



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



In the matter of:	)	
	)	
	)	ISCR Case No. 12-01830
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Candace L. Garcia, Esquire, Department Counsel  
For Applicant: *Pro se*

04/15/2013

**Decision**

HENRY, Mary E., Administrative Judge:

Based upon a review of the pleadings, exhibits, and testimony, Applicant's eligibility for access to classified information is granted.

**Statement of the Case**

Applicant completed and certified an Electronic Questionnaire for Investigations Processing (e-QIP) on August 10, 2011. The Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) on September 4, 2012, detailing security concerns under Guideline B, Foreign Influence, and Guideline C, Foreign Preference. 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 For Determining Eligibility for Access to Classified Information* (AG) implemented on September 1, 2006.

Applicant received the SOR on September 20, 2012, and she answered it on September 25, 2012. Applicant requested a hearing before an administrative judge with the Defense Office of Hearings and Appeals (DOHA). Department Counsel was prepared to proceed on November 7, 2012. DOHA assigned this case to another judge on November 8, 2012. DOHA reassigned the case assignment to me on January 7, 2013. DOHA issued a Notice of Hearing on February 14, 2013, and I convened the hearing as scheduled on February 27, 2013. The Government offered exhibits (GE) marked as GE 1 and GE 2. GE 1 was received and admitted into evidence without objection. Applicant objected to GE 2 on the grounds it contained incorrect information. Initially, GE 2 was admitted subject to corrections. Applicant testified. She submitted exhibits (AE) marked as AE A through AE P, which were received and admitted into evidence without objection. DOHA received the hearing transcript (Tr.) on March 12, 2013. I held the record open until March 21, 2013, for Applicant to submit additional matters. Applicant timely submitted AE Q - AE Z, which were received and admitted without objection. The record closed on March 21, 2013.

### **Procedural and Evidentiary Rulings**

#### **Notice**

Applicant received the notice of the date, time and place of the hearing less than 15 days before the hearing date. I advised Applicant of her right under ¶ E3.1.8 of the Directive to receive the notice 15 days before the hearing. Applicant affirmatively waived this right under the directive. (Tr. 9.)

#### **Evidentiary ruling**

Applicant objected to the admission of GE 2 as written. She argued that the document contained incorrect statements. Applicant provided clear and specific testimony about the errors in this document. Her major concerns related to the Office of Personnel Management (OPM) investigator's written summary about Applicant's business trips to foreign countries. Throughout the interview summary, the OPM investigator identified a number of business trips to foreign countries by Applicant. The OPM investigator then indicated that Applicant did not have any contact with foreign nationals on these trips except for family members. Applicant's business trips were to countries many miles from India, where her family lives. She did have contacts with foreign nationals on these trips, but did not have any contact with family members because no family members lived in these countries. All statements in GE 2 which indicated that Applicant had no contact with foreign nationals while on business trips, but did have contact with family members are corrected to reflect that Applicant had contact with foreign nationals and not with family members. The statement on page 4, last paragraph in GE 2, which reflects that Applicant had an active Indian passport, is corrected to show that Applicant's Indian passport had been cancelled as she told the OPM investigator. On page two of GE 2, the spelling of Applicant's mother's name is corrected, and on page one, the last number for her passport number is deleted as it is extraneous. The reference on page 4, paragraph 2 of GE 2 is corrected to reflect a

savings account, not a retirement account, as Applicant remembered telling the OPM investigator that it was a savings account for retirement. Finally, Applicant denied saying that this savings account is like social security. Following these corrections, GE 2 was admitted without objection. After a final review, Applicant noted that the statement that she has contact with one brother once every two years when she visits India is not fully correct. In addition to these contacts, Applicant has contact with this brother by email or telephone at the same frequency as she has contact with her other siblings.<sup>1</sup>

### **Request for Administrative Notice**

Department Counsel submitted a formal request that I take administrative notice of certain facts relating to India. The request was not admitted into evidence, but was included in the record as Hearing Exhibit 1. The facts administratively noticed will be limited to matters of general knowledge and matters not subject to reasonable dispute, and are set out in the Findings of Fact below.

### **Findings of Fact**

In her Answer to the SOR, Applicant admitted the factual allegations in ¶¶ 1.a - 1.c of the SOR. Her admissions are incorporated herein as findings of fact. She denied the factual allegations in ¶¶ 1.d and 2.a of the SOR.<sup>2</sup> She neither denied nor admitted the factual allegation in allegation 2.b of the SOR, which is deemed denied.<sup>3</sup> After a complete and thorough review of the evidence of record, I make the following findings of fact.

Applicant, who is 47 years old, works as a consulting technical manager for a Department of Defense contractor. She began working for her employer in August 1999 as a senior applications manager and transferred to her present position in August 2007.<sup>4</sup>

Applicant was born and raised in India. She obtained her bachelor's and master's degrees at universities in India. She immigrated to the United States in 1997 and

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<sup>1</sup>Tr. 12-26.

<sup>2</sup>When SOR allegations are controverted, the Government bears the burden of producing evidence sufficient to prove controverted allegations. Directive, ¶ E3.1.14. "That burden has two components. First, the Government must establish by substantial evidence that the facts and events alleged in the SOR indeed took place. Second, the Government must establish a nexus between the existence of the established facts and events and a legitimate security concern." See ISCR Case No. 07-18525 at 4 (App. Bd. Feb. 18, 2009), (concurring and dissenting, in part) (citations omitted). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 08-06605 at 3 (App. Bd. Feb. 4, 2010); ISCR Case No. 08-07290 at 2 (App. Bd. Nov. 17, 2009).

<sup>3</sup>SOR ¶ 2.b references SOR ¶¶ 1.c and 1.d. Applicant admitted 1.c, but denied 1.d. See response to SOR.

<sup>4</sup>GE 1; Tr. 37.

became a U.S. citizen in 2008. She is single, enjoys outdoor activities, and performs volunteer activities.<sup>5</sup>

After she became a U.S. citizen in 2008, Applicant obtained a U.S. passport. At this time, she held an Indian passport. She presented her Indian passport to the Indian Consulate General's office shortly after she became a U.S. citizen. Since India does not recognize dual citizenship, the Consulate General's office cancelled her Indian passport because she acquired U.S. nationality. Applicant surrendered her cancelled Indian passport to her security officer on March 1, 2012. He continues to retain possession of it. She cannot obtain another Indian passport, unless she gives up her U.S. citizenship.<sup>6</sup>

Under the Indian Citizenship Act of 1955, Section 7A, India allows the Government of India to register any person as an overseas citizen of India, if the individual was a citizen of India. The law specifically states that an overseas citizen is not a citizen of India and is not entitled to the rights conferred on citizens of India. It creates certain rights for overseas citizens, including the right to a lifelong visa for entry into India. Applicant, as a U.S. citizen, applied for Indian overseas citizen status around March 1, 2008. India granted her a six-month, multiple-entry visa effective from March 3, 2008 until September 3, 2008. India provided her with overseas citizenship and issued a Certificate of Registration on July 8, 2009. On this date, India also gave her a lifelong, multiple-entry visa. Her U.S. passport contains an overseas citizen visa stamp.<sup>7</sup>

Applicant's mother, three brothers, and two sisters are citizens and residents of India. Her father is deceased. Her 78-year-old mother has never worked and is a homemaker. Her mother receives 50% of her father's pension. Applicant does not know the source of this pension. Her three brothers, ages 54, 51, and 48, and two sisters, ages 60 and 56, are married. One sister teaches in a private school, and her husband works for the Indian government in administrative services. The other sister teaches at a university in India, and her husband retired from a state operated bank about a year ago. Applicant does not know if this brother-in-law receives a pension from the Indian government. One brother is self-employed as a business technical developer and a second brother works as a software documentation writer. Neither of these brothers are government employees. One brother's wife is a homemaker, and the other brother's wife works as a teacher in Singapore. Applicant has email contact with one nephew, who is a software engineer in private industry and some contact with a niece who lives in London. Applicant sees her family members every two years, when she visits India. She also has telephone and computer contact with her family members.<sup>8</sup>

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<sup>5</sup>GE 1; Tr. 37.

<sup>6</sup>GE 1; AE A; AE B; AE H; AE Q; Tr. 42, 82-86.

<sup>7</sup>AE C - AE F; AE H; Tr. 38-42, 82-92.

<sup>8</sup>GE 2; Tr. 61, 73-81.

Applicant's oldest brother, a marine engineer, retired prematurely from the Indian Navy on October 31, 2012 at the rank of commodore, which is not a flag officer rank. He is currently receiving a pension. Because of his rank, the Indian Navy required him to request permission to work in commercial industry, if he obtained employment within one year of retirement. Applicant's brother accepted a position as an Asia, Academia and Industry Interface Coordinator within commercial industry two weeks after his retirement. As required, he applied for permission to accept this position and permission was given conditioned upon his not working for marketing or as a liaison with the defense establishment. His new employer provides global independent risk management and safety assurance to the energy and transportation sectors of industry. Applicant does not believe her brother's new position shows a conflict between the military and commercial industry. This brother is aware that Applicant has applied for a security clearance, but her other family members are not aware of her application for a security clearance, only that she works with computers.<sup>9</sup>

Applicant's mother owns a multiple unit house, which is valued at \$277,778. Her mother lives in one of the units in the house. Her mother is the ultimate decision maker on who inherits the house. At the present, Applicant understands that she and her five siblings will inherit equally. They talk about rebuilding the house into six units. Applicant has not ruled out returning to India in 10 or 20 years. She has no immediate or short-range plans to return to India. Applicant and her siblings established a fixed deposit bank account for their mother in the 1990s. They each made a one-time contribution to the account when they established it. Her mother takes about \$60 to \$80 a month from the account, which has a current balance of approximately \$12,000. Applicant does not regularly contribute, nor has she regularly contributed, to this account. She provides her mother with \$200 or \$300 when she visits every two years.<sup>10</sup>

Applicant is not entitled to any benefits from the Indian government nor does she receive any form of benefit from the Indian government. She does own three bank accounts in India. Under a statute created in 1968, Applicant opened a savings-cum-tax-savings account, which can serve as a retirement planning tool. The law provides that a depositor cannot withdraw the full amount of money deposited until 15 years after the account was opened. The law also provides that up to 50% of the account balance at the end of year four may be withdrawn prematurely. A minimum yearly deposit of \$10 is required to maintain the account and until recently, the maximum deposit per year was \$1,400. The current maximum yearly deposit is \$2,000. The interest rate on this account is set by the Government of India, but the Government does not deposit any money to the account. Applicant opened this account in 1994, when she was working and living in India. She has made periodic deposits to the account, which now has an approximate balance of \$5,200. She has not withdrawn any money from this account,

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<sup>9</sup>GE 2; AE O; AE P; AE S; AE T; Tr. 58-59, 72-73, 92-93.

<sup>10</sup>AE R; Tr. 61 -72.

but she can withdraw her money in 2014. This account is **not** [emphasis supplied] similar to social security. The purpose of this account is tax savings, not retirement.<sup>11</sup>

Applicant owned three other accounts in India. She closed one account on her November 2012 trip to India. The closed account has a balance of approximately \$3,000, which she gave to a nephew. Applicant opened an account in February 2001, which has a current balance of approximately \$5,000. She opened a second account in December 2004, which has a current balance of approximately \$3,000. The money in this account is taxed by the Indian government.<sup>12</sup> She was still an Indian citizen when she opened these accounts. She keeps these accounts as a convenience because it is easier than transferring money to India when she travels. She uses the money in these accounts when she visits India. Occasionally and on special occasions such as her birthday, one of her brothers will put some money into one of these accounts, usually less than \$100.<sup>13</sup>

Applicant has six accounts in the United States. One savings account has a balance of \$130,500 and the second savings account has an balance of \$17,000. She also has a 401k account valued at approximately \$676,500, including \$180,800 in stock options. She has a brokerage account with approximately \$61,000. She has two checking and savings accounts combinations. One account has an approximate balance of \$4,000, and the other account has a balance of approximately \$221,000. Applicant does not own property in the United States or in India. Her smaller checking and savings account reflects a monthly net income of nearly \$9,000 from her employment.<sup>14</sup>

I take administrative notice of the following facts. India is the largest democratic country in the world. Like the U.S., India is committed to political freedom protected by a representative government. The U.S. and India share a common interest in the free flow of commerce and resources, in fighting terrorism, and in creating a strategically stable Asia. Although the two countries differed over India's nuclear weapons program and the pace of economic reforms in India, the U.S. views India as a growing world power with which it shares common strategic interests. Because of their strong partnership, the U.S. and India enjoy a very active working relationship on many issues, including terrorism, space, and nuclear weapons. The U.S. has authorized the sales of certain arms to India. India is a collector of economic information and maintains a positive relationship with Iran. The Government contends that India seeks to obtain proprietary information by violating U.S. export laws and references specific cases, but does not

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<sup>11</sup>GE 2; AE K - AE N; Tr. 42-48, 95-103.

<sup>12</sup>The account reflects that the tax paid at any one time is less than \$18. AE J.

<sup>13</sup>GE 2; AE I; AE J; Tr. 48-55.

<sup>14</sup>AE U - AE Z; Tr. 55-57, 103-104.

provide any detailed information about these cases.<sup>15</sup> The Government of India generally respects the rights of its citizens, although some serious human rights problems remain. The Indian government does not support or sponsor terrorism or terrorist organizations. However, several terrorist organizations, including Harkat-ul-Jihad-i-Islam, Harakat ul-Mujahidin, Indian Mujahideen, Haish-e-Mohammed, and Lashkar-e Tayyiba, and insurgent groups continue to operate, particularly in the northeast areas along the Pakistan and China borders. Several of these areas are designated “restricted areas” by the Indian government and require special permission to visit. Applicant’s family lives many hundreds of miles from these restricted areas.<sup>16</sup>

## **Policies**

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used 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.

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 applicant or proven by Department Counsel. . . .” An applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

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<sup>15</sup>There is no evidence that the Government of India was involved in, or sanctioned, the criminal activity mentioned in the Government’s brief.

<sup>16</sup>HE 1; AE G.

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 an 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 regarding 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. interests, 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.

AG ¶ 7 describes conditions that could raise a security concern and may be disqualifying:

(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;

(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; and



(e) a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation.

Applicant's mother, three brothers, and two sisters are citizens and residents of India. One brother, a marine biologist, prematurely retired from the Indian Navy at the rank of Commodore. Applicant maintains a normal familial relationship with her mother and siblings in India. She talks with them by telephone regularly and visits them in India every two years. She does not provide regular financial support for her mother; however, she helped fund a savings account for her mother in the 1990s and gives her mother a few hundred dollars when she visits India. She also maintains three bank accounts in India. Her family relationships are not *per se* a reason to deny Applicant a security clearance, but her contacts with her family members must be considered in deciding whether to grant Applicant a clearance. The Government must establish that these family relationships create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion by terrorists or would create a potential conflict of interest between her obligations to protect sensitive information and her desire to help her family members by providing that information.

In determining if such a risk exists, I must look at Applicant's relationships and contacts with her family, as well as the activities of the Government of India and of terrorist organizations within India's borders. The risk that an applicant could be targeted for manipulation or induced into compromising classified information is real, not theoretical. Applicant's relationship and contacts with her family in India raise a heightened risk and a security concern because significant terrorism activities occur within the borders of India. The evidence of record fails to show that the Indian Government targets U.S. citizens in the United States or in India by exploiting, manipulating, pressuring, or coercing them to obtain protected information. Thus, the concern that the Indian Government will seek classified information is moderate. The Government has not provided documentary evidence showing that the Government of India violates U.S. laws, by seeking and shipping controlled goods without proper licenses to India, nor is there information that any such incidents alleged involved classified information.

Under the guideline, the potentially conflicting loyalties must be weighed to determine if an applicant can be expected to resolve any conflict in favor of U.S. interests. In determining if Applicant's contacts in India cause security concerns, I considered that India and the United States have a strong relationship, which includes working together on international security issues and trade. There is no evidence that the Indian Government targets U.S. citizens for protected information. The human rights issues in India, while improving, and terrorist activities continue to be a concern. While none of these considerations by themselves dispose of the issue, they are all factors to be considered in determining Applicant's vulnerability to pressure or coercion because of her family and bank accounts in India. Applicant's contacts with her family and the

bank accounts raise a heightened risk under AG ¶¶ 7(a) and (b) and a concern under AG ¶ 7(e).

AG ¶ 8 provides conditions that could mitigate security concerns:

(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

(f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

While she has lived in the United States for over 15 years and abandoned her Indian citizenship to become a citizen of the United States, Applicant still has close ties with her family members in India. She travels home every two years, and in between visits, she communicates periodically with her family members. Her elderly mother has always been a homemaker and does not have ties with the Indian government. Two of her brothers work in private industry, do not have contacts with the Indian government, and are not involved in activities which would raise the interests of the Indian government. Her two sisters teach, one at a private school and one at a university. The husband of one works for the Indian government, but Applicant has no idea what work he performs. Her sisters' teaching positions are academic related, not government related. The contacts and activities of her mother, two brothers, and two sisters in India do not involve the Indian government. Their normal daily lives and activities in India are unlikely to place Applicant in a position of having to choose between the interests of the United States and the interests of a foreign individual, group, organization, or government. Applicant voluntarily chose to give up her Indian citizenship when she decided to become a U.S. citizen. Most of her assets are in the United States, where she has worked and lived for more than 15 years. Her decisions reflect her loyalty to the United States and not to India. Thus, she can be expected to resolve any conflict of interest in favor of the United States.

Applicant's older brother recently retired after many years of active duty in the Indian Navy. While he never achieved the rank of a flag officer, he retired as a senior officer. His new employment concerns risk management in the energy and transportation industry and utilizes his marine engineering and Navy experience as well

as his knowledge of Asia. His new employment does not relate to the Indian defense establishment, and while his military experience would be a concern if he was still on active duty, his new employment focuses on a career in a new and different industry, utilizing his management skills learned as a naval officer. Applicant has mitigated the security concerns raised by her family members in India under AG ¶¶ 8 (a) and (b).

Applicant's three bank accounts in India are not a security concern because the money in these accounts totals less than \$15,000. Her financial assets in the United States total more than \$1,000,000, making it highly unlikely that she could be subject to coercion or pressure because of the money in India or a need for money. Applicant placed the money in these accounts, not the Government of India, for her convenience or as a tax savings. She can withdraw the money from two accounts at any time and the money from the third account in 2014. This money is not part of a specific retirement account and is not controlled by the Government of India. She does not and will not receive any benefits from the Indian government in the future. She has mitigated the security concerns about her bank accounts in India under AG ¶ 8(f).

### **Guideline C, Foreign Preference**

Under AG ¶ 9 the security concern involving foreign preference arises, "[W]hen 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."

AG ¶ 10 describes conditions that could raise a security concern and may be disqualifying:

(a) exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member. This includes but is not limited to:

(1) possession of a current foreign passport; and

(3) accepting educational, medical, retirement, social welfare, or other such benefits from a foreign country.

Applicant maintained a valid Indian passport until she became a U.S. citizen in 2008. When she became a U.S. citizen, she gave up her Indian citizenship as India does not recognize dual citizenship. Given the lack of dual citizenship, the Indian Consulate General invalidated her passport in 2008, issued her a temporary visa, and eventually gave her a certificate of overseas citizenship which allowed her to obtain a lifelong visa for entry into India. Since Applicant showed that her passport had been invalidated in 2008, the Government did not establish her possession of a current foreign passport under AG ¶ 10(a)(1). Because Applicant has three active bank accounts in India, the Government established that she received a benefit from a foreign country under AG ¶ 10(a)(2).

AG ¶ 11 provides conditions that could mitigate security concerns:

(b) the individual has expressed a willingness to renounce dual citizenship;

(c) exercise of the rights, privileges, or obligations of foreign citizenship occurred before the individual became a U.S. citizen or when the individual was a minor; and

(e) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated.

Applicant opened her three bank accounts before she became a U.S. citizen. By law, she cannot withdraw the money in one account until 2014. The other two accounts are kept for convenience. The accounts give her easy access to money when she visits India. These accounts are very small in comparison to her assets in the United States. Her overseas certificate of citizenship and lifelong visa provides her with no rights of citizenship. The United States marked her U.S. passport with a stamp, which acknowledges her certificate and visa status. She has mitigated any concern about these accounts under AG ¶ 11(c).

Even if I found that Applicant had an active passport, she would have mitigated any security concerns because she turned her passport into her security office in 2012. In addition, when she decided to become a U.S. citizen, she made a decision to renounce her Indian citizenship. The only way for her to regain her Indian passport is to renounce her U.S. citizenship and obtain Indian citizenship. AG ¶¶ 11(b) and 11(e) apply.

### **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 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 commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. The decision to grant or

deny a security clearance requires a careful weighing of all relevant factors, both favorable and unfavorable. In so doing, an administrative judge must review all the evidence of record, not a single item in isolation, to determine if a security concern is established and then whether it is mitigated. A determination of an applicant's eligibility for a security clearance should not be made as punishment for specific past conduct, but on a reasonable and careful evaluation of all the evidence of record to decide if a nexus exists between established facts and a legitimate security concern.

The evidence in support of granting a security clearance to Applicant under the whole-person concept is more substantial than the evidence in support of denial. In reaching a conclusion, I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant maintains strong connections with her family in India. She visits them every two years, and in between, she talks with various family members by telephone or communicates with them by email. Despite her family relationships, she made a decision over 15 years ago to leave her family and move to the United States. She has established a home for herself in the United States and has steadily worked for a U.S. company for many years. After 10 years in the United States, she applied for U.S. citizenship, knowing that she would lose her Indian citizenship and her rights as an Indian citizen. She has accumulated significant assets in the United States, not in India. Her three small bank accounts located in India are insufficient to place her in a position of vulnerability to future exploitation or coercion. She may inherit one-sixth of the house in which her mother now lives. Her share of this house equates to just over \$46,000 which is less than 5% of her overall net worth. Again, her inheritance is not likely to place her in a position of conflict. Her decisions to move to the United States and abandon her India citizenship reflect her choice to be loyal to the United States and to resolve any conflicts in favor of 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 and foreign preference under Guidelines B and C.

### **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
Subparagraph 1.d:	For Applicant

Paragraph 2, Guideline B:

FOR APPLICANT

Subparagraph 2.a:

For Applicant

Subparagraph 2.b:

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.

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MARY E. HENRY  
Administrative Judge