

SYNOPSIS

Applicant mitigated foreign preference concerns as she relinquished her expired foreign passport. Under a whole person analysis she also mitigated foreign influence security concerns over her bonds to her father who is a citizen of Iran and resides there. Applicant has strong ties to the U.S. She was born in the U.S., resided in the U.S. as a child and during her high school and college years. Her work and professional ties are exclusively in the U.S. Applicant's assurances that she would contact appropriate U.S. officials if any foreign influence pressure were to be attempted are credible. Her supervisors and others praise her exemplary work as well as her loyalty and trustworthiness. She had no intent to willfully falsify by an omission on her security clearance application, so personal conduct concerns not longer continue. Clearance is granted.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR)¹ to the Applicant on February 10, 2006. The SOR detailed reasons why the Government could not find that it is clearly consistent with the national interest to grant her access to classified information. The SOR alleges specific concerns in paragraph 1 over foreign influence (Guideline B), in paragraph 2 over foreign preference² (Guideline C), and in paragraph 3 over personal conduct³ (Guideline E). Applicant replied to the SOR allegations in an Answer notarized on February 27, 2006, where she requested a hearing.

Department Counsel stated the case was ready to proceed on August 15, 2006. The case was assigned initially to another judge on August 23, 2006, and re-assigned to me on that day. Applicant retained counsel who entered her appearance on September 15, 2006. On October 19, 2006, DOHA issued a Notice of Hearing and set this case to be heard on November 16, 2006, in a city near where Applicant lives and works. At the hearing the government presented one exhibit (Exhibit 1) which was admitted into evidence without objection. Department Counsel's request that administrative notice (AN) be taken of the information contained in Exhibits I - VI was granted as Applicant's counsel did not object. (TRR 18) Applicant's counsel called two witnesses and offered twenty-six exhibits (Exhibits A-Z) which were admitted into evidence without objection. (TRR 20-29)

Procedural Issue: "Old" Guidelines vs. "Revised" Effective Date

Subsequently, there was a discussion over whether the "Old" Guidelines or the "Revised"

¹ This procedure is required by DoD Directive 5200.6, dated January 2, 1992 (Directive).

² While the Department Counsel did not formally withdraw the allegation under Guideline C, they acknowledged that Applicant's attachment to her Answer fully mitigated the security concerns under Foreign Preference as she no longer possesses an Iranian Passport and has surrendered it. (Answer; TRR 10-14) However, Department Counsel in her opening argued that Applicant's travel to visit family members in Iran under her Iranian passport triggered disqualifying conditions under Guideline B, Foreign Influence. (TRR 15)

³ While the Department Counsel did not formally withdraw the allegation under Guideline E, they acknowledged that Applicant's attachment to her Answer fully mitigated the security concerns under Personal Conduct. (Answer; TRR 14)

or “New” guidelines apply to this matter as the SOR was issued on February 10, 2006. This SOR date is after the White House issued the Revised Adjudicative Guidelines on December 29, 2005, with guidance that they be circulated for “immediate implementation” but with no effective date indicated (AN VIII), but prior to September 1, 2006, when the Undersecretary of Defense (DoD) issued a memorandum stating the “revised Guidelines apply to all adjudications and other determinations in which a Statement of Reasons has not been issued by September 1, 2006.” (AN VII) Department Counsel argued that DOHA has a policy to apply the “Revised” guidelines only to cases where the SOR was issued on September 1, 2006, and thereafter. (AN VII) Applicant’s counsel argued that the “New” guidelines should be effective and should have been implemented by agencies immediately after they were issued and approved by the President on December 29, 2005. (AN VIII & IX) Consequently, Department Counsel and Applicant’s Counsel each made an offer that Exhibits VII to IX be accepted also for Administrative Notice which I granted, so that this legal issue could be addressed. (TRR 126-136) Although Applicant’s Counsel makes a rational argument, I conclude I am bound by DoD policy guidance. Therefore, I will apply the “old” adjudication guidelines.

Procedural Issue: Transcript Errors

The initial transcript (TR1) was received on December 8, 2006. Subsequently, Applicant’s counsel protested the accuracy of the transcription (TR1) in a Notice of Filing of Transcript Errata, which she submitted on January 22, 2007. After I received it on January 25, 2007, I immediately forwarded her concerns to the company that prepare’s DOHA’s official transcripts for their review. In a subsequent discussion on e-mail, the Department Counsel agreed to some changes for accuracy, but expressed a caution that some suggested changes were editorial changes, not simply errors.

Subsequently, the court reporting firm agreed to review the tapes of the hearing and issue a new official, revised transcript (**TRR**) which they completed on January 29, 2007, and sent to all parties along with an annotated⁴ version of the Notice of Filing of Transcript Errata as to which changes were made or rejected. I received TRR on February 2, 2007. Applicant’s Counsel filed a Supplemental Notice of Filing of Transcript Errata on January 30, 2007, and requested sixteen (16) additional changes to the TRR to words in her closing⁵ argument. Despite the Department Counsel’s

⁴ The Annotated version of Notice of Filing of Transcript Errata used the code T = transcript stands as submitted where there was no error; E = proposed change is accepted; they also used “E” to indicate changes that were warranted, but not the change proposed by counsel. He instructed us to discard the earlier version of the transcript (TR1). (Neal R. Gross & Co., Inc. Letter of 1/29/07)

⁵ I note that there are still errors in the TRR. Also, page 83 reflects that the recording cut off after 45:02 on part 3, so it is possible that some testimony of Applicant was not transcribed. Some of the obvious remaining errors I have corrected by pen and ink and initialed: *e.g.* page 15, line 21: “our” should be “her”; page 107, line 12 of the government’s argument, “undue” should be “undo.” Also, page 109, line 24, “Iraq” should be “Iran.” Although Department Counsel raised some objections to further proposed TRR changes, for clarity in the closing argument I concur with the following suggested changes and have amended the TRR by pen and initialed Applicant’s counsel’s suggested changes to her closing argument, and other errors: page 111, line 13: “Ford” should be “Board” and on line 15 “necrate” should be “concrete”; page 112, line 11: “Iranian” should be “American”; page 117, line 5: “seek” should be “speak”; page 119, line 12: “proper” should be “a proffer”;

concerns over the suggested changes, I amended the TRR to clarify and correct the TRR, including parts of the closing arguments of both parties.

FINDINGS OF FACT

After a complete and thorough review of the evidence in the record, and upon due consideration of that evidence, I make the following additional Findings of Fact:

Applicant, 43 years old, is a business analyst who has worked for a defense contractor (Employer #1) in State #1 since November 2004. On November 12, 2004 she completed a Security Clearance Application (Standard Form 86). She currently is limited to unclassified work as she has no clearance. (Answer; Exhibit 1; Exhibit G; TRR 66-68; 99) She previously had a security clearance from the U.S. Department of State when she worked for another contractor. (TR 66-67, 84; Exhibits L, M, N)

Applicant attended university in State #2 in 2000 to 2001. She is now studying for a master's degree in computer science. She earlier attended a U.S. high school in State #3, and graduated in 1981. She then attended college in State #3 and received a degree in 1985. (Exhibit 1; TRR 61, 66; 83-84)

Personal Conduct

In 1992 she went to Iran to see her father after his stroke. During that stay she was officially engaged to an Iranian citizen whom she had met in the U.S., but the relationship was later annulled. She lived with his parents in Iran for a month and found out he was a deceitful person. Her mother came and "rescued" her. She then lived with her grandmother and later with her father. Until she was free of her legal bounds to her fiancé, she could not leave Iran because she was "affiliated" to him and because her American passport had expired. She remained for approximately three years (Answer; TRR 51, 68-73; 91-94)

Applicant denied any attempt to falsify when she completed her SF 86 in 2004. While she did not disclose that she had been married, she argued that legally it was not a marriage as the relationship was annulled, and she had no subsequent contact. (Answer; TR 79-80) Applicant established credibly that she had no intent to falsify the form. She earlier had provided a supplement to her Questionnaire for Public Trust Position in January 2003 which disclosed this relationship which began with an "official" engagement in December 1992; the "official" relationship ended in July 1993. (Answer; Exhibit Z)

Foreign Preference and Foreign Influence

page 120, line 22: "insist" should be "assist";
page 122, line 14: "accounted" should be "encountered" and line 18 "suppressive" should be "repressive";
line 19 "Applicant's successful resist" should be "Applicant would successfully resist";
page 127, line 7: "Exhibit Roman Numeral VI seven" should be "Exhibit Roman Numeral VII seven";
page 130, line 24: "ray" should be "RE";
page 133, line 19: "departs her de-process" should be "deprives her of due process";
page 134; line 11: "do" should be "ignore."

Applicant is a United States (U.S.) citizen who was born in the U.S. in State #4 while her father was teaching at a U.S. university and had a U.S. green card. Applicant was also considered an Iranian citizen by virtue of her father's Iranian citizenship under the laws of Iran. (Exhibit 1; TRR 50) She lived in the U.S. until she was four years old when her family returned to Iran. She and her family returned to the U.S. in 1979 when she was 15 because under the policies of the Islamic revolution and subsequent government educational opportunities for women were limited. (TRR 51, 55-56, 60)

When she was 18, the Iranian government "insisted" that she give up her U.S. citizenship as they would no longer accept her dual citizenship and required any student who wanted financial aid from Iran to have a U.S. visa in an Iranian passport. As a U.S. citizen, Applicant could not obtain a U.S. visa in her Iranian passport. Despite this pressure from the Iranian government, she resisted. Instead, she chose to maintain her U.S. citizenship and declare herself financially independent at age 18, so she could apply for financial aid and support herself in college. (TRR 62-66; 98; See Exhibit F)

Applicant's mother, initially a citizen of Iran, has now become a naturalized U.S. citizen in June 2005 and resides with Applicant in State #1. (Exhibit A; TRR 51; 87) Applicant's father and grandmother⁶ remain in Iran. However, she provides no financial support for them. Applicant has no friends in Iran. She owns no property in Iran. (TRR 54-55)

- Her grandmother is 87 and has never been employed; she cannot leave Iran as she is disabled; she has been diagnosed with early stage Alzheimer's disease and paralysis. Applicant calls her occasionally to inquire about her health. (Exhibit D; TRR 52, 54; 90-91)
- Applicant's father is 71 and has a degree from a U.S. university in civil and mechanical engineering; he was a professor and is now retired. He never worked for the government of Iran and was not active politically. He is now in poor health as he had a stroke in the 1990s and one again in 2004. His speech is now impaired, so she cannot understand what he says. He is too ill to travel. (Exhibit C; TRR 53-54, 60; 86-87, 89) Even though her father was ill in 2004, she chose not to go to Iran and visit him for several reasons, including that she did not want to raise U.S. security concerns by travel to Iran. (TRR 77-78) Applicant only has short conversations monthly with her father where she asks about his health. (TR 88-89) He has been diagnosed with CVA (cerebrovascular accident) and low level of consciousness by his medical doctor in Iran. (Exhibit C)

Applicant returned to Iran twice – in 1992 and 2000. After the laws were changed in Iran for Iranian exiles in 1991, she could again get an Iranian passport in order to travel to Iran. She entered and left Iran on her Iranian passport (TRR 51, 74-77) In 2000 she got a new Iranian passport and went to see her father for three weeks. (TRR 74-76) She now has relinquished her expired Iranian passport to the Pakistan Embassy. (Exhibit Y; TRR 95-96) She has no intent to exercise any rights of her Iranian citizenship since she surrendered her passport. (TRR 99) She has no present intention to return to Iran to visit. (TRR 77-78)

⁶ No security concern is raised in the SOR over Applicant's grandmother.

Applicant considers herself an American and feels no ties to the Islamic Republic of Iran. If she were very approached by an Iranian agent, she would inform U.S. authorities. (TRR 81-82) She feels no allegiance to the Islamic Republic of Iran. (TRR 83) She testified she believed that the repression in Iran is systematic by the Government as a woman cannot travel, for example, and have no legal rights. (TRR 96-98) Applicant's family have played important in Iran's history. She is proud of her Iranian cultural heritage. Yet family ties were to Reza Shah who was deposed in 1979; those ties created varying political problems for the family. Her family, including her father, have no ties or links to the current government of Iran. (Exhibits B, E, W; TRR 56-60; 85-86) Since she has no present intention to return to Iran to visit, there is little likelihood of such pressure being brought on her. Applicant credibly established that even if someone were pressuring her family, she would not yield to that kind of pressure.

References

Applicant's project manager who has a Top Secret/ SCI security clearance, recommended that Applicant be granted a Secret clearance. She evaluated Applicant's work as "exceptional." With daily contact, this manager sees that Applicant works cooperatively and effectively with others on the team. Applicant has had no security, work, or ethics issues. She has taken Security Awareness Training. The manager has trust in Applicant's ability to uphold the integrity of the U.S. government and demonstrate full allegiance to the U.S. government. She reported that Applicant's immediate supervisor also assessed her positively. She is an asset to the firm. (Exhibit G)

The human resources manager and facility security officer reviewed Applicant's files and found only positive information. She has had no security violations and has taken three security courses. As a vital and valued member of the team, she has received bonus "spot" awards each year. (Exhibit H)

A work colleague commented favorably on her work ethic and attention to detail. He recommended her for a security clearance based on her demonstrated loyal service to the project and mission. (Exhibit I)

A friend who has known her personally and professionally since 1999 and has a Top Secret clearance recommends her for a security clearance. (Exhibit J)

Work colleagues from her previous employer who worked with her from 2003 to 2004 supported her application for a security clearance. (Exhibits L, M, N)

Applicant received a 2006 certificate of appreciation. (Exhibit K) She has been brief on security fundamentals. (Exhibit O) She has completed training seminars. (Exhibits P, Q)

A friend she has known since 1975 recommended her for a security clearance. (Exhibit R) Her neighbors recommend her as responsible and professional. (Exhibit S) A former work colleague also endorses her. (Exhibit T) Several friends have endorsed her. (Exhibits U, V) Her college professor who has known her since 1980 has endorsed her. (Exhibit X)

Her second cousin, who was born in Iran, but is now a citizen of Belgium who resides in the U.S. and works for the World Bank, testified for Applicant and provided additional details on the

family background. (TRR 31-48)

Iran

The U.S. State Department Country Reports on Terrorism 2005 concluded Iran continued to maintain ties to terrorist groups and provided “unique safe haven, substantial resources and guidance to terrorist organizations.” (AN I, page 171) The U.S. State Department Background Note on Iran noted that Iran’s “Islamic foreign policy” emphasizes vehement anti-U.S. stances and concluded that the U.S. believes that “normal relations are impossible until Iran’s policies change.” (AN II, pages 5, 6) The U.S. State Department Country Reports on human rights 2005 concluded Iran has human rights issues. (AN III) The Congressional Research Service (CRS) issued a report on Iran: U.S. Concerns and Policy Responses. (AN IV) The U.S. State Department has issued a travel warning on Iran (AN V) and a Consular Information Sheet (AN VI).

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to consider in evaluating an individual's security eligibility. They are divided into conditions that could raise a security concern and may be disqualifying and conditions that could mitigate security concerns in deciding whether to grant or continue an individual's access to classified information. But the mere presence or absence of any given adjudication policy condition is not decisive. Based on a consideration of the evidence as a whole in evaluating this case, I weighed relevant adjudication guidelines as set forth below:

Guideline B - Foreign Influence

E2.A2.1.1. The concern: A security risk may exist when an individual's immediate family, including cohabitants, and other persons to whom he or she may be bound by affection, influence, or obligation are: (1) not citizens of the United States or (2) may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure.

Guideline C - Foreign Preference

E2.A3.1.1. The concern: When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

Guideline E - Personal Conduct

E2.A5.1.1. The Concern: Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to

comply with rules and regulations could indicate that the person may not properly safeguard classified information.

The responsibility for producing evidence initially falls on the Government to demonstrate that it is not clearly consistent with the national interest to grant or continue Applicant's access to classified information. Then the Applicant presents evidence to refute, explain, extenuate, or mitigate in order to overcome the doubts raised by the Government, and to demonstrate persuasively that it is clearly consistent with the national interest to grant or continue the clearance.

Under the provisions of Executive Order 10865, as amended, and the Directive, a decision to grant or continue an applicant's security clearance may be made only after an affirmative finding that to do so is clearly consistent with the national interest. In reaching a fair and impartial overall common sense determination, the Administrative Judge may draw only those inferences and conclusions that have a reasonable and logical basis in the evidence of record.

CONCLUSIONS

Foreign Influence

Because of Applicant's family ties to Iran where her father and grandmother⁷ live and remain citizens, the government raised foreign influence concerns under disqualifying conditions (DC): E2.A2.1.2. 1. An immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country; and E2.A2.1.2.6. Conduct which may make the individual vulnerable to coercion, exploitation, or pressure by a foreign government. The Government established through the documents they submitted for administrative notice (AN I-VI) the turbulent relationship between the U.S. and Iran.

While I have seriously considered these security concerns and the documents submitted for administrative notice on Iran, I conclude Applicant has presented sufficient evidence to meet the heavy burden these circumstances present. And to mitigate⁸ the Government's security concerns over possible foreign influence. In evaluating the relevance of her conduct, I considered the following Adjudication Process factors:

⁷ The SOR raises no security concern over Applicant's grandmother. Her mother who was a citizen of the U.S. is now a naturalized U.S. citizen and lives in the U.S. Her engagement was annulled in 1993 and she has no contact with this individual.

⁸ E2.A2.1.3 Conditions that could mitigate security concerns include: E2.A2.1.3.1. A determination that the immediate family member(s), (spouse, father, mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States; E2.A2.1.3.3. Contact and correspondence with foreign citizens are casual and infrequent.

- E.2.21.1. The nature, extent, and seriousness of the conduct;
- E.2.2.1.2. The circumstances surrounding the conduct, to include knowledgeable participation;
- E.2.2.1.3. The frequency and recency of the conduct;
- E.2.2.1.4. The individual's age and maturity at the time of the conduct;
- E.2.2.1.5. The voluntariness of the participation;
- E.2.2.1.6. The presence or absence of rehabilitation and other pertinent behavioral changes;
- E.2.2.1.7. The motivation for the conduct;
- E.2.2.1.8. The potential for pressure, coercion, exploitation, or duress; and
- E.2.2.1.9. The likelihood of continuation or recurrence. (E.2.2. Adjudication Process)

Given her strong ties to the U.S. with her mother in the U.S. and her assets in the U.S., Applicant established that there is little likelihood that she would submit to any potential pressure on her family who remain in Iran. One indication is that even when finances became an issue when she was in college, she resisted pressures and did not give up her U.S. citizenship in order to get funding for her college. That action indicates her independent character. Also, she showed fortitude in ending a difficult relationship with an Iranian citizen and having it annulled in 1993 under Iranian law. She subsequently returned to the U.S.

Significantly, her many references vouch for her allegiance to the U.S. and her trustworthiness. As Applicant's supervisor and the FSO established, Applicant has a substantial history with her employer since 2004 and is viewed as trustworthy. Her work is always excellent. Former colleagues, a college professor as well as friends who have known her for a substantial period of time recommend her for access to classified information. Thus, I conclude there is limited potential for coercion, exploitation or duress. (E.2.2.1.8. The potential for pressure, coercion, exploitation, or duress.) She feels no allegiance to the Islamic Republic of Iran. She acknowledged the repression in Iran is systematic by the Government as a woman cannot travel, for example, and have no legal rights. Yet she resisted that pressure at age 18 and refused to abandon her U.S. citizenship as the price of receiving student aid from Iran.

While she has family members who remain citizens and residents of Iran, her father is retired and has no ties to the government. Applicant has been a U.S. citizen since birth, attended high school and college here, and has not visited Iran since 2000 when she went to see her father for three weeks. As will be discussed further below, she now has relinquished her Iranian passport to the Pakistan Embassy and has no intent to exercise any rights of her Iranian citizenship since she surrendered her passport. Further, she has no present intention to return to Iran to visit. Applicant considers herself an American and feels no ties to the Islamic Republic of Iran. If she were ever approached by an Iranian agent, she would inform U.S. authorities.

Applicant credibly established she would put the interests in the U.S. ahead of any loyalty to her birth family. Looking at all of these factors, I conclude Applicant has overcome foreign influence security concerns as it is unlikely that she could be exploited by coercive or non-coercive means by the government of Iran in a way that could force Applicant to choose between loyalty to her two family members there and her loyalty to the United States. Should any such attempt be made Applicant testified credibly she would contact the appropriate officials.

Thus, any risk of either coercive or non-coercive foreign duress or influence on Applicant

and/or her immediate family would appear to be slight and clearly manageable. Contacts with citizens of other countries are relevant to security determinations only if they make an individual potentially vulnerable to coercion, exploitation, or pressure through threats against those foreign relatives. In reaching my conclusion, I have considered the totality of those ties and contacts, not just each one in isolation as the Appeal Board has mandated in the Appeal Board Decision and Reversal Order in ISCR Case No. 02-22461 (October 27, 2005) at 6.

Looking at all of these factors, I conclude Applicant has overcome foreign influence security concerns. After considering the Adjudicative Process factors and the Adjudicative Guidelines, I conclude Applicant's family ties are not of such a nature as to create any tangible risks of undue pressure on Applicant. In this way, foreign influence security concerns are mitigated under a whole person analysis. Thus, I resolve SOR paragraph 1 and subparagraphs 1.a. through 1.d. in Applicant's favor.

Foreign Preference

The Government conceded Applicant had mitigated the Government's security concerns over her possible preference for a foreign country over the United States. While Applicant continued to possess her foreign passport after she was a U.S. citizen, she subsequently relinquished it as soon as she learned of such security concerns. Applicant has mitigated⁹ these security concerns. As the Appeal Board established in ISCR Case No. 03-11765 (April 11, 2005) at 14, "Given the wording of Foreign Preference Mitigating Condition 4, the absence of evidence that Applicant's application for renunciation of . . . citizenship has been approved did not preclude the Administrative Judge from applying that mitigating condition." Thus, her actions in demonstrating her willingness to renounce her Iranian citizenship by filing the appropriate paperwork establishes she does not prefer the interests of another country over those of the U.S.

Having weighed the record evidence as a whole under the other factors outlined in Directive, I conclude Applicant's initially disqualifying conduct was not undertaken in such a way as to establish her preference for a foreign country over the U.S. Additionally, considering the totality of the evidence, I conclude that there is little, if any, probability Applicant will someday reacquire her Iranian passport and use it instead of her U.S. passport. Applicant has demonstrated a strong preference for the U.S. over any other foreign nation.

Therefore, I conclude Guideline C for Applicant. Thus, favorable findings are warranted with respect to subparagraph 2.a. of the SOR.

Personal Conduct

The Government conceded Applicant had mitigated the Government's security concerns over Applicant's Personal Conduct when she failed to list on her SF 86 a prior spouse. Applicant's

⁹ **E2.A3.1.3. Conditions that could mitigate security concerns include:** E2.A3.1.3.1. Dual citizenship is based solely on parents' citizenship or birth in a foreign country; E2.A3.1.3.2. Indicators of possible foreign preference (e.g., foreign military service) occurred before obtaining United States citizenship; E2.A3.1.3.3. Activity is sanctioned by the United States; E2.A3.1.4.4. Individual has expressed a willingness to renounce dual citizenship.

explanations for her omissions are credible and establish that she had no intent to falsify the form. Further, Applicant contested the conclusion that she was ever married to this individual. Even if one were to view these omissions as falling within, Disqualifying Condition 2¹⁰, I conclude that Applicant met the mitigation¹¹ guidelines as Applicant had earlier provided information on this relationship in a prior security form for a previous job. Also, looking at Applicant as a whole person and considering the circumstances surrounding her conduct (E2.2.1.2), I conclude Applicant provided a rational basis for her conduct and has refuted Personal Conduct security concerns. Thus, after considering the Adjudicative Process factors and the Adjudicative Guidelines, I rule for Applicant under SOR Paragraph 3 under subparagraph 3.a.

FORMAL FINDINGS

After reviewing the allegations of the SOR in the context of the Adjudicative Guidelines in Enclosure 2 and the factors set forth under the Adjudicative Process section, I make the following formal findings:

Paragraph 1. Guideline B	FOR APPLICANT
Subparagraph 1.a.:	For Applicant
Subparagraph 1.b.:	For Applicant
Subparagraph 1.c.:	For Applicant
Subparagraph 1.d.:	For Applicant
Paragraph 2. Guideline C	FOR APPLICANT
Subparagraph 2.a.:	For Applicant
Paragraph 3. Guideline E	FOR APPLICANT
Subparagraph 3.a.:	For Applicant

¹⁰ E2.A5.1.2.2. The deliberate omission, concealment, or falsification of relevant and material 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.

¹¹ **E2.A5.1.3. Conditions that could mitigate security concerns include:** E2.A5.1.3.1. The information was unsubstantiated or not pertinent to a determination of judgment, trustworthiness, or reliability; E2.A5.1.3.2. The falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily; E2.A5.1.3.3. The individual made prompt, good-faith efforts to correct the falsification before being confronted with the facts; E2.A5.1.3.4. Omission of material facts was caused or significantly contributed to by improper or inadequate advice of authorized personnel, and the previously omitted information was promptly and fully provided; E2.A5.1.3.5. The individual has taken positive steps to significantly reduce or eliminate vulnerability to coercion, exploitation, or duress; E2.A5.1.3.6. A refusal to cooperate was based on advice from legal counsel or other officials that the individual was not required to comply with security processing requirements and, upon being made aware of the requirement, fully and truthfully provided the requested information; E2.A5.1.3.7. Association with persons involved in criminal activities has ceased.

DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant.

Kathryn Moen Braeman
Administrative Judge