



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



In the matter of: )  
)  
) ISCR Case No. 12-10436  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Julie R. Mendez, Esq., Department Counsel  
For Applicant: *Pro se*

07/20/2016  
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**Decision**  
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CURRY, Marc E., Administrative Judge:

Applicant has more than \$50,000 of delinquent debt. He provided no evidence of any steps to address them. Clearance is denied.

**Statement of the Case**

On August 16, 2015, 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, and Guideline E, personal conduct. 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 October 7, 2015, Applicant answered the SOR, admitting the allegations set forth in SOR subparagraphs 1.a through 1.e. As for SOR subparagraphs 1.f and 1.g, he answered "I don't know." In response to SOR subparagraph 2.a, an allegation of falsifying a security clearance application by not disclosing relevant financial information regarding financial

delinquencies, Applicant answered, “I didn’t know at that time, so I said ‘no.’ ” I construe these responses as denials. Applicant requested a decision on the record rather than a hearing.

On December 4, 2015, Department Counsel prepared a File of Relevant Materials (FORM). Applicant received the FORM on March 4, 2016. He submitted no response. On April 22, 2016, the case was assigned to me.

### **Findings of Fact**

Applicant is a 60-year-old married man with one adult child. He is a high school graduate, and he has been working as a blaster for a federal contractor since 1990. (Item 3 at 10)

As of June 2015, Applicant was two months behind on his mortgage payment, as alleged in SOR subparagraph 1.e. In addition, by June 2015, he had incurred additional delinquent debt totalling approximately \$50,000. Approximately \$45,000 of these delinquent debts constitute student loans (SOR subparagraphs 1.f and 1.g). The remainder consists of a delinquent loan totalling approximately \$2,500 (SOR subparagraph 1.a), and three telecommunications bills totalling approximately \$550 (SOR subparagraphs 1.b through 1.d). Applicant submitted no evidence in mitigation.

### **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’s history of financial problems triggers the application of AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations.” Applicant provided no evidence regarding the cause of his financial delinquencies, nor any evidence of what, if anything, he has been doing to satisfy them. Under these circumstances, none of the mitigating conditions apply.

### **Guideline E, Personal Conduct**

Under this guideline, “conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified information.” (AG ¶ 15) Applicant’s omission of relevant financial information from his security clearance application raises the issue of whether AG ¶ 16(a), “deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities,” applies.

Applicant did not know that the debts alleged to have been intentionally omitted from his security clearance application were delinquent when he completed the application. Under these circumstances, the omissions were not intentional. I conclude there are no personal conduct security concerns.

### **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 provided no evidence explaining the circumstances surrounding the incurrence of his delinquencies, nor did he provide evidence of a plan to address his debt. Under these circumstances, Applicant has not carried 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:	AGAINST APPLICANT
Subparagraphs 1.a-1.g:	Against Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For 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