



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



In the matter of:)
)
) ISCR Case No. 25-00268
)
Applicant for Security Clearance)

Appearances

For Government: Cynthia Ruckno, Esq., Department Counsel
For Applicant: Matthew Thomas, Esq.

05/14/2026

Decision

HYAMS, Ross D., Administrative Judge:

Applicant mitigated the foreign influence security concerns. Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on July 30, 2024. On April 25, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B (foreign influence). Applicant answered the SOR on June 4, 2025, and requested a hearing before an administrative judge.

The case was assigned to me on January 5, 2026. The hearing was convened on March 13, 2026. Department Counsel submitted Government Exhibits (GE) 1-2, which were admitted in evidence without objection. Applicant submitted Applicant's Exhibits (AE) A-U, which were admitted without objection.

Requests for Administrative Notice

Department Counsel requested that I take administrative notice of facts concerning the Republic of India. Department Counsel provided supporting documentation for those

facts in the Administrative Notice filing (AN) 1. Applicant objected to the AN 1 because he claimed the notice undermined its own assertions about terrorism, and the criminal acts cited were carried out by individuals and not sponsored by the Indian government. I overruled Applicant's objection. Applicant's assertions go to the weight and not the admissibility of AN1.

Applicant requested that I take administrative notice of facts concerning the Republic of India's close relationship with the United States. He provided supporting documentation for those facts in AN 2. Applicant also provided a section from the Indian Constitution and a map of India, which I marked as AN 3 and 4, respectively. Those exhibits were admitted for administrative notice without objection from Department Counsel.

Findings of Fact

Applicant admitted the SOR allegations with explanation. His admissions are incorporated into the findings of fact. Based on my review of the pleadings, evidence submitted, and testimony, I make the following findings of fact.

Applicant is 44 years old. He has been married since 2012 and has no children. His primary schooling was in India. He graduated from high school in 1997, junior college in 1999, and earned his bachelor's degree in 2003. He attended graduate school in the U.S. and earned a master's degree in 2005. In about 2006, his F1 student visa was converted into an H1B visa. He was able to obtain his green card in 2019. He and his wife became U.S. citizens as soon as they were eligible, in June 2024. He started working for his current employer, a government contractor, in 2014. He now serves as a senior manager for his employer. (Tr. 61-66)

Under Guideline B, the allegations are as follows:

SOR ¶ 1.a alleges Applicant's parents are citizens and residents of India. They are in their 70's and live in a 55+ secure community in Southern India. They are both retired now, but his father was a doctor, and his mother was a homemaker. Neither of his parents ever worked for government or held political office. He visits his parents in India occasionally and stays with them. They live about 2500 miles away from the areas of concern cited in the administrative notice. (Tr. 67-117; GE 1, 2; AE C-E; AN 4)

SOR ¶ 1.b alleges Applicant's brother is a citizen and resident of India. He reported that he had a falling out with his brother in 2022, and they have not spoken since. His brother works in computer software for a private company and has never worked for the government. Applicant also has an older sister who is a U.S. citizen and resident. (Tr. 67-117; GE 1, 2; AE C)

SOR ¶ 1.c alleges Applicant's mother-in-law and father-in-law are citizens and residents of India. They are in their late 60's and are both retired. His father-in-law worked for an electricity distribution company, and his mother-in-law was a homemaker. Neither

of them have worked for the government. They live in Southern India far away from the areas of concern cited in the administrative notice. He last saw them at their home in 2014. (Tr. 67-117; GE 1, 2; AE F, G; AN 4)

SOR ¶ 1.d alleges Applicant and his wife own five properties in India with an estimated value of \$480,000. He reported he owns four properties in India for investment purposes. Three are just in his name, one of which was gifted to him by his father. He owns one property jointly with his wife, and his wife owns a property only in her name. The total value of all the properties in India combined is about \$375,000. This value is minor compared to their U.S. assets, further discussed below. He provided extensive documentation regarding these properties. (Tr. 67-117; GE 2; AE H)

Applicant testified he is trying to sell the properties, and he will bring the funds back to the U.S. to invest here. He is in negotiations with the current tenant of one property and has posted sale ads to sell the others. He provided documentation supporting his testimony. (Tr. 67-106; AE I)

SOR ¶ 1.e alleges Applicant and his wife maintain bank accounts in India with an estimated value of \$14,000. The main account is pending closure. He has contacted the bank manager to close the account but was told he had to appear in person to do so. Two other old accounts have already been closed. His wife has one bank account in her name, which they will use to facilitate the sale of their properties in India and transfer the funds back to the U.S. (Tr. 67-106; AE J)

Applicant has a lucrative career, and he has invested his money by purchasing properties in State A, which he rents. His primary residence in State A is worth about \$800,000. He owns ten investment properties in State A with an aggregate value of about \$4.25 million. He earns about \$25,000 monthly from his property rentals. He and his wife also have about \$1.25 million in investment accounts in the U.S. He provided extensive documentation supporting his testimony on these matters. (Tr. 67-106; AE K-N)

Applicant testified that he plans to retire in the U.S. His whole life and career is here. His sister and her family live in the U.S. He asserted he loves the values, freedom, and fairness of the United States, and would never live anywhere else. He wants to give back to the country through his work with a government contractor. He testified that he would always resolve any conflict of interest in favor of the United States. (Tr. 67-117)

Applicant provided evidence that he and his wife are no longer Indian citizens, as India does not permit dual citizenships. When they became U.S. citizens, they lost their Indian citizenship. He also provided evidence showing their Indian passports were surrendered and canceled as a result. (AN 2; AE A, B)

In the record, Applicant provided documentation of his performance evaluations, awards and certifications, resume, academic degrees, and four character letters. (AE O-S)

Witnesses

Witness 1 is an executive director with Applicant's employer. He has known Applicant for about four years and served as his counselor and professional coach for the last three years. He writes Applicant's performance reviews. He reported that Applicant is in the top 25% of all senior managers. Applicant does an excellent job in following compliance responsibilities and regulatory standards. He asserted Applicant is responsible, trustworthy, follows rules and regulations, and is loyal to United States. He stated Applicant follows the appropriate security protocols to get his trip approved when he travels overseas. He recommends that Applicant be granted a security clearance. (Tr. 21-34)

Witness 2 has been Applicant's friend for thirty years. They attended high school together, and now both live in State A. He described Applicant as determined, obedient, loyal, having a strong character, and honest. He states that Applicant's primary personal and professional ties are all in the U.S. in State A. He stated Applicant is deeply invested in the United States and the majority of his adult life has been here. He asserted Applicant is honest, reliable and trustworthy. He recommends that Applicant be granted a security clearance. (Tr. 34-44)

Witness 3 is a colleague and friend of Applicant's for the last 15 years. They have worked together in their current and prior places of employment. They have worked as peers, and both now lead their own projects. He thinks that Applicant is one of the best leaders at his job. He stated that Applicant has a high level of proficiency, knowledge and skill. Applicant is excellent at compliance and regulatory obligations. He believes Applicant is loyal to the United States, intends to retire in State A, and should be granted a clearance. (Tr. 44-61)

Administrative notices

The Government's administrative notice documentation for the Republic of India states that there is a concern about countries with close ties to the U.S. engaging in cyber espionage and other forms of intelligence collection. DOJ has prosecuted multiple criminal cases concerning securities fraud, industrial espionage, and import-export enforcement related to persons connected to India. There is a Level 4 travel advisory for the Indian territories of Jammu and Kashmir due to terrorism and civil unrest along the border with Pakistan. There is also a Level 3 travel advisory for the Northeastern States of India due to terrorism and violence. Some of the terror groups in India include anti-Western groups. Despite being a democracy, there were also concerns about human rights issues in India. (AN1)

Applicant's administrative notice documentation for the Republic of India states that official U.S. Government documentation shows that India is considered a close strategic partner rather than a national security threat. Government documents consistently describe the bilateral relationship with India as one of the most significant partnerships of the modern era and India has been designated a major defense partner.

This designation grants India enhanced access to military and dual use technologies and expanded defense cooperation. (AN 2)

Policies

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

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 to be 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, administrative judges apply the guidelines 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 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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

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

Section 7 of EO 10865 provides that adverse 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 details the personal conduct security 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 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.

I have considered the disqualifying conditions under AG ¶ 7 and the following are applicable:

(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

(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.

I have considered the mitigating conditions under AG ¶ 8. The following are potentially applicable:

(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 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.

Mitigating conditions ¶¶ 8 (a), (b), (c), and (f) apply. Applicant has lived in the United States for two decades and his loyalty is to the United States. He has about five million dollars of assets and investments in the United States. He credibly testified that he and his wife are actively trying to sell their investment properties in India and close the remaining bank account. His parents and in-laws are elderly and retired. He no longer has a relationship with his brother. None of these family members have worked for the Indian Government. They live two thousand miles away from the areas of concern cited in the Government's administrative notice. India is a democracy and has close relations with the United States, as well as shared interests and defense partnerships.

It is unlikely that Applicant will be placed in a position of having to choose between the interests of his parents, in-laws, or brother, and the interests of the United States. There is little likelihood that his contact with them creates a risk of foreign influence or exploitation. There is no conflict of interest; Applicant has deep and longstanding relationships and loyalties in the United States and can be expected to resolve any conflict of interest in favor of the U.S. interest. Considering his overall finances and assets, his property interests in India are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure him. The foreign influence security concerns are mitigated.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(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 a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I considered his witness testimony and whole person documentation. I have incorporated my comments under Guideline B in my whole-person analysis.

Applicant's character evidence was particularly compelling. His witnesses have associated with Applicant for years and praise him for his reliability, trustworthiness, responsibility and judgment. This whole-person evidence provides important support for granting him access to classified information.

At hearing, I had the chance to observe Applicant's demeanor and assess his credibility. I found his testimony and explanations to be credible and supported by the record as a whole. Overall, the record evidence leaves me without questions and doubts about Applicant's eligibility for a security clearance. I conclude that Applicant has mitigated the foreign influence security concerns.

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
Subparagraphs 1.a-1.e:	For Applicant

Conclusion

It is clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is granted.

Ross D. Hyams
Administrative Judge