



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



In the matter of: )  
)  
) ISCR Case No. 14-03726  
)  
Applicant for Security Clearance )

**Appearances**

For Government: John Bayard Glendon, Esq., Department Counsel  
For Applicant: *Pro se*

03/18/2016

**Decision**

CURRY, Marc E., Administrative Judge:

Given that Applicant has satisfied all of the debts alleged in the Statement of Reasons (SOR), I conclude that there are no longer any security concerns about his financial stability. Clearance is granted.

**Statement of the Case**

On August 29, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued an 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 September 9, 2014, Applicant answered the SOR, denying all of the allegations, and requesting a decision on the record rather than a hearing. On June 4, 2015, Department Counsel prepared a File of Relevant Material (FORM) consisting of

documents supporting the Government's allegations. Applicant received the file on June 30, 2015, and was informed that he had until July 30, 2015 to submit a response. Applicant did not reply, and the case was subsequently assigned to me on October 23, 2015.

### **Findings of Fact**

Applicant is a 40-year-old single man. He has a high school education. Since 2006, he has worked for a defense contractor as a service technician.

In 2008, Applicant's employer reduced its employees' wages by ten percent. (Item 6 at 1) Subsequently, Applicant began struggling to make ends meet. He considered taking a part-time job to supplement his income, but was unable to find one compatible with his full-time schedule, as he was frequently on-call when he was not officially working. (Item 6 at 1)

Later that year, Applicant cashed in his IRA in an effort to make ends meet; however, this led to additional problems. Specifically, Applicant thought the penalties and the income taxes were deducted up front from the amount that he received, when in fact, only the penalty was deducted. Consequently, Applicant incurred a state income tax bill, totalling \$6,040, as alleged in SOR subparagraph 1.c and duplicated in SOR subparagraph 1.d, that he was unable to pay on time.

As time passed, Applicant incurred other delinquencies, including a delinquent mortgage, totalling \$10,673 (SOR subparagraph 1.a), a delinquent medical bill, totalling \$171 (subparagraph 1.b), a debt owed to a music streaming company for \$49 (SOR subparagraph 1.e), a debt owed to a satellite television provider, totalling \$890 (SOR subparagraph 1.f), and \$136 owed to a DVD provider (SOR subparagraph 1.g). Applicant voluntarily allowed the mortgage on his home to be foreclosed upon. The post-foreclosure resale of the home exceeded the remaining balance that Applicant owed. (Item 3 at 3)

In 2012, Applicant satisfied an unlisted delinquent debt, totalling \$300. (Item 6 at 3) By April 2014, Applicant had satisfied the tax delinquency through a wage garnishment, prompting the release of the lien. Also that month, he satisfied all of the remaining SOR debts, including the debt owed to the satellite television company, which he paid through a negotiated agreement. (Item 3 at 1 - 3) Currently, none of Applicant's bills are delinquent.

### **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.

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.

## **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) Between 2008 and 2010, Applicant incurred approximately \$18,000 of outstanding delinquent debt, including a mortgage delinquency and an income tax delinquency. 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 under 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, 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; and

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

Applicant's financial problems began in 2008 after his employer cut his wages. Cashing out his IRA that year may have alleviated his financial difficulties over a short-term period, but ultimately compounded his problems as he miscalculated the income tax consequences, leading to a tax debt that he was unable to pay.

Applicant's mortgage debt was satisfied through the foreclosure process, and he has paid the remainder of his delinquent debts. I conclude that all of the mitigating conditions apply.

### **Whole-Person Concept**

Department Counsel argues that despite the fact Applicant has satisfied the SOR delinquencies, there is not enough record evidence of the circumstances surrounding the origin of the debts to conclude in Applicant's favor. I agree with Department Counsel that the record is scant. However, I consider that the evidence presented, particularly the cause of the delinquencies, and Applicant's payment of them, is sufficient for Applicant to carry the burden.

### **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.g:	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

