



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



In the matter of:)
)
-----) ISCR Case No. 23-01278
)
Applicant for Security Clearance)

Appearances

For Government: Tara Karoian, Esq., Department Counsel
For Applicant: Chris Snowden, Esq.

07/10/2024

Decision

WESLEY, Roger C., Administrative Judge:

Based upon a review of the pleadings, exhibits, and testimony, I conclude that Applicant mitigated the security concerns covering foreign influence. Eligibility for access to classified information is granted.

Statement of Case

On July 26, 2023 the Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudications Services (CAS) issued a statement of reasons (SOR) to Applicant detailing reasons why under the foreign influence guideline the DCSA CAS could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DoD) Directive 5220.6 *Defense Industrial Personnel Security Clearance Review Program*, (January 2, 1992) (Directive); and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or*

Eligibility to Hold a Sensitive Position (AGs), effective June 8, 2017.

Applicant responded to the SOR on September 3, 2023, and requested a hearing. The case was assigned to me on February 20, 2024, and was scheduled for hearing on April 29, 2024 and rescheduled for April 30, 2024. The hearing was convened as rescheduled. At hearing, the Government's case consisted of two exhibits (GEs 1-2). Applicant relied on one witness (himself) and 11 exhibits (AEs A-L).

All but AE L of Applicant's proffered exhibits were admitted without objection. The Government's objection to the admission of AE L on grounds of relevance and the absence of official endorsement of the article by the U.S. Institute of Peace (USIP) was sustained without prejudice to Applicant's resubmission of a revised version of the article in a post-hearing submission. The transcript (Tr.) was received on May 13, 2024.

Besides its two exhibits, the Government requested administrative notice of facts contained in 12 attachments related to the country of India. Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 16-02522 at 2-3 (App. Bd. July 12, 2017); ISCR Case No. 05-11292 at 4 n. 1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004)). Administrative notice is appropriate for noticing facts or government reports that are well known. See *Stein, Administrative Law*, Sec. 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situation in India.

Administrative notice was extended, without objection, to the documents themselves, consistent with the provisions of Rule 201 of Fed. R. Evid. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing the current status of India. Additional administrative notice was taken (without objections) of U.S.-India Relations, U.S. Dept. of State (Nov. 9, 2023); *U.S. Relations with India*, U.S. Dept. of State (July 2022); and *U.S. Security Cooperation with India, Fact Sheet*, U.S. Dept. of State (Jan. 2021).

Procedural Issues

Before the close of the hearing, Applicant requested leave to supplement the record with a revised version of its AE L hearing exhibit. For good cause shown, Applicant was granted 12 days to supplement the record with a revised version of AE L. Department Counsel was afforded two days to respond. Within the time permitted, Applicant submitted a revised version of AE L (a reproduced article in a USIP website that was initially offered for administrative notice purposes and rejected). The Government, in turn, reasserted its objection to the admission of the revised AE L, citing lack of relevance, the USIP's disclaimer of any endorsement of the article (entitled "A Big Step Forward in U.S.-India Defense), and the absence of any cited U.S. official source within the article. (GE 3)

Applicant, in turn, addressed the Governments objections in his follow-up responses. (AEs M-P)

To be sure, the USIP is not an official source, and the USIP never endorsed the authors' opinions in the USIP article . However, the authors' reported opinions in the USIP are reconcilable with the data compiled in *U.S. Security Cooperation with India, supra*, and the article is admitted for limited weight purposes only. Applicant's post-hearing submissions of AEs M-Q are admitted. Post-hearing, Applicant also submitted a document entitled *U.S. Security Cooperation with India, Fact Sheet*, U.S. Dept. of State (Jan. 2021), and requested administrative notice be taken of the document. Applicant's submission was received without objection and assigned administrative notice status. (XVI)

Summary of Pleadings

Under Guideline B, Applicant allegedly (a) has a spouse and two children who are citizens of India; (b) has parents and a brother who are citizens and residents of India; (c) has a mother-in-law and father-in-law who are citizens and residents of India; (d) has a brother-in-law who is a citizen and resident of India, and who formerly served as an inspector of goods and services for the Indian government; (e) owns several properties in India with an approximate value o \$124,000 USD; (f) has a spouse who owns several properties in India as a result of his purchasing them in 2013 or 2014 for approximately \$125,000 USD, and gifting them to his spouse in 2018 or 2019; and (g) maintains four bank accounts in India, with approximate values of \$50,000, \$2,000, \$3,000, and \$3,000 USD, respectively. Allegedly, Applicant's actions are ongoing.

In his response to the SOR, Applicant admitted each of the allegations with explanations. He claimed that none of his family members with Indian citizenship and residences have any affiliations with foreign government agencies. He further claimed that his brother-in-law in India resigned from his position with the Indian government, transitioned into academia, and no longer has any affiliations with Indian government agencies. Applicant also claimed a long-term commitment to residing in the United States with the explicit intent of establishing a lasting home in this country. He claimed that he financial investments in India are guided by a broader perspective of global diversification. And, he claimed that his own construction project underway in India is fully funded, nearing completion, and intended for sale.

Findings of Fact

Applicant is a 43-year-old employee of a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

Background

Applicant was born and raised in India to parents of Indian descent and residence in the country. (GEs 1-2; Tr.4) He immigrated to the United States in June 2013 with his first wife and was naturalized as a U.S. citizen in September 2020. (GEs 1-2 and AE G; Tr. 47, 82) His first marriage was to a woman of Indian descent in December 2012 and was legally dissolved in October 2015 as the result of his wife's passing. (GEs 1-2; Tr. 49, 83) Applicant has no children from this marriage.

Applicant remarried in February 2017 (family-arranged in India) to a woman with Indian citizenship, residence status, and engineering training. (GEs 1-2; Tr. 50, 52, 86-88) She immigrated to the United States in 2021 and acquired permanent U.S. residence status in August 2021. (GEs 1-2 and AE A; Tr. 50, 52) Her application for U.S. citizenship was filed in April 2024 and is currently pending. (AE K; Tr. 59-60) Applicant has two children from this marriage (ages 4 and 6), both of whom acquired U. S. permanent residence status in May 2022. (GE 1 and AE A; Tr. 70) Applicant earned a bachelor's degree in technology from an Indian university in April 2003 and attended additional university management classes in India (GE 2) He claims no Indian or U.S. military service.

Since November 2022, Applicant has been employed as a senior technology manager for a U.S. company. He described his employment as primarily remote from his residence. (GE 2 and AE H) Between 2015 and November 2022, he reported self-employment as the president of a technology firm. (GE 2 and AE H; Tr. 49) Prior to 2015, he worked as a principal consultant for a technology company. (GE 1) He has never held a U.S. security clearance. (GEs 1-2)

Applicant's current wife is employed as a security consultant for a U.S. consulting firm. (Tr. 53) With her income, she is able to contribute to the family's finances.

Applicant's family relationships

Applicant's parents and brother are citizens and residents of India with whom Applicant maintains weekly contact. (GEs 1-2; Tr. 61-63 78-79)) Neither his parents nor his brother have any links or ties to the Indian government or require any financial assistance from Applicant. (GE 2; Tr. 66, 103, 134-136)

Applicant's in-laws are also citizens and residents of India, with whom he maintains tri-monthly contact. (GEs 1-2; Tr. 67, 138) Applicant also has a brother-in-law, with whom he maintains infrequent contact. (GE 2; Tr. 67-68) Neither of his in-laws nor brother-in-law has any ties or links to the Indian government. While his brother-in-law once worked for the Indian government as an inspector of goods, he resigned this position several years ago and no longer maintains any ties or inks to either the Indican government . (GE 2; Tr. 67-68, 80)

Applicant's parents and other family members residing in India are financially comfortable and do not receive any financial assistance from either Applicant or his wife.

(Tr.133-136) Asked to describe the safety and security conditions of the residence communities where his family members reside, Applicant characterized their neighborhoods and surroundings as very stable and secure. (Tr. 136-137)

Applicant's financial interests in India

Applicant owns seven properties in India (four of which are mortgage-free) that he values together at \$1,124,000 USD. (GE 2; 70-7, 90) Three of the seven properties he purchased in 2013 and 2014 are titled in his name. (Tr. 90, 94-95, 102-10, 114) Of these three properties, only two of them have mortgages. Income from these properties amounts to more than 10 per cent of his overall income, and he is not dependent on the legal or equitable income derived from them. (Tr. 116-117) Sources of income used to purchase these properties and fund the mortgages consists of Applicant's earned U.S. income and potentially the earned income of his wife. (Tr. 72-73, 109, 116-120)

Should anything happen to any of these Indian properties, Applicant is assuredly capable of "living without any of those." (Tr. 140) For these three Indian properties that he owns and controls, it is his intention to dispose of them when market conditions become favorable. (Tr. 114)

Besides the three Indian properties he purchased and retains, Applicant purchased four additional properties in 2013 or 2014 for approximately \$125,000 USD with the intention of gifting them to his first wife. (Tr. 85, 91-92, 112) He later gifted them to his current wife (free and clear of any mortgages) as a hedge against her being denied permanent U.S. residence status. (GE 2; Tr. 70-71) Applicant has no control over the disposition of any of these gifted Indian properties. (Tr. 111-114)

Applicant has four bank accounts of his own in India with four different Indian banks (banks A-D, respectively). (GE 2; Tr. 73-74) His respective bank balances with these banks are as follows: \$50,000 USD with Bank A; \$2,000 USD with Bank B; \$3,000 USD with Bank C; and \$3,000 USD with Bank D. (GE 2; Tr. 106) Applicant created these bank accounts in 2020 and uses them (between \$50,000 and \$60,000 USD) to pay the annual mortgages due on his Indian properties. (GE 2; Tr. 106-107) Two of these four accounts were jointly originated with his wife. Applicant originated the remaining two individually. (Tr. 107)

Applicant's U.S. financial interests

Between December 2020 and April 2024, Applicant purchased numerous U.S. properties. (AE J) He reported 13 properties purchased with a combined cost of \$3,591,000 USD during this time frame. (AE J; Tr. 143) He has retained these properties, which he believes have not enjoyed any appreciation to date. (Tr. 144) Applicant currently earns approximately \$175,000 a year USD from his current employment and earns an additional \$120,000 a year from secondary consulting jobs. (Tr. 116-119).

Supplemental income is available to Applicant from his wife's annual earnings (estimated to be \$105,000 USD). (Tr. 120) Both Applicant and his wife maintain 401(k) retirement accounts (Tr. 133)-134) that are accessible in emergent situations should the need arise.

Applicant's travels to India

Since 2016, Applicant has traveled to India on a number of occasions (nine trips in all) to visit his family and in one instance in 2016 to lay his first wife first wife to rest. (GE 2; Tr. 85) His trips generally ranged in time between 21 and 30 days. (GE 2) In none of his trips to India was he ever stopped, questioned, searched, or otherwise detained by local Indian .custom officials. (GE 2)

Applicant assured that he was never contacted by anyone associated with foreign intelligence, terrorist security, counterintelligence, or military operations. (GE 2) Nor was he ever threatened, coerced, or pressured in any way to cooperate with a foreign government, foreign intelligence, or security service. (GE 2)

Consistently, Applicant has informed his security department of his travels and any foreign contacts he encountered. (AEs B and D) Both Applicant and his program manager expressed assurances of Applicant's commitments to keep his security department alerted to any foreign travels, contacts, and money transfers in the future. (AE 1; Tr. 81-82) Applicant's assurances are credible and are accepted.

Country information on India

Considered the world's largest democratic republic, India is also a very diverse country, in population, geography, and climate. It is the world's second most populous country and the world's seventh largest country in area. See Request for Administrative Notice, Republic of India, at 2.

India is a constitutional democracy, whose Constitution defines it as a sovereign, socialist, secular democratic republic. It is a multiparty, federal, parliamentary democracy with a bicameral parliament and it has an historical reputation for respecting the rights of its citizens. See *Country Reports on Human Rights: India*, U.S. Dept. of State (March 2023) However, there have been reports of extrajudicial killings of persons in custody, disappearances, torture and rape by police and security forces, who generally enjoy de facto impunity. See id.

The basic problem stems from the lack of clear accountability, which too often has resulted in cited human rights violations going unpunished. See *2022 Country Reports on Human rights: India, supra*. Police and security officials reportedly use torture and threaten violence during interrogations to extort money and summarily punish prisoners.

Since gaining its independence from Great Britain in 1947, India has been involved in wars with Pakistan in 1947, 1965, and 1971, and has had to defend itself against a 1999 intrusion of Pakistani-backed forces into Indian-held territory that nearly turned into full-scale war. See *The World factbook, India*, Central Intelligence Agency (Dec. 2022).

India survived a 1975 declaration of a state of emergency that carried a suspension of many civil liberties. The country has experienced two assassinations of its leaders: Prime Minister Indira Ghandi in October 1984 and Prime Minister Rajiv Ghandi in May 1991. In recent years, India has been confronted with sporadic outbreaks of religious riots that resulted in numerous deaths and casualties, and violent attacks by separatist groups in various parts of the country. See *The World factbook, India, supra*.

India continues to experience terrorist and insurgent activities that impact not only Indian citizens and residents, but U.S. visitors as well. See *Country Reports on Terrorism 2021*, U.S. Dept. of State (Feb 2023) Anti-western terrorist groups (some on the U.S. Government's list of foreign terrorist organizations) are active in India. These organizations include Islamist extremist groups such as Harkut-ul-Jiad-i-Islami; Harakat ul-Mujahidin, Indian Mujahideen, Jaish-e-Mohammed, and Lashkar-e tayyiba. See *India International Travel Information*, U.S. Dept. of State (Aug. 2023)

Reported attacks have occurred during the busy evening hours in markets and other crowded places and can occur at any time and place. See *India International Travel Information, supra*. Maoists (also known as Naxalites) are considered to be the most active insurgent group in India and are known to attack Indian government officials, target government buildings, and engage in other criminal activity.

Recommended travel restrictions do exist for U.S. citizens visiting India. The State Department cautions U.S. citizens to avoid travel in general (with several noted exceptions) to the state of Jammu & Kashmir. See *India Travel Advisory*, U.S. Dept. of State (June 2023) Human rights issues in India in 2022 included, *inter alia*, reports of unlawful and arbitrary killings, including extrajudicial killings by the government or its agents; torture or cruel, inhumane conditions, arbitrary arrests and detention, political prisoners or detainees; and arbitrary or unlawful interference with privacy; restrictions on freedom of movement and on the right to exit the country; refolement of refugees; serious government corruption; and other degrading treatment or punishment by police officials. For more examples of human rights abuses in India, see *2022 Country Reports on Human Rights Practices: India, supra*, at 1-3.

Important U.S. concerns have been raised, too, over reported cases involving government-sponsored entities and their illegal export, or attempted illegal export, of U.S. restricted dual use technology to India, including: (1) high-tech testing equipment that posed potential risks of diversion to a weapons of mass destruction program; (2) dual use equipment that can be used in military and civilian aircraft to extract engine vibration information; (3) equipment that can be used to manufacture material that improves the accuracy of strategic ballistic missiles with nuclear capabilities; (4) an animation system that can be diverted to weapons of mass destruction technology; (5) nuclear pulse

generators to two Indian entities capable of mounting diversion to the development of weapons of mass destruction or missiles; and (6) heat treating containers to an Indian entity capable of mounting diversion to the development of weapons of mass destruction or missiles. See Request for Administrative Notice-republic of India, *supra*, and the specific cases referenced therein.

U.S.-India trade and security cooperation

Before its demise in the early 1990s, the Soviet Union was India's principal and most reliable trading partner, and an important source of economic and military assistance. U.S. efforts to strengthen its ties with India have been hampered some by U.S. differences over India's nuclear weapons programs, its cooperation with the Iranian military, its lack of a negotiated resolution of the Kashmir dispute with Pakistan, and the pace of India's efforts to achieve long-planned economic reforms. See *World Factbook, India, supra*.

Today, India plays an important role in promoting and achieving a shared U.S. vision for a free and open Indo-Pacific. See U.S. Security cooperation with India, Fact sheet, U.S. Dept. of State (Jan. 2021) U.S.-India defense trade cooperation continues to expand with the Logistics Exchange Memorandum of Agreement (LEMOA) Communications, Compatibility and Security Agreement (COMCASA). Increased defense sales between the two countries support major jobs creation and help to ensure the continued health of the industrial bases in both countries. See *id* and AE L (revised) through AE N, reflecting developments in U.S. strategic defense relations.

Overall U.S.-India bilateral trade in goods and services in 2021 achieved a record \$157 billion USD. See *U.S. Relations with India*, U.S. Dept. of State (July 2022) . U.S. and Indian companies have expanded both their operations in their respective markets Reported Indian investment in the United States in 2021 exceeded 12 billion USD and supported over 70,000 American jobs. (*id.*)

India and the United States are known to cooperate closely within multilateral organizations . Examples include the United Nations, G-20, association of Southeast Asian nations (ASEAN) Regional Forum, International Monetary Fund, World Bank, and the World trade Organization. (*id.*)

Endorsements

Applicant is well-regarded by his neighbors who know him and are familiar with his demonstrated character. They describe him as exceptionally kind, sociable, and fully engaged in community events. (AE D) Uniformly, they attested to his honest, reliability, and trustworthiness. Applicant's performance evaluation for calendar year 2023 credited him with "meets expectations" in each of the rated categories. (AE E) Documented certifications attest to his successful completion of training in security systems. (AE C) Applicant also has a state driver's license and state voter registration that he documented. (AEs B and F)

Policies

The AGs list guidelines to be used by administrative judges in the decision-making process covering Defense Office of Hearings and Appeals (DOHA) cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information.

These guidelines include "[c]onditions that could raise a security concern and may be disqualifying" (disqualifying conditions), if any, and many of the "[c]onditions that could mitigate security concerns." They must be considered before deciding whether or not a security clearance should be granted, continued, revoked, or denied. The guidelines do not require administrative judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision. Each of the guidelines is to be evaluated in the context of the whole person in accordance with AG ¶ 2©

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in AG ¶ 2(a) . AG ¶ 2(a) is intended to assist the judges in reaching a fair and impartial commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following AG ¶ 2(a) factors:

- (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.

Viewing the issues raised and evidence as a whole, the following adjudication policy factors are pertinent herein:

Foreign Influence

The Concern: 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, 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. See AG ¶ 6.

Burden of Proof

Under the AGs, a decision to grant or continue an applicant's security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a commonsense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. See *United States, v. Gaudin*, 515 U.S. 506, 509-511 (1995).

As with all adversarial proceedings, the judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) it must prove by substantial evidence any controverted facts alleged in the SOR, and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required materiality showing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, the judge must consider and weigh the cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the evidentiary burden shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Exec. Or. 10865 that all security clearances be clearly consistent with the national interest, the applicant has the ultimate burden of demonstrating his or her clearance eligibility. “[S]ecurity-clearance determinations should err, if they must, on the side of denials.” See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988). And because all security clearances must be clearly consistent with the national interest, the burden of persuasion must remain with the Applicant.

Analysis

Applicant is an engineer of a U.S.-based defense contractor. He is a naturalized U.S. citizen and is married to a woman of Indian descent who immigrated to the United States in 2021 with his children, all of whom have permanent U.S. residence status. Trust concerns relate to (a) Applicant's having both immediate and extended family members who are citizens and residents of India and (b) his ownership and control of property and bank accounts in India.

Foreign Influence

Applicant's wife and family have deep roots in India, a country rich in history and socio/political traditions, constitutional government and institutional respect for human rights, intermixed with periodic reports of abuses by police and government authorities. Despite encouraging efforts in the development of strategic partnerships between India and the U.S. in recent years, there have been cited instances of illegal and damaging export practices by Indian firms associated with the Indian government to create dual use diversion risks.

The Government urges security concerns over risks that Applicant's wife's parents and family members residing in India, might be subject to undue foreign influence by Indian government authorities to access classified information in Applicant's possession or control. Because Applicant's wife has family members who have Indian citizenship by birth and reside currently in India, they present potential heightened security risks covered by disqualifying conditions (DC) ¶ 7(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"; and 7(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 exploitation or personal conflict of interest." The citizenship/residence status of these family members in India pose some potential concerns for Applicant because of the risks of undue foreign influence that could potentially impact the property and financial interests in India subject to his control.

For Applicant, his contacts (frequent with his immediate family members in India and less frequent with his extended Indian family members) reflect close familial ties and affections of longstanding duration. And, there is a rebuttable presumption that a person with immediate family members in a foreign country has ties of affection for, or obligation to, his or her immediate and extended family members. ISCR Case No. 07-06030 at 3 (App. Bd. June 19, 2008); ISCR Case No. 05-00939 at 4 (May 15, 2018) (citing ISCR Case No. 01-03120 at 4 (App. Bd. Feb. 20, 2002)

True, none of Applicant's family members in India (both immediate and extended) come with any history of being subjected to any coercion or pressure. These historical antecedents limit the risk of any potential conflict situation. And, while the absence of any past coercive measures taken by Indian authorities does not completely absolve Applicant from any coercive risks in the future given India's checkered history of intelligence collection, terrorism, crime, and human rights abuse, the practical risks of any coercive measures being taken against his family members (all of whom reside in safe regions of India) should be considered minimal.

India to its credit has maintained good bilateral economic and strategic defense relations with the United State. While i the historical reports of terrorist attacks and counterattacks, crime, and human rights abuses on India targets raise continuing security concerns, these concerns are outweighed by the to date the status of U.S. economic and

strategic defense relations remain of sufficient strength and endurance as to outweigh and overcome any competing security concerns. Prospects for continuing good bilateral relations between India and the United States continue to be promising. And while the reports of illegal exporting of potential dual-use technology to India remains a matter of some pressing security concern to the United States, India's emergent status as an economic and strategic defense partner of the United States in controlling the proliferation of nuclear weapons is an important political development that serves to promote political solidarity and reduce security risks and concerns between the two nuclear powers.

The AGs governing collateral clearances do not dictate *per se* results or mandate particular outcomes for applicants with relatives who are citizens/residents of foreign countries in general. What is considered to be an acceptable risk in one foreign country may not be in another. The AGs take into account the country's demonstrated relations with the United States as an important consideration in gauging whether the particular relatives with citizenship and residency elsewhere create a heightened security risk.

Based on his case-specific circumstances, MC ¶ 8(a), "the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these 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," is available to Applicant. Neither Applicant's parents, brother, nor extended family members residing in India pose heightened security risks that could subject them to potential pressures and influence from Indian government and military officials.

Another mitigating condition is available to Applicant is MC ¶ 8(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 United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest." Applicant's demonstrated loyalty and professional commitments to the United States are well demonstrated and sufficient under these circumstances to neutralize any potential conflicts that are related to his relationships with his immediate and extended family members.

Other mitigating conditions are available to Applicant. as well have mixed application to Applicant's situation. Considering the more substantial real property and liquid financial interests Applicant has acquired in the United States (in excess of \$3.5 million USD) than what he and his wife currently own in India in real property and bank assets (in excess of \$1.4 million USD), MC ¶ 8(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," is available to Applicant as well to mitigate security concerns. Further, Applicant expressed his intentions of disposing of his own Indian real property and bank accounts in the near future.

Whole-person assessment

Whole-person assessment is available also to minimize Applicant's exposure to potential conflicts of interests with his Indian family members. Most importantly, Applicant is not aware of any risks of coercion, pressure, or influence that any of his family members might be exposed to. In Applicant's case, the potential risk of coercion, pressure, or influence being brought to bear on him, or any of his respective family members is minimal and mitigated. Overall, potential security concerns over Applicant's having family members and substantial financial interests in India are sufficiently mitigated to permit safe predictive judgments about Applicant's ability to withstand risks of undue influence attributable to his familial relationships and financial interests in India. Favorable conclusions warrant with respect to the allegations covered by Guideline B.

Formal Findings

In reviewing the allegations of the SOR and ensuing conclusions reached in the context of the findings of fact, conclusions, conditions, and the factors listed above, I make the following formal findings:

| | |
|----------------------------------|---------------|
| GUIDELINE B (FOREIGN INFLUENCE): | FOR APPLICANT |
| Subparagraphs 1.a through 1.g: | For Applicant |

Conclusion

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

Roger Wesley
Administrative Judge

