



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



In the matter of:	)	
	)	
----- - -----	)	ISCR Case No. 08-04706
SSN: — - ----	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: John B. Glendon, Esquire, Department Counsel  
For Applicant: *Pro Se*

December 8, 2008

---

**Decision**

---

CURRY, Marc E., Administrative Judge:

On June 23, 2008, the Defense Office of Hearings and Appeals (DOHA) 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 revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant answered the SOR on July 7, 2008, admitted all of the allegations, and requested an administrative determination. On August 18, 2008, department counsel prepared a File of Relevant Material (FORM). Applicant did not reply. On October 23, 2008, the case was assigned to me. I have reviewed the FORM and have concluded that it is not clearly consistent with the national interest to grant Applicant access to classified information. Clearance is denied.

## **Findings of Fact**

Applicant is a 64-year-old married man with three children, ages seven, five, and three. He has been married for 11 years. A previous marriage ended in divorce in 1997. He is a veteran of the U.S. Air Force serving from June 1971 through December 1972 when he was honorably discharged (Item 4 at 10). Applicant is a spacecraft analyst. He earned a bachelor of science degree in 1979.

Within the last seven years, Applicant has accrued eight delinquent debts in the approximate amount of \$75,000 (Item 3). Two resulted in judgments in 2006 (SOR subparagraphs 1.a and 1.b). All except for SOR subparagraph 1.h, a student loan account, are credit card accounts. SOR subparagraphs 1.b, 1.d, 1.e, and 1.f were accounts that he cosigned for a friend (Item 3 at 11-12). The friend later defaulted on the accounts.

In March 2008, Applicant retained a credit counselor to assist him with a repayment plan (Item 5 at 18). SOR subparagraphs 1.c through 1.f are included in the plan. His assertion that he has been satisfying these SOR debts through the plan is not supported by conclusive, documentary evidence. Also, approximately \$33,000 of his delinquencies are not included in the plan (SOR subparagraphs 1.a, 1.b, 1.g., and 1.h).

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an Applicant's eligibility for access to classified information.

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 as to 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.*).

Applicant has accrued approximately \$75,000 of delinquent debt. At least one of the debts has been delinquent since February 2005. AG ¶¶ 19(a), “inability or unwillingness to satisfy debts,” and 19(c), “a history of not meeting financial obligations” apply.

The delinquencies are still outstanding. Consequently, AG ¶ 20(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,” is not applicable.

Applicant’s friend accrued the majority of the delinquencies after defaulting on loans Applicant cosigned. Applicant then became legally responsible for satisfying them. Under these circumstances, 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,” does not apply.

Applicant retained a credit counselor, who helped him develop a payment plan. The payment plan only includes four of the eight SOR debts. Moreover, I was unable to ascertain the extent of his payment progress because Item 6, which appears to chronicle the payment history, is arranged in a confusing and disorganized fashion. I conclude Applicant’s retention of a credit counselor and initiation of a payment plan trigger the application of AG ¶¶ 20(c), “the person has received or is receiving counseling for the problem . . .,” and 20(d), “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts,” apply, but have minimal probative value.

### Whole Person Concept

Under the whole person concept, the administrative judge must evaluate an applicant’s eligibility to occupy a sensitive position by considering the totality of the applicant’s conduct and all the circumstances. 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) 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 must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

Applicant contends the majority of the delinquencies were accrued by a friend who defaulted on several loans that Applicant had cosigned. This surrounding circumstance does not mitigate the financial concern. As a cosigner, Applicant agreed to be responsible for the bills if his friend defaulted. The issues surrounding his friend's default are irrelevant. Moreover, Applicant's decision to cosign multiple loans raises questions about his judgment. Applicant deserves credit for being forthcoming about the delinquencies throughout the adjudicative process. He failed, however, to establish that his delinquent debts are under control. Evaluating this case in the context of the whole person concept, I conclude that the financial considerations remain a security concern. Clearance is denied.

### **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.h:	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