



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



In the matter of:)
)
) ISCR Case No. 08--01935
)
)
Applicant for Security Clearance)

Appearances

For Government: John Bayard Glendon, Esquire, Department Counsel

For Applicant: Dana D. Jacobson, Esquire

May 22, 2009

Decision

ANTHONY, Joan Caton, Administrative Judge:

After a thorough review of the case file, pleadings, exhibits, and testimony, and after a whole person analysis that considered all relevant and material evidence, I conclude that Applicant mitigated the Government’s security concerns under the Foreign Influence adjudicative guideline. Her eligibility for a security clearance is granted.

On March 28, 2005, Applicant signed and certified a Security Clearance Application (SF-86).¹ On October 17, 2008, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing the security concerns under Guideline B, Foreign Influence. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as

¹Applicant’s SF-86 showed she had signed the document on February 24, 2005 and March 28, 2005. The two signatures did not represent two versions of the same document, and she made no changes to the SF-86 between February 24, 2005 and March 28, 2005. (Tr. 119-120.)

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 in writing and elected to have a hearing before an administrative judge. Her answer to the SOR was received by DOHA on December 11, 2008. On February 26, 2009, Department Counsel gave notice that he was ready to proceed. On that same day, the case was assigned to me. I convened a hearing on April 14, 2009, to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The Government called no witnesses and introduced four exhibits (Ex.), which were marked as Applicant's Ex. 1 through 4, and admitted to the record without objection. The Government also offered facts in seven official U.S. government documents for administrative notice. (HE I.) Applicant did not object to administrative notice of facts in the Government's documents. Applicant introduced two exhibits, which were marked as Ex. A and B and admitted to the record without objection. She called one witness and testified on her own behalf.

At the conclusion of the hearing, I left the record open until close of business April 24, 2009, so that Applicant could, if she wished, submit additional information. Applicant timely filed five additional documents. These exhibits were marked as Applicant's Ex. C through G and admitted to the record without objection. DOHA received the transcript (Tr.) of the hearing on April 22, 2009.

Findings of Fact

The SOR contains five allegations that raise security concerns under the Foreign Influence adjudicative guideline (SOR ¶¶ 1.a. through 1.e.). In her Answer to the SOR, Applicant admitted four of the allegations and denied one, with explanation. Applicant's admissions are admitted herein as findings of fact.

After a thorough review of the record in the case, including witness testimony, exhibits, relevant policies, and applicable adjudicative guidelines, I make the following findings of fact:

Applicant is 42 years old, never married, and employed as an Arabic linguist recruiter by a government contractor. She has worked as a federal contractor since 2003. She seeks a security clearance. (Ex. 1.)

Applicant was born and raised in Egypt. She received a Bachelor of Science degree from a university in Egypt. She came to the United States as a tourist in 1994. After her tourist visa expired, she obtained a student visa. As a student, she supported herself with a variety of jobs, including childcare and administrative work. One of her employers sponsored her for a work permit and a U.S. Permanent Resident Card

(Green Card). She earned a Bachelor of Science degree in human resources management from a U.S. university. She became a U.S. citizen in September 2002. She purchased a home in the United States in 2006. (Ex. 1; Ex. 3; Ex. G; Tr. 59-69.)

Before becoming a U.S. citizen, Applicant used her Egyptian passport for travel. She no longer has an active Egyptian passport. When she became a U.S. citizen, Applicant orally renounced her Egyptian citizenship. Later, during an interview with a U.S. government agency, she voluntarily signed statements that she was not a citizen of Egypt and she again renounced her Egyptian citizenship. Since becoming a U.S. citizen, Applicant has used only her U.S. passport for travel outside of the United States. (Ex. 3; Ex. 4 at 19; Tr. 99- 01.)

Since coming to the United States, Applicant has traveled to Egypt five times. In 1999, she traveled to Egypt to comfort her family after one of her younger sisters was killed in an automobile accident. In 2000, Applicant returned to Egypt to visit her parents. In 2003, Applicant went with a group of professional colleagues to a wedding in Egypt, but she did not visit her family members, who lived elsewhere in Egypt. In 2004 and 2008, Applicant also traveled to Egypt to visit her family. (Tr. 93-99, 121-122.)

Applicant does not intend to return to Egypt or to stay there for any length of time. As a single woman, she could not travel freely in certain areas in Egypt or wear Western clothing. She appreciates the freedom she is accorded as an American citizen: "Yes, [in America] I feel like a complete person. I can study whatever I feel like at any time. I can do it if I feel like it, but in Egypt, it's going to be very difficult or almost impossible if I don't have a man to protect me or someone to take care of me." (Tr. 90-92.)

Applicant's parents are citizens and residents of Egypt. Applicant's father is approximately 80 years old, blind, bed-ridden, and unable to speak. Approximately 40 years ago, he retired early as a policeman in an Egyptian city because he had a heart ailment. Applicant sponsored her mother for U.S. permanent resident status. For the past four years, Applicant's mother has resided with Applicant in the United States for six months each year. Applicant's mother expects to apply for U.S. citizenship in about one year. Because of Applicant's father's serious health situation, her mother will likely return to live in Egypt after becoming a U.S. citizen. Applicant provides her parents with approximately \$200 each month to help with their living expenses. (Tr. 82-89, 105-107.)

Applicant's younger sister came to the United States as a tourist in 1998. Approximately six months later, Applicant sponsored her sister when she applied for a student visa. The sister later married a naturalized U.S. citizen, who sponsored her for U.S. citizenship. Applicant's sister, who is now divorced, became a U.S. citizen in July 2005, and she resides in the United States. After becoming a U.S. citizen, the sister relinquished her Egyptian citizenship. Her last trip to Egypt was in December 2005, after she became a U.S. citizen. She used her U.S. passport to travel to Egypt. (Ex. A; Ex. B; Tr. 41-55.)

Applicant's two brothers are citizens and residents of Egypt. Her younger brother is a student and studying to become a computer engineer. Her older brother, who is married and the father of four children, formerly worked as an accountant and now teaches English at a high school. Although she has good relations with her brothers, Applicant is not in frequent contact with them. She telephones them occasionally to inquire after the health of her father and mother. None of Applicant's immediate relatives have any connections to the government of Egypt. She owns no property in Egypt; she has no bank accounts in Egypt; and she has no business ties with Egypt. (Tr. 88-90, 107-109, 126.)

In 2002, soon after becoming a U.S. citizen and after learning of the U.S. military's need for Arab speakers to assist them in Iraq and Afghanistan, Applicant applied for a position as a contract Arab linguist and interpreter. She was accepted and sent to Iraq in April 2003, where, she served for two years as an Arab language interpreter. During that time, she accompanied troops on tactical raids and provided interpretations during interrogations. She also served as primary interpreter for military commanders in meetings with local officials, and served as a translator to assist wounded detainees and civilians. In her spare time, she taught Arabic to the U.S. troops, which aided them in their day-to-day interactions with Iraqis. During this time, she held an interim security clearance without incident. (Ex. C; Tr. 69-74, 113.)

One enlisted serviceman and two officers who worked with Applicant during her service in Iraq provided letters of character reference for her and described her role in their military operations. In November 2003, after observing Applicant on the job for nearly four months, a Staff Sergeant described Applicant's contribution to the mission as follows:

[Applicant] was on call, 24 hours a day and seven days a week. She has given up numerous hours of down-time in order to accomplish any translation mission required by the [omission]. She has assisted with all types of humanitarian missions by translating for local nationals who come to the front gate seeking assistance. [Applicant] has freely gone on tactical raids with . . . units to ensure the correct person is detained and to provide any on-site translations as required. These missions are not without their inherent risks and she is to be commended on her dedication to the mission at hand.

(Ex. C.)

In January 2004, a U.S. military officer who worked closely with Applicant had this to say about her:

I enthusiastically write this letter on behalf of [Applicant]. [Applicant] has served with distinction as an interpreter for this office since November 2003 and has excelled far above my expectations. Indeed, she has become a trusted junior partner of the overall legal team responsible for

reconstituting the entire judicial system in . . . Iraq. Without exception, [Applicant] responded affirmatively and positively no matter how unorthodox or unusual the task. Whether it was questioning a witness in a hospital, talking to community leaders, or simply talking to claimants on a day-to-day basis, she was unflinching in her devotion to the task at hand and mission of the [military] over all. Her positive attitude was just remarkable.

[Applicant's] high-powered personality buoyed the entire office and established a progressive tone for the daily grind [of] serving dozens of disgruntled claimants. She often had to deal with claimants who were belligerent, insistent, stubborn, emotional, or just plain unfriendly. She always maintained that razor's edge when dealing with them, but just as important, she never once went over the edge with them either. She was a picture of efficiency and professionalism. At once she could appropriately admonish an irate or unruly claimant and in the same moment gently stroke or console a bewildered child. That range of composure and control was a magnificent attribute to our office because some of the cases were so incredibly sad or moving while some claimants were clearly crooks or thieves. Her perceptive language skills facilitated ascertaining the genuine claimants from the liars and swindlers.

One attribute it was my pleasure to discover unintentionally was [Applicant's] extraordinary loyalty to the United States and the Coalition Forces. One day while listening to her without her knowledge, I heard her tell each claimant that we paid on pay day to stop supporting the insurrection against the Americans and to tell their children to stop throwing stones at Americans. This was an unsolicited act of loyalty to her country and the Coalition Forces. She was trying to change [Iraq] one claimant at a time. That act of concern for the Coalition Forces and for America's fighting men and women provides a window into this woman's heart of integrity and compassion.

(Ex. D.)

On June 30, 2004, another officer for whom Applicant worked observed the following about her:

[Applicant] successfully rises to meet the challenges of her job. She efficiently and professionally deals with our largely male claimant population, many of whom were hostile, indignant, or outraged over their car accidents, raids, injuries, detention, or other traumatic events. Some claimants resist cooperating with her because she is female or because her dialect varies from their own. She is kind and patient with older folks and children. Though she often finds the Iraqi tendency to respond to questions evasively and without specific detail frustrating, she persists and

adapts the questioning to obtain the information we need. She exercises patience with our claimants even when under the stress that a long line of hot and impatient claimants creates.

(Ex. E.)

Applicant found value in being of service to the Coalition Forces, and she took action to file an application to join the U.S. military. Then, after almost two years of service in Iraq, Applicant was injured when a suicide bomber self-detonated in the base mess hall as she was passing nearby. In the confusion, she ran to get away from the explosion, and seriously injured her mouth and face when she hit the side of a bunker. She also received a wound when shrapnel pierced several bones in one of her feet. (Tr. 75-78.)

The extent of Applicant's injuries was not immediately clear. She remained in Iraq for two more months. Her foot became infected, and she was evacuated to Germany, where military doctors advised amputation of the foot. Applicant elected instead to return to the United States for treatment. She underwent surgery for the shrapnel wound in 2005. As a result of her surgery, the bone did not knit correctly, and Applicant was scheduled for more surgery on her foot in April 2009. She wears dental braces to repair the damage done to her teeth and mouth when she hit the bunker. Because of her injuries and the required treatments, Applicant was unable to follow through on her plan to join the U.S. military. (Tr. 77-82.)

I take administrative notice of the following facts about Egypt, as provided by Department Counsel from official documents of the United States government²:

Egypt is the most populous country in the Arab world and the second-most populous on the African Continent. It is a republic with a developing economy and has a strong executive. In October of 1981, Islamic extremists assassinated President al-Sadat; Hosni Mubarek, his Vice President, was elected to succeed him. President Mubarek has subsequently been confirmed by popular referendum for four more 6 year terms, most recently in 2005.

² The documents from which these facts are drawn are as follows: U.S. Department of State, *Background Note: Egypt*, dated March 2008 (11 pages); U.S. Department of State, *Egypt Country Specific Information*, dated December 15, 2008 (6 pages); U.S. Department of State, *Country Reports on Terrorism: Chapter 2 - Country Reports: Middle East and North Africa Overview*, dated April 30, 2008 (19 pages); U.S. Department of State, *Patterns of Global Terrorism, Middle East Overview*, dated April 29, 2004 (13 pages); U.S. Department of State, *Patterns of Global Terrorism, Appendix B – Background Information on Designated Foreign Terrorist Organizations*, dated April 29, 2004 (26 pages); U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *2008 Country Reports on Human Rights Practices, 2008 Human Rights Report: Egypt*, dated February 25, 2009 (30 pages), and CRS Report for Congress, *Egypt: Background and U.S. Relations*, Congressional Research Service, updated August 12, 2008 (31 pages).

The United States and Egypt enjoy a strong and friendly relationship based on shared mutual interest in Middle East peace and stability, strengthening trade relations, and promoting regional security. The Egyptian government receives substantial U.S. foreign aid. In the last two years, the Mubarak regime has 'cracked down on [its] domestic opponents.' Many in the U.S. government have expressed concern about this crackdown and believe that the U.S. aid should be used to force the Egyptian government to ease its restrictions on the personal freedoms of its citizens, move to a more democratic government, and institute overdue economic reforms. The Mubarak government faces increasing political unrest from various groups, both secular and religious, with its most threatening opposition coming from a radical Islamic group called the Muslim Brotherhood, which the government has banned as a political party.

Egypt has aggressively pursued domestic terrorists and has instituted a 'zero tolerance' policy on extremism. Nevertheless, the threat of terrorism in Egypt remains and transnational terrorist groups and local terrorist groups pose threats in Egypt. For example, the Egyptian Islamic Jihad [AKA, Al-Jihad] merged with Al-Qaida in June 2001, and in 2003, Egypt discovered and disrupted a terrorist plot against U.S. interests. Further, between 2004 and 2006, Egypt suffered a series of deadly terrorist attacks causing many deaths and injuries, including U.S. citizens. While the Egyptian government took measures against the perpetrators of the 2004 and 2005 attacks, the April 2006 bombings reflect a persistent, indigenous threat of terror activities.

The State Department notes that Egypt's human rights record is poor and serious abuses continue in many areas. Problems include: limitations on the right of citizens to change their government, torture, arbitrary arrest, prolonged detention, poor conditions in prisons, executive branch limits on an independent judiciary, political prisoners and detainees, and restrictions on freedom of press, assembly, and association, and religion, including Internet freedom. Torture occurs frequently in Egyptian detention centers.

The Government of Egypt considers all children born to Egyptian fathers to be Egyptian citizens. Male dual nationals staying in Egypt for more than six months from the date of arrival and who have not completed military service are generally required to enlist in the armed forces. Persons with dual nationality who travel to Egypt on their Egyptian passports are normally treated as Egyptian citizens by the local government. The ability to provide U.S. consular assistance to those traveling on Egyptian passports is extremely limited.

(HE 1, footnotes omitted.)

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, the administrative judge applies these guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's over-arching adjudicative goal is a fair, impartial and common sense decision. 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the Applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline B, Foreign Influence

Under Guideline B, Foreign Influence, “[f]oreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest.” AG ¶ 6.

Additionally, adjudications under Guideline B “can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target U.S. citizens to obtain protected information and/or is associated with the risk of terrorism.” AG ¶ 6.

Official U.S. government documents provided by Department Counsel emphasize that the United States and Egypt have a strong and positive relationship based on their mutual interest in maintaining peace and stability in the Middle East. The Egyptian government does not target U.S. citizens in order to obtain classified information from them. However, despite the government of Egypt’s aggressive actions to put down domestic and international terrorist groups within its borders, the threat of terrorism remains. Between 2004 and 2006, Egypt suffered several serious terrorist attacks which caused considerable loss of life to civilians, including U.S. citizens.

Additionally, the U.S. government recognizes that Egypt has carried out human rights abuses against its own citizens. The government’s human rights abuses include torture, arbitrary arrest, prolonged detention, executive branch limits on an independent judiciary, and restrictions on freedom of press, assembly, association, and religion.

I have considered all of the disqualifying conditions under the Foreign Influence guideline. Applicant denied the SOR allegation at ¶ 1.d., and she provided documentation to corroborate her statement that her sister is now a citizen and resident of the United States. Accordingly, SOR ¶ 1.d. is concluded for Applicant.

The government provided substantial evidence to support its factual allegations that Applicant’s aged parents are citizens and residents of Egypt; that her mother has resident alien status in the United States and hopes to become a U.S. citizen; that Applicant’s two brothers are also citizens and residents of Egypt; and that Applicant has traveled to Egypt to visit her family five times since 1999, suggesting close and on-going contacts with them. These facts raise security concerns under disqualifying conditions AG ¶¶ 7(a) and 7(b). AG ¶ 7(a) reads: “contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation,

inducement, manipulation, pressure, or coercion.”³ AG ¶ 7(b) reads: “connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual’s obligation to protect sensitive information or technology and the individual’s desire to help a foreign person, group, or country by providing that information.”

Applicant admitted factual allegations in SOR ¶¶ 1.a., 1.b., 1.c., and 1.e., and the burden shifted to her to mitigate the resulting security concerns. Several mitigating conditions under AG ¶ 8 might be applicable to Applicant’s case. If “the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.,” then AG ¶ 8(a) might apply. If “there is no conflict of interest, either because the individual’s sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest,” then AG ¶ 8(b) might apply. If “contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation,” then AG ¶ 8(c) might apply.

Applicant is a dutiful daughter, and she has strong filial relationships with her father, who is a citizen and resident of Egypt, and with her mother who is a citizen of Egypt with U.S. resident alien status. She stays in contact with her parents and with her brothers in Egypt and is concerned about their well-being. Her relationship with her family members in Egypt is based on long-standing family ties of affection and obligation.

Egypt is a long-standing ally of the United States and cooperates with the United States in combating terrorism. The government of Egypt does target U.S. citizens to acquire protected information. The positions and activities of Applicant’s family members in Egypt do not involve the government or the military, and they would have no interest in acquiring protected information. Only their physical presence in Egypt creates the potential that Applicant would confront a choice between their interests and the security interests of the United States. Thus, AG ¶ 8(a) has some application.

Applicant produced significant evidence establishing mitigating condition AG ¶ 8(b). Based on her relationship with and depth of loyalty to the United States, she can be expected to resolve any conflict of interest in favor of U.S. interests. She has committed to a life as a U.S. citizen. She purchased a home and owns property in the

³ The mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country and an applicant has contacts with that relative, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb.8, 2001).

United States. She does not own property or possess bank accounts in Egypt. Significantly, Applicant volunteered to assist the U.S. military in Iraq as an Arabic linguist and translator. For two years, while in Iraq, she willingly risked her life to support U.S. troops and U.S. interests. Several of her commanders attested to her honorable service to her country as an Arab linguist in Iraq.

While Applicant attempted to establish mitigating condition AG ¶ 8(c) by describing her contacts with her two brothers in Egypt as infrequent and only occasioned by inquiries to them about her parents' health and well-being, she did not establish that her relationships with her brothers were casual. While perhaps sporadic, her relationships with her brothers were on-going and familial. Accordingly, AG ¶ 8(c) cannot be given full application.

Whole Person Concept

Under the whole person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall common sense judgment based upon careful consideration of the guidelines and the whole person concept.

I considered the potentially disqualifying and mitigating conditions in light of the whole person concept and all the facts and circumstances surrounding this case. Two circumstances weigh against Applicant in the whole person analysis. First, even though Egypt is an ally of the United States, it has committed serious human rights abuses against its own citizens. Second, four of Applicant's immediate family members are citizens and residents of Egypt, raising the possibility that they could be subject to such abuses, which could raise security concerns for Applicant.

Substantial mitigating evidence weighs in favor of granting Applicant a security clearance. Out of a sense of patriotism and love for the United States, Applicant joined U.S. troops in Iraq as an Arab-speaking linguist. She took part in high risk operations in support of the troops. Nothing in her record suggests that she has ever taken an action that would cause potential harm to the United States. She takes her loyalty to the United

States seriously. Those who witnessed her work as an Arab linguist and translator in Iraq assessed her as trustworthy, conscientious, responsible, and dedicated.

Applicant held an interim security clearance during her tenure with U.S. military forces in Iraq without any indication that she breached security policies or procedures. While this fact is not normally considered as a significant factor in granting a security clearance, DOHA's Appeal Board has noted the following exception:

As a general rule, Judges are not required to assign an applicant's prior history of complying with security procedures and regulations significant probative value for purposes of refuting, mitigating, or extenuating the security concerns raised by that applicant's more immediate disqualifying conduct or circumstances. See, e.g., ISCR Case No. 01-03357 at 4 (App. Bd. Dec. 13, 2005); ISCR Case No. 02-10113 at 5 (App. Bd. Mar. 25, 2005); ISCR Case No. 03-10955 at 2-3 (App. Bd. May 30, 2006). However, the Board has recognized an exception to that general rule in Guideline B cases, where the applicant has established by credible, independent evidence that his compliance with security procedures and regulations occurred in the context of dangerous, high-risk circumstances in which the applicant had made a significant contribution to the national security. See, e.g., ISCR Case No. 04-12363 at 2 (App. Bd. July 14, 2006). The presence of such circumstances can give credibility to an applicant's assertion that he can be relied upon to recognize, resist, and report a foreign power's attempts at coercion or exploitation.

(ISCR Case No. 05-03846 at 6 (App. Bd. Nov. 14, 2006.)

After weighing the disqualifying and mitigating conditions, and all facts and circumstances in the context of the whole person, including Applicant's commendable performance as a linguist and translator in Iraq, I conclude Applicant has fully mitigated the security concerns pertaining to foreign influence.⁴ Overall, the record evidence leaves no doubt as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude that Applicant mitigated the security concerns arising under Guideline B.

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:

⁴ I conclude that the whole person analysis weighs heavily toward approval of Applicant's security clearance. Assuming that a higher authority reviewing this decision determines the mitigating conditions articulated under AG ¶ 8 do not apply and severs any consideration of them, I conclude the whole person analysis standing alone is sufficient to support approval of a security clearance in this case.

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
Subparagraph 1.e:	For Applicant

Conclusion

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

Joan Caton Anthony
Administrative Judge