



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
) ISCR Case No. 20-00616
)
Applicant for Security Clearance)

Appearances

For Government: Brian L. Farrell, Esq., Department Counsel
For Applicant: Bradley P. Moss, Esq.

03/08/2023

Decision

MASON, Paul J., Administrative Judge:

Having weighed and balanced all the evidence, I conclude that Applicant has not mitigated the security concerns arising from the guideline for foreign influence. Eligibility for security clearance access is denied.

Statement of the Case

On December 28, 2016, Applicant signed and certified an Electronic Questionnaire for Investigations Processing (e-QIP) application for a security clearance. After evaluating the documentation compiled during the security investigation, the Department of Defense (DOD) was unable to make a preliminary affirmative finding required to grant a security clearance. DOD issued to Applicant a Statement of Reasons (SOR), dated August 18, 2020, detailing security concerns under the guideline for foreign influence (Guideline B). The action was taken under DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective in the DOD on July 8, 2017.

Applicant provided his notarized answer on June 14, 2021. The case was assigned to me on October 5, 2022. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on December 9, 2022, for a hearing on December 22, 2022. The hearing was held as scheduled. The Government's one exhibit (GE) 1 and Applicant's 8 exhibits, (AE) A-H, were entered into evidence without objection. DOHA received the transcript (Tr.) on January 3, 2023. The record closed the same day.

Administrative Notice

The Government requested I take administrative notice of certain relevant facts related to the Islamic Republic of Iran. The facts are limited to matters of general knowledge and not subject to reasonable dispute. The Government's administrative notice memorandum and source material has been remarked as Hearing Exhibit (HE) 1.

Findings of Fact

The SOR alleges that Applicant's foreign family members raise foreign influence security concerns under Guideline B. In his June 2021 answer, Applicant denied SOR ¶ 1.a, averring that both parents are permanent residents of the United States. He admitted that his brother (SOR ¶ 1.b) is a citizen and resident of Iran. Applicant and his brother have little contact with each other. He admitted that his parents-in-law (SOR ¶1.c) are citizens and residents of Iran, but are in the process of obtaining their U.S permanent resident cards so that they can live in the United States. (June 2021 answer to SOR)

Applicant was born in Iran in January 1982. He received his bachelor's degree in software development from an Iranian university. (Tr. 69) Right after college, he was required to serve in the Iranian navy as an ensign from August 2005 to April 2007, working for 20 months in the human relations department tracking information about other conscripts. He never worked in intelligence or combat. While he was in the Iranian military, he had no access to Iranian classified information. (GE 1 at 26-27; Tr. 74-75)

In January 2008, Applicant moved to an Asian country where he enrolled at a university to study the English language. His plan was to obtain a master's degree and then apply for admission to an American university to pursue a Doctor of Philosophy (PhD). During his second year at the Asian university, he won a U.S. permanent resident card visa through a lottery. He filled out the required paperwork and received a resident card visa and came to the United States on August 15, 2009. (GE 1 at 8, 17-26; Tr. 75-80)

According to Applicant's December 2016 e-QIP, after entering the United States in August 2009, he lived with his uncle, a U.S. citizen, from August 2009 to June 2010. (GE 1 at 17) From June 2010 to June 2015, he lived at various locations in a certain region of the United States. He rented one apartment from June 2010 to June 2011, and one from June 2011 to July 2012. For the next five months, he lived with his

uncle again. From November 2012 to May 2015, Applicant lived in a dwelling that he indicated that he owned. (The address is listed as an apartment.) (GE 1 at 15-17, 20; Tr. 69)

During the same period between June 2010 and May 2015, Applicant worked in several jobs before becoming a U.S. citizen and receiving his U.S. passport in January 2015. In the same month, he also received a master's degree in cybersecurity. (GE 1 18-26; Tr. 75-80) In 2014, he used his Iranian passport for his travel to Iran to marry his wife. After becoming a U.S. citizen in January 2015, he returned to Iran for the marital ceremony using his Iranian passport. (GE 1 at 29-30; Tr. 80)

From June 2015 to September 2016, Applicant lived in the Middle East. For the first two months he lived in the United Arab Emirates (UAE). Then, he moved his residence to Turkey until his wife obtained her U.S. permanent resident card visa. During the period, he worked in the Turkey office of a U.S. property management company. In September 2016, Applicant returned to the United States and rented an apartment. Following unemployment for the last three or four months of 2016, he worked at several jobs until the end of 2018, when he became a subcontractor in software development, and started his own company. (Tr. 70-71) Since his return to the United States in September 2016, Applicant travelled to Iran every year, using his Iranian passport, with his last trip to the country occurring in 2019, when he visited his sick father. He has not been to Iran since 2019. His Iranian passport has been expired for two years, and he has no plans to renew it. He has always used his U.S. passport when entering and exiting Turkey, except when traveling to Iran, which required use of his Iranian passport. He held two public trust positions in 2017 and 2022. (GE 1 at 13-14; Tr. 68-72, 81-83, 120)

Apparently, after returning to the United States in September 2016, Applicant lived at one or two rental locations until 2020 when he purchased an old home for \$765,000. See, AE F at 4-5, GE 1 at 14. Applicant's home and other financial interests in the United States and Iran will be discussed below under his financial assets in the two countries.

SOR ¶ 1.a – Applicant's parents are citizens and residents of Iran. His mother is 61 years old. She has never been employed in Iran or the United States. She received her U.S permanent resident alien card in February 2017, and her state identification card (not a driver's license) in May 2021. She lives with Applicant. She is entitled to no benefits from the Iranian government. Applicant's father is 75 years old. He operated a construction business while in Iran, but is retired now. He has never had any connection to the Iranian government. He was excused from serving in the Iranian military because of eye problems. He received his U.S permanent resident card in July 2020, and his state identification card in May 2021. He lives with Applicant. (GE 1 at 31-33; Tr. 84-85; AE D, E)

Applicant's parents have a home in Iran. While he does not know the exact value, he estimated it to be between \$200,000 and \$500,000. The dwelling is paid off.

Applicant's grandfather gave Applicant's father the land and it took him about 10 years to erect a home. The father applies his Iranian public non-government retirement pension, about \$600 a month, to pay the maintenance expenses on the home. Applicant assumes that his brother (SOR ¶ 1.b) lives in and takes care of the home. Applicant's parents have an Iranian bank account, but he does not know the amount in the account. (Tr. 86-89, 118)

Applicant's parents live with him whenever they are in the United States. His mother returned to Iran four months ago to be with Applicant's father who had surgery since medical services are free in the country. When his father is fully recovered, he and Applicant's mother intend to sell the home and return to the United States because they hate Iran. They intend to buy property in the United States. (Tr. 93-95, 117)

SOR ¶ 1.b – Applicant's brother is a citizen and resident of Iran. The brother is 37 years old and single. In his December 2016 e-QIP, Applicant indicated that his brother was self-employed and working from home because he did not have an office for his employment as a used car salesman. The brother was exempt from serving in the Iranian military because of his defective eyesight. He has never had a connection to the Iranian government. Applicant's brother and his parents know Applicant works in information technology (IT) as a software programmer, but they do not know he works on behalf of the U.S. Government. (GE 1 at 34; Tr. 89-92)

Two years ago, Applicant's mother petitioned for Applicant's brother to immigrate to the United States. (AE F) A lawyer indicated to Applicant that it would take five or six years for the brother to obtain a permanent resident card. With Applicant's awareness of the deteriorating situation in Iran, he and his mother ruminated over the possibility of the brother moving to Turkey while he waits for the approval of his U.S. permanent resident card visa. (AE F) Though Applicant loves his brother, he testified the two are not close. Applicant claimed that his brother indicated that he wants to immigrate to the United States. (Tr. 89-93, 121) Witness I, Applicant's first telephone witness, indicated that Applicant's brother does not desire to immigrate to the U.S. (Tr. 18-19)

Based on Applicant's December 2016 e-QIP, Applicant's wife was born in Iran and is 29 years old. She received a bachelor's degree in Iran and worked as a part-time insurance salesperson. In August 2014, they married in Iran. In 2016, she immigrated to the United States. In February 2020, she became a U.S citizen and received a U.S. passport. (GE 1 at 29-30; Tr. 22-26) She is employed as a relationship banker. She is currently taking courses towards a master's degree in accounting. Since her naturalization, she used her Iranian passport once in 2020 and once in 2021 to enter and exit Iran. With the Iranian passport, she does not need a visa, but with the U.S. passport, she needs a visa which costs \$80. Applicant's wife is willing to use her U.S. passport in her future travels. She indicated she has no financial assets still in Iran. She has never worked for the Iranian government and is not entitled to benefits from the country's government. (GE 1 at 42-45; Tr. 22-23, 27-30)

SOR ¶ 1.c - Applicant's mother-in-law (his wife's mother), born in Iran and 46 years old, is in the process of obtaining a U.S. permanent resident card. She came to the United States in late 2021 on an immigrant visa and applied for a permanent resident card when the visa was about to expire. Her application for a permanent resident card is still pending. She has been living with Applicant for close to a year. She has been fingerprinted and is waiting for her interview. See AE G. When she was living in Iran, she was a psychologist in the private sector. The mother-in-law has never worked for the Iranian government or military. (Tr. 31-35, 95, 115-116)

Applicant's father-in-law (Applicant's wife's father), 56 years old and born in Iran, operates a private insurance company. He has retired from service in the Iranian military. Applicant's wife does not know what position he held. At the wife's request, her father sent her around \$60,000 to cover expenses for the wife's 12-year-old brother (with a visa authorizing him to stay in the United States while enrolled in an academic institution) and her mother (Applicant's mother-in-law). The wife's father completed his immigration visa interview (scheduled for September 21, 2022) and is waiting on completion of federal law enforcement checks, to be followed by the final decision whether he receives the U.S. permanent resident alien card. See AE H. Assuming he gets the card, he will immigrate to the United States and establish a winery business. (Tr. 33-38)

Applicant's wife explained that her parents (Applicant's in-laws) own a large amount of privately-owned property in Iran. The real property (unalleged) includes a home, office buildings, and land worth over \$1,000,000, that Applicant's in-laws purchased during their lifetime. Applicant's wife would inherit the property if her parents passed away. If the United States requested that she sell the property, she would because she currently has no intention of keeping the property or assets. (Tr. 38-39, 46-48, 54-55)

Applicant's wife considers her relationship with her father to be close. She speaks to him weekly by video call or by text. She is even closer to her mother. Before her mother immigrated to the United States in late 2021, Applicant's wife spoke to her every day. When he submitted his e-QIP in December 2016, Applicant indicated that he had weekly contact with his parents, his in-laws, and his brother. (GE 1 at 30-37; Tr. 52-53, 121-123)

Applicant's Financial Assets

Both Applicant and his wife testified that they have no financial assets in Iran. (Tr. 29, 83) Applicant is not aware of a plan for he or his wife to inherit his parents-in-law's financial property assets in Iran, but he does not intend to have assets in Iran. (Tr. 100-101)

The total value of Applicant and his wife's financial interests in the United States is over a million dollars, with his home being the most valuable asset.

Applicant purchased a 1965 home in 2020. He refinanced an old home, then demolished it, and got a construction loan for \$1,400,000 to build a new house in 2022. (Tr. 106-108) Applicant indicated that he paid \$1,200,000 of the original \$1,400,000 construction loan to the lender. Applicant did not explain how he raised the \$1,200,000. The lender covered the original mortgage and paid the construction company for the construction of the new house. Applicant has about \$270,000 left on the construction loan. When the construction of the new house is complete, Applicant will owe \$1,440,000 (principal), which he will begin paying in March or April 2023. He is paying on the interest currently. Before construction began on the house, the initial appraisal was anticipated to be \$1,800,000 to \$1,900,000 when construction of the house is completed. (Tr. 108-109) Based on the fact that Applicant will not begin paying on the principal of the mortgage until March or April 2023, it is fair to infer that Applicant has very little equity in the new house.

Applicant owns two vehicles. One is fully paid, and he owes \$72,000 on his wife's car. Applicant and his wife have a common bank account where he and she deposit their salary. They transfer small amounts to personal accounts for personal obligations. The common account only has a \$13,000 balance due to the large expenditure he made to the construction company for the new house. Applicant generally carries \$20,000 to \$30,000 in the common account on a monthly basis. Applicant has two credit cards, and his wife has three or four credit cards. He has about \$4,000 in stock and his wife has a small 401(k) account. (Tr. 99) Applicant also recalled withdrawing \$38,000 from an income retirement account to pay for the construction of his house. (Tr. 110-114)

Since Applicant became a subcontractor in late 2018, his salary has averaged around \$220,000 a year. His wife's salary is between \$70,000 and \$80,000 a year. (Tr. 114-115)

Character Evidence

Witness I provided telephone testimony that she is employed in IT. She received a security clearance in 2013. She was a project manager in 2018 when Applicant joined her team as a solution architect. She was his supervisor for six months in 2018 and from 2020 to February 2022. While Applicant worked for her, he had no work infractions. His performance was excellent. Witness I believes Applicant's parents have U.S. permanent resident cards. His mother-in-law has a permanent resident card and lives with Applicant. Witness I is aware that Applicant's brother, a car salesman living in Iran, does not desire to immigrate to the United States. Applicant has never raised suspicions about his loyalty to the United States. Witness I recommends him for a security clearance. (Tr. 19)

Witness J provided telephone testimony that she is a project manager at a defense contractor. She works in IT performing technical implementation for federal agencies. She received her security clearance in 2013. She met Applicant in May 2018 when he began working on a joint project as a coder. She never received negative

complaints about his work. She conducted no performance evaluations on Applicant because he transitioned from an employee to a subcontractor shortly after he joined her project. Witness J has never observed any behavior or dialogue by Applicant or his wife to indicate they have conflicted loyalties to Iran. Witness J recommends Applicant for a position of trust or a security clearance. (Tr. 57-66)

Applicant submitted three-character references who provided favorable information regarding his personal and professional reputation. References A and B, who have known Applicant since 2010, recommend him for a security clearance, because he has never given them a reason to doubt his undivided loyalty for the United States. Reference C, who has had a security clearance since 2007, and has worked with Applicant from 2018 to September 2022, is aware of Applicant's reputation for reliability and problem-solving. He also recommends Applicant for a security clearance. (AE A, B, C)

Administrative Notice – Islamic Republic of Iran

Iran is an authoritarian republic with a Shia Islamic political system. The supreme leader has constitutional authority over all branches of government, including the judiciary, media, and other pivotal institutions. Iran has been designated as a state sponsor of terrorism since 1984, and continues to be a state sponsor of terrorism, supplying financial assistance, advanced weaponry and methods, and multileveled support to extremist groups throughout the Middle East.

As of November 2021, the U.S. Department of State travel advisory for Iran was at level 4, indicating not to travel to the country because of the risk of kidnapping and arbitrary detention of U.S. citizens, specifically dual-national Iranian Americans, on charges of espionage and threatening the national security of the country. The U.S. government does not have diplomatic or consular relations with the Islamic republic of Iran and is unable to offer emergency services to U.S. citizens in Iran.

Iran's aggressive cyber operations pose an ongoing danger to the security of U.S. and allied networks. Iran has demonstrated a willingness to conduct cyber attacks on infrastructure. In November 2020, the United States government seized 27 domain names that Iran's Islamic revolutionary Guard Corps (IRGC) illegally used to advance their covert influence campaign. In December 2020, Iranian operatives disseminated misinformation during the campaign to destabilize confidence in the U.S. election process.

Iranian government officials contributed to human rights abuses against Iranians as well as Syrians, by supporting the president of Syria, Hizballah forces in Iraq, and the Houti rebels in Yemen. As of 2020 and 2021, human rights abuses continue to occur within Iran. These abuses are exemplified by include arbitrary killings, including killings by government agents, executions for offenses that do not satisfy the international standard of serious crimes, and without fair trials; forced disappearance and torture by government agents, demeaning treatment, or punishment by the

government; harsh prison conditions, serious flaws with the independence of the judiciary, and specifically the revolutionary courts. The Iranian government substantially interferes with freedom of peaceful assembly, freedom of association, and freedom of the press; the government imposes harsh restrictions on religious freedom, free elections, and human rights organizations. The government has taken negligible steps to investigate, prosecute, and punish those government officials who committed human rights abuses, because the conduct is considered an unofficial part of government policy.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines are not inflexible rules of law. apply together with common sense and the general factors of 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 national security eligibility will be resolved in favor of the national security."

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion in seeking a favorable security decision.

Analysis

Foreign Influence

AG ¶ 6 sets forth the security under Guideline B:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

Conditions under AG ¶ 7 that could raise a security concern and may be disqualifying include:

(a) contact, regardless of method, 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 classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology; and

(e) shared living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion; and

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

Contacts and ties to family members who are citizens of a foreign country do not automatically disqualify an applicant from security clearance access. However, having close contacts with only one foreign family member could be sufficient to raise a heightened risk under the foreign influence guideline. As set forth under AG ¶ 7(a), the contacts are only disqualifying if they create a heightened risk of foreign exploitation or influence. As the guideline indicates, the country in question must be considered. The risk of duress or coercion is much greater when the foreign country has an authoritarian government or where the foreign government has a practice of conducting intelligence operations against the United States. As set forth in AG ¶ 7(b), connections to family members are only disqualifying if they create a potential conflict of interest between an applicant's security duties and his desire to assist his foreign family member(s).

AG ¶ 7(e) is also potentially disqualifying conditions because of the heightened risk of foreign influence associated with Applicant's wife (a U.S. citizen naturalized in February 2020) living with Applicant and her affinity to her parents who are Iranian citizens. AG ¶ 7(f) may be potentially disqualifying because of the heightened risk associated with the Iranian property interests over \$1,000,000 of Applicant's in-laws, and Applicant's father's Iranian house valued at between \$200,000 and \$500,000.

The Islamic Republic of Iran has an authoritarian government. It has been designated a state sponsor of terrorism since 1984. The country performs aggressive

cyber operations which pose constant danger to the security of the U.S and allied computer networks. The country has a distressing human rights record.

There are three allegations under the foreign influence guideline. Even though Applicant's parents have permanent residence cards allowing them to remain in the United States, they are still Iranian citizens. At the time of hearing, they were both located in Iran for about three months while Applicant's father recovered from surgery. Prior to his surgery, Applicant's parents were living in Iran at least part of the year. Applicant's brother is an Iranian citizen even though he has a pending application for U.S. permanent residency. Witness I provided contradictory testimony regarding the brother's intentions of immigrating to the United States. Applicant's mother-in-law has been living with Applicant in the United states on a tourist visa for close to a year, awaiting a decision on her permanent residence application. Both Applicant's in-laws are still Iranian citizens. With several of Applicant's foreign family members in Iran, government officials or other types of government operatives could employ pressure or coercion on Applicant through those family members to make him compromise classified information or violate security regulations. AG ¶¶ 7(a), 7(b), 7(e), and 7(f) are applicable to the circumstances of his case. Applicant has a "very heavy burden of persuasion to demonstrate that his family members do not present a security risk. See ISCR Case No. 07-00029 at 3 (App. Bd. Dec. 7, 2007) The burden of disproving a mitigating condition never shifts to the Government.

Conditions under AG ¶ 8 that could mitigate security concerns include:

- (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 United States;
- (b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest;
- (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; and
- (f) the value of 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.

Applicant's foreign family members have no connection to the Iranian government. His father-in-law is retired from the Iranian military. Neither Applicant's father nor his brother was required to serve in the Iranian military because of eye problems. Even though Applicant's wife is a U.S citizen, she is still very close to her parents. She received about \$60,000 from Applicant's father-in-law to cover the expenses of her mother and her 12-year-old brother. Based on the nature of the Iranian government, its appalling human rights record, and its animosity toward the United States, AG ¶ 8(a) cannot be fully applied because Applicant did not provide sufficient evidence that shows there is little likelihood his contacts with his foreign family members could create a heightened risk for foreign influence or exploitation.

AG ¶ 8(b) applies only in part. The essential factor of the condition is the "deep and longstanding relationships and loyalties to the United States." Applicant has established some favorable connections to the United States. He became a U.S. citizen and graduated from a notable American university in 2015. He qualified for public trust clearances in 2017 and 2022. While the testimony of Witnesses I and J provided favorable evaluations of his job performance and loyalty for the United States between 2018 and 2022, their working relationships were relatively short. I reach the same conclusion regarding Reference C because of his short working relationship with Applicant.

There is a rebuttable presumption under AG ¶ 8(c) that ties of affection to an immediate foreign family member are not casual. ISCR Case No. 00-0484 at 5 (App. Bd. Feb. 1, 2002) There is a rebuttable presumption that an applicant has ties of affection to immediate family members of his wife. See ISCR Case No. 11-12659 (App. Bd. May 30, 2013) Judging the evidence in its totality, Applicant's contacts with his parents, brother, and in-laws are neither casual nor infrequent. While Applicant's parents have permanent residence cards, they live in Iran part of the year, notwithstanding Applicant's characterization about their negative feelings for the country. Neither his mother nor father-in-law have received permanent residence cards, and his father-in-law is still living in Iran. AG ¶ 8(c) does not apply.

AG ¶ 8(f) is established. Considering all the evidence regarding the Iranian property interests valued at over \$1,000,000 owned by Applicant's in-laws, and Applicant's father's Iranian home, there is a possibility that Applicant or his wife may inherit the Iranian property. There is also a possibility that neither he nor his wife may inherit the property because they predecease their parents, or are disinherited by their parents, or are barred by the country's inheritance laws. The DOHA Appeal Board has addressed this issue and held that an applicant does not have a financial stake in a country simply because he or she may inherit real or personal property in the future from their parents. ISCR Case No. 97-0403 at 3 (App. Bd. May 13, 1998).

Whole-Person Concept

I have examined the evidence under the foreign influence guideline in the context of the nine general factors of the whole-person concept listed at AG ¶ 2(d):

(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 access to classified information must be an overall common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

Applicant immigrated to the United States in 2009. In January 2015, he became a U.S citizen and earned a master's degree in cybersecurity. He has held several jobs since 2009, including two public trust positions in 2017 and 2022. In late 2018, he became a subcontractor and opened his own company. He has gained a reputation as a solid performer on the job. Applicant's wife has been a naturalized U.S. citizen since 2020. However, Applicant has not met his heavy burden of persuasion in prevailing over Iran's antagonistic relationship with the United States, its reputation for being a state sponsor of terrorism, and the heightened risk generated by Applicant's foreign family members' presence in Iran. Considering the evidence as a whole, Applicant has not mitigated the security concerns arising from the guideline for foreign influence.

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):	AGAINST APPLICANT
Subparagraphs 1.a-1.c:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Paul J. Mason
Administrative Judge