themselves. However, "the few weeks turned into months." (Item 2 at 2) Ultimately, Applicant's prospective employer informed him that they had eliminated the position they had offered him.

Applicant then sought compensation for the moving expenses from the recruiting agency that helped him find the job. It rejected his request. (Item 2 at 2) Applicant was now "scrambling to get a job." (Item 2 at 2) After four months of unemployment, Applicant, in October 2007, accepted a job that paid approximately \$33,000 less than the one that he left before relocating. (Item 2 at 2; Item 3 at 10) Applicant ultimately left this job in May 2008 to begin work with his current employer. (Item 1 at 9) Although he received a slight raise, his salary was still approximately \$28,000 less than the salary he earned before relocating in 2007.

By the time Applicant had begun working at his current job, his job struggles together with the uncompensated relocation costs left him in financial distress. By 2011, he had incurred nearly \$111,000 of debt. (Response at 15)

In November 2011, Applicant retained a debt resolution agency. (Response at 15) The debt resolution agency then began the process of settling Applicant's debts and consolidating them into a payment plan. Under the plan, beginning on November 18, 2011, Applicant agreed to pay \$1,347 monthly over a period of 48 months. (Response at 16)

Applicant has adhered to the plan, as agreed. To date, he has satisfied approximately \$18,000 of his debts. (Response at 16) Approximately \$18,900 of debt remains outstanding. He is scheduled to complete the payment plan by October 2015.

Subparagraph 1.a, totalling \$9,573, is included in the payment plan. Subparagraphs 1.b and 1.c, two debts owed to the same creditor, totaling approximately

\$43,000, were not included in the payment plan. Instead, they were cancelled and reported to the U.S. Internal Revenue Service (IRS) in 2012. (Item 2 at 2-3)

Recently, Applicant's wife began a second part-time job. Depending on the number of hours she works, the family income is now approximately \$200 to \$500 more per month than it was before she took the job. (Item 2 at 3)

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 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) Moreover, "an individual who is financially overextended is at risk of having to engage in illegal acts to generate funds." (*Id.*)

Between 2007 and 2011, Applicant incurred approximately \$111,000 of debt. At least \$55,000, owed to three creditors listed in the Statement of Reasons (SOR), was delinquent. Applicant began experiencing financial problems after he quit his job and relocated to another state in anticipation of taking a new job that never materialized. Although he obtained a full-time job after four months of unemployment, he has yet to make the salary that he made on the job that he held before relocating.

In late 2011, Applicant consulted a debt resolution agency. With the agency's help, he has negotiated the reduction of his debts by approximately 60%, and

consolidated the remainder into a payment plan. He has been making monthly payments towards the satisfaction of the payment plan for the past three years, and is on schedule to complete it in October 2015, as planned.

Applicant did not satisfy two of the three SOR debts (subparagraphs 1.b and 1.c). Instead, they were cancelled and reported to the IRS in 2012. These cancelled debts total approximately \$43,000. I conclude that the negative inference generated by these debt cancellations is outweighed by the circumstances surrounding the origin of the financial problems, the steps Applicant has taken to generate a debt reduction plan, and the progress Applicant has made thus far to implement the debt reduction plan.

The following mitigating conditions are applicable:

(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 and/or there are clear indications that the problem is being resolved or is under control; and

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

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.

Applicant's financial problems were not caused by financial irresponsibility or exorbitant spending. Instead, they occurred after he quit his job to take a job that ultimately never materialized. Since then, Applicant has acted prudently, retaining a debt resolution agency, developing a payment plan, and adhering to it. Applicant has almost finished executing the payment plan. Given the progress he has made thus far, I am confident that he will finish the plan as scheduled. Considering these facts in the context of the whole-person concept, I conclude Applicant has mitigated the security concern.

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:	FOR APPLICANT
Subparagraphs 1.a-1.c:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

MARC E. CURRY
Administrative Judge