



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



In the matter of:	)	
	)	
-----	)	ISCR Case No. 10-00911
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Ray T. Blank, Jr., Esquire, Department Counsel  
For Applicant: *Pro se*

February 28, 2011

**Decision**

HOWE, Philip S., Administrative Judge:

On May 27, 2009, Applicant submitted her electronic Security Clearance Application (SF 86)(e-QIP). On March 12, 2010, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline B (Foreign Influence). 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) effective within the Department of Defense on September 1, 2006.

Applicant acknowledged receipt of the SOR on March 16, 2010. She answered the SOR in writing on March 16, 2010, and requested a hearing before an administrative judge. DOHA received the request on March 22, 2010. Department Counsel was prepared to proceed on August 3, 2010, and I received the case assignment on August 31, 2010. The case was originally assigned to another

administrative judge on August 10, 2010, but reassigned to me because of caseload considerations.

DOHA issued a Notice of Hearing on September 8, 2010, and I convened the hearing as scheduled on October 5, 2010. The Government offered Exhibits 1 through 4, which were received into evidence without objection. Applicant testified and submitted Exhibits A through Q, without objection. Exhibit R was marked but not admitted after Department Counsel's objection was upheld. DOHA received the transcript of the hearing (Tr.) on October 13, 2010. Based upon a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is granted.

### **Procedural and Evidentiary Rulings**

#### **Request for Administrative Notice**

Department Counsel submitted a formal request that I take administrative notice of certain facts relating to the country of Liberia. (Tr. 44, 45) The request and the attached documents were admitted into evidence and included in the record as Exhibit 4. The facts administratively noticed are set out in the Findings of Fact, below.

#### **Findings of Fact**

In her Answer to the SOR, Applicant admitted all factual allegations contained in the SOR. She provided additional information to support her request for eligibility for a security clearance.

Applicant is 27 years old, unmarried, and was born in the United States in 1983. She is a U.S. citizen. Applicant works for an accounting and consulting contractor for the U.S. government as an auditor and accountant. She was educated in the United States. She rents her own apartment in the United States. She does not have any financial or property interests outside the United States. Her parents were born in Liberia, a nation on the western coast of Africa. They immigrated to the United States before 1983 to continue their academic studies. Applicant has an older sister, who was born in Liberia, and two younger brothers, who were born in Liberia after Applicant and her parents returned there in late 1983. Applicant remained in Liberia with her family until they all returned to the United States in 1990. Applicant has not traveled to Liberia after 1990. (Tr. 66, 72, 75, 85, 86; Exhibits 1, 3, A-I)

Applicant's parents became U.S. citizens in 2008. Her two brothers also obtained U.S. citizenship. They live and work in the United States. Her sister is not a U.S. citizen, but is a registered alien living and working in the United States. Applicant's father worked in the U.S. until he returned to Liberia in 2009. He is unemployed at the present time after working as a security guard in the United States. She speaks with him about once every two or three months. Her mother returned to Liberia in June 2008. Applicant speaks with her about every two or three weeks. After her mother returned to Liberia,

she worked in the government Ministry of Finance in the budget and accounting division until August 2009. Then she worked for the Liberian National Port Authority (NPA) as the Comptroller. Applicant does not know if the National Port Authority is part of the Liberian government. Her mother is a certified public accountant. Part of her duties include preparing the NPA tax returns, conferring with the managing director and board of directors, supervising investments and raising funds for the business, and "projects future company growth." Applicant's interrogatory answer was that her mother did not presently work for the Liberian government in her current position at the NPA. Her parents divorced in 2010. (Tr. 71, 75, 78, 79, 80, 82, 86, 87, 93; Exhibits 1-3, A)

Applicant had a Liberian passport until it expired in 1996, according to her interrogatory answer. Her parents obtained that passport for her when she was a child and traveled with them back to Liberia. Since 2001, Applicant has only had a U.S. passport. Applicant had dual citizenship with Liberia because of her parents' Liberian citizenship. She renounced her Liberian citizenship during the government investigator's interview in 2009. She also destroyed her expired Liberian passport at the same time. (Tr. 72; Exhibits 1-3, A, B)

Applicant submitted seven character statements from her co-workers, supervisors, and company officials. All writers regard Applicant as honest, trustworthy, a hard-working employee who delivers a quality work product on time. Her facility security officer also testified on Applicant's behalf. His testimony and written statement show he has known Applicant for five years and is impressed with her productivity. Applicant's aunt also testified favorably on her behalf. (Tr. 48-60; Exhibits B-H)

Applicant submitted her 2007 through 2010 employee evaluation reports. Her overall rating on each evaluation is "exceeds expectations." (Exhibit I)

Many of Applicant's relatives live in the United States. She has never been approached by anyone seeking information about her duties. Applicant testified she would contact the appropriate investigative authority, including the Federal Bureau of Investigations (FBI) if she were approached and questioned by anyone about her work and any classified information to which she had access. (Tr. 84, 97, 101)

Applicant made a well-organized and credible presentation about her family members and her personal history in the United States. She answered questions forthrightly and frankly. Applicant displayed a lack of knowledge about Liberian political institutions and history. She has no friends in Liberia. (Tr. 79, 84, 93-96, 100)

I take administrative notice of the following facts about Liberia. This country is located on the western coast of Africa. It was founded in 1840 by freed slaves from the United States under the auspices of the American Colonization Society. In 1846 it became an independent country. Since then it has had a republican constitution modeled from the U.S. Constitution. Liberia has an elected president, vice-president, and bicameral legislature. From its founding until 1980 it was dominated politically by one party, the True Whig Party, controlled by the descendents of the freed slaves, who

first established the country, the Americo-Liberian elite (about 5% of the population). In 1980 a coup d'état by an army master sergeant Samuel K. Doe took over Liberia under a revolutionary group named the People's Redemption Council. He executed the elected president William R. Tolbert and other officials. Mr. Doe started promoting members of his tribe, the Krahn ethnic group, causing internal tensions amongst the other ethnic groups in Liberia.

In 1989 Charles Taylor started an insurrection against the Doe government. More than 200,000 people were killed during this civil war. In 2005 free and fair elections for president, vice-president, and the national legislature were held. Ellen Johnson Sirleaf was elected president. She formed a government of technocrats intending to restore peace and prosperity to Liberia. The political situation has been stable since then in the country.

Liberia was an iron ore exporter for many years. It also exported rubber. It has over 3,000 ocean-going vessels registered under its maritime laws and flying its national flag.

Liberia has had a pro-Western and pro-United States foreign policy for many years. It has been a member of many international organizations, in addition to being a founding member of the United Nations in 1946.

Liberia has had some human rights issues over the past 30 years to a great extent because of the 14-year civil war. There are reports of political and economic disputes between Liberian citizens being handled outside the court system by beatings, killings, and other violent methods. Torture is unconstitutional, but periodically there are reports of such incidents by police and security officials. Trial by ordeal is outlawed officially, yet reports from some rural areas indicate it is sometimes used. There are no reports of political prisoners being detained. The courts are open and functioning, but are not efficient or incorruptible. The Liberian Constitution contains many of the freedoms listed in the U.S. Bill of Rights, but adherence to them may be strained in certain parts of the country.

Liberia has 15 counties. The government is centralized in the capitol of Monrovia, named for U.S. President James Monroe, who was in office when the country was founded. Monrovia has over one million residents. Liberia is about the size of the State of Ohio in the United States. It is one of the poorest countries in the world and has a population of 3.49 million. There are 16 ethnic groups in the country and as many languages. English is the official language. The 2009 GDP was \$836 million.

The crime rate is high in Liberia. Unemployment is also large. Theft, assault, sexual crimes, and murder are problems, along with financial scams and fraud. Hospitals in Liberia are poorly equipped. Medicines are scarce. Yellow fever, typhoid, and malaria are problem diseases throughout the country.

In summary, Liberia does not have medical facilities and medications as the United States does. It is a poor country with high unemployment and low per capita income levels. Travel is risky and Americans should be constantly guarding against physical threats and illness. There is no evidence in the materials that Liberia is a collector of classified or proprietary economic or military information from the United States. (Exhibits 4, J-Q)

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the 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, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense 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, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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**

AG ¶ 6 expresses the security concern pertaining to foreign influence:

Foreign 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. interest, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline 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 United States citizens to obtain protected information and/or is associated with a risk of terrorism.

The guideline notes several conditions that could raise security concerns under AG ¶ 7. Two guidelines are potentially applicable in this case:

- (a) 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;<sup>1</sup> and
- (b) 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's mother and father live in Liberia. They have dual citizenship with the United States and Liberia, where they were born. Applicant contacts her mother twice a month and her father every two or three months. This situation creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. It also

---

<sup>1</sup> 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).

creates a potential conflict of interest. AG ¶¶ 7(a) and (b) have been raised by the evidence.

The Government produced substantial evidence of those two disqualifying conditions, and the burden shifted to Applicant to produce evidence and prove mitigation. Three conditions that could mitigate the disqualifications are provided under AG ¶ 8:

(a) 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.;

(b) 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; and

(c) 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.

Liberia is not a country that threatens the United States from a security or economic position. Therefore, the second clause of AG ¶ 8(a) applies to Applicant's situation, that is, "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." Her parents live and work in Liberia. It is unlikely that her mother's position with the private NPA or her father's presence in Liberia while unemployed are such that Applicant will be placed in any compromising position and forced to choose between them and the interests of the United States.

Applicant established the application of AG ¶ 8(b). Based on her relationship and depth of loyalty to the U.S., her birth country and residence for the past 20 years, she can be expected to resolve any conflict of interest in favor of the U.S. interests. Her employment and assets are in the United States. She has not traveled to Liberia after she returned to United States with her family in 1990 during the Liberian civil war. She exhibited in her testimony at the hearing a significant lack of knowledge about Liberia or interest in it. Her concerns are her job in the United States, her professional development as an auditor and accountant, and living in the United States for the remainder of her life.

AG ¶ 8(c) has limited application to Applicant's relationships with her parents, with whom she has varying degrees of communication in Liberia. It is highly unlikely that the three or four times per year she has contact with her father will create a risk for Liberian influence or exploitation. Her monthly telephone calls to her mother, a technocrat in a professional position, are also not of the type to create a risk for Liberian influence or exploitation. Applicant's employment does not create any such risk because its professional accounting and auditing functions do not lend themselves to useful Liberian influence or exploitation.

### **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 an applicant's conduct and all the 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.

AG ¶ 2(c) requires each case must be judged on its own merits. Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant is a mature and professional individual highly regarded by her company managers. She is an accountant and auditor whose only connection to Liberia is that her parents and siblings were born there, but Applicant was born in the United States. The only time she was in Liberia was from 1983 to 1990 when her family returned to the United States during the Liberian civil war. Applicant does not exhibit any knowledge of Liberian government institutions or politics. She was educated in the United States and has no financial or property interests outside the United States. Applicant made an articulate and well-organized presentation demonstrating her strong connections to and preference for the United States.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising from her foreign influence situation. I conclude the "whole-person" concept for Applicant.



## **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 B:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	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.

---

PHILIP S. HOWE  
Administrative Judge