



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



In the matter of:)	
)	
)	ISCR Case No. 12-05684
)	
Applicant for Security Clearance)	

Appearances

For Government: Daniel F. Crowley, Esquire, Department Counsel

For Applicant: *Pro se*

05/14/2013

Decision

ANTHONY, Joan Caton, Administrative Judge:

After a thorough review of the pleadings, testimony, and exhibits, I conclude that Applicant mitigated security concerns under Guideline C, Foreign Preference. However, she failed to mitigate the Government's security concerns under Guideline B, Foreign Influence. Her eligibility for a security clearance is denied.

Statement of the Case

On October 23, 2010, Applicant signed and certified an Electronic Questionnaire for Investigations Processing (e-QIP). On January 11, 2013, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline B, Foreign Influence, and Guideline C, Foreign Preference. DOD acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within DOD for SORs issued after September 1, 2006.

On February 6, 2013, Applicant answered the SOR and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The case was assigned to me on March 27, 2013. I convened a hearing on April 26, 2013, to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The Government called no witnesses, introduced three exhibits (Ex. 1, Ex. 2, and Ex. 3), and offered a summary of facts found in 21 official U.S. Government source documents for administrative notice. The source documents were identified as Ex. I through Ex. XXI. The Government's exhibits were admitted without objection, and its summary of facts, along with the accompanying source documents, were identified as Hearing Exhibit (HE) I. HE 1 was admitted for administrative notice without objection.

Applicant testified and offered five exhibits, which I marked and identified as Ex. A through Ex. E and admitted without objection. Applicant also offered a document for administrative notice. I marked this document as HE 2 and admitted it for administrative notice without objection. DOHA received the transcript (Tr.) of the hearing on May 2, 2013.

Findings of Fact

The SOR contains six allegations of security concern under AG B, Foreign Influence (SOR ¶¶ 1.a. through 1.f.) and two allegations of security concern under Guideline C, Foreign Preference (SOR ¶¶ 2.a. and 2.b.). In her Answer to the SOR, Applicant admitted the allegations at ¶¶1.a. through 1.d. under Guideline B. She denied the Guideline B allegations at ¶¶1.e. and 1.f. She admitted the two Guideline C allegations. Applicant's admissions are admitted as findings of fact.

After a thorough review of the record in the case, including witness testimony, exhibits, relevant policies, and the applicable adjudicative guidelines, I make the following additional findings of fact:

Applicant is 54 years old and employed as a senior systems analyst by a government contractor. She seeks a security clearance.¹ (Ex. 1.)

Applicant came to the United States at the age of 17, and she married for the first time in 1965. She and her husband divorced in 1967. Applicant earned a bachelor's degree in 1988. She became a U.S. citizen in 1991. (Ex.1; Ex. 2; Tr. 17-18.)

Since 1988, Applicant has lived in a spouse-like relationship with a man who was born in Iran and is now a U.S. citizen. She and her spouse are the parents of one adult son, who was born in 1991 in the United States. Applicant's son excels at a particular sport and has won national and international recognition. Applicant estimated

¹ On the e-QIP she completed in October 2010, Applicant stated that her background had not been previously investigated, and she had not been granted a security clearance in the past. In a personal subject interview, conducted in December 2010, Applicant stated that she had been awarded a security clearance in 2006 or 2007. (Ex. 1; Ex. 2.)

that she had spent approximately \$500,000 in support of her son's training and participation in athletic competitions. She also reported that coaches representing other governments had contacted her and her son and offered to sponsor him if he would represent those countries. Applicant stated that she and her son had refused these offers. (Ex. E; Tr. 34-35; 61-63.)

After becoming a U.S. citizen, Applicant used her Iranian passport to travel to Iran to visit her family members in 1994, 2005, and 2012. In 2012, she renewed her Iranian passport. Applicant's most recent Iranian passport will not expire until 2017. These facts are alleged at SOR ¶¶ 2.a. and 2.b. (Ex. 1; Ex. 2; Ex. 3; Tr. 44-45.)

Applicant explained that she possessed and renewed her Iranian passport after becoming a U.S. citizen because Iran does not recognize dual citizenship and considers U.S.-Iranian dual nationals as Iranian citizens and subject to Iranian law. Under Iranian law, Applicant could only enter and exit Iran by presenting an Iranian passport. In order to travel to Iran to visit her mother, who was in poor health, Applicant renewed her Iranian passport in 2012. Applicant's current Iranian passport will not expire until 2017. (Ex. 1; Ex. 2; Tr. 44-46.)

At her hearing, Applicant presented a document from a security officer at her employer. The security officer reported that on February 7, 2013, Applicant had surrendered her Iranian passport. The security officer also reported that she had taken possession of the passport and invalidated it. Applicant testified that she had no intention to travel to Iran in the future. (Ex. A; Tr. 46.)

Applicant stated that she was one of eight children born to her parents. Her father, who is deceased, was a landholder who supported his family with his acquired wealth. After the shah was overthrown, the new government confiscated much of Applicant's father's property. Today, two of Applicant's brothers and one of her sisters are citizens and residents of Australia. (Ex. 1; Tr. 57-60.)

The SOR alleges at ¶ 1.a. that Applicant's mother is a citizen and resident of Iran. At her hearing, Applicant stated that her mother had died recently in Iran. (Tr. 36.)

The SOR alleges at ¶ 1.b. that one of Applicant's brothers and two of her sisters are citizens and residents of Iran. Applicant stated that her 65-year-old brother has been retired since he was 37. He was employed by the Iranian military as a pilot. Applicant stated that she has spoken at times with her brother about once a month. She also stated that she spoke with her brother about once a year. (Tr. 36-37.)

One of Applicant's sisters is a retired teacher. The other sister, who studied business administration, is also retired. Applicant speaks with her sisters in Iran about once a month or once every two months. (Tr. 37-38.)

The SOR alleges at ¶ 1.c. that Applicant has a sister-in-law who is a citizen and resident of Iran. The individual, who is a retired doctor, is the sister of Applicant's

spouse. Applicant reported that she speaks with her sister-in-law once a year or once every two years. When she visited Iran in 2012, Applicant stayed with her sister-in-law for two days. (Ex. 2; Tr. 39-40, 49.)

The SOR alleges at ¶ 1.d. that Applicant has two nieces who are citizens and residents of Iran. The nieces, young women of about 28 and 32 years of age, are the daughters of Applicant's sister who is the retired teacher. Applicant speaks with her nieces about once a year. (Tr. 40-41.)

The SOR alleges at ¶ 1.e. that Applicant has a bank account in Iran valued at approximately \$45,000. The SOR also alleges at ¶ 1.f. that Applicant has a trust fund in Iran valued at approximately \$10,000. In her answer to the SOR, Applicant stated that the bank account alleged in SOR ¶ 1.e. is the same as the trust fund alleged in SOR ¶ 1.f. She further stated that she learned for the first time in December 2012 that the value of the single account was approximately \$8,500. (Answer to SOR)

Applicant explained that when his children were born, her father established a bank account for each of them. When he died, some of his property was sold and the proceeds deposited in the children's accounts. At her hearing, Applicant revised her estimate of the value of her single account, and she stated her belief that it had a value of approximately \$5,000 to \$7,000. (Tr. 41-44, 50-52.)

Applicant stated that she believed her mother at one time administered the accounts established for his children by her father. She also stated that she gave one of her sisters who resides in Iran her power of attorney to administer her account. She reported that on occasion she would ask her sister to use some of the money in her account to buy a gift for their mother. (Tr. 52-54.)

Applicant testified that she did not expect to inherit anything from her mother's estate. She stated that a ring her mother possessed would likely be given to one of her sisters who was a caregiver for their mother. (Tr. 53-55.)

Applicant provided documentation establishing that she and her spouse jointly own three homes with a total fair market value of approximately \$1,545,670. Additionally, Applicant and her spouse jointly own a brokerage account valued at \$130,000. Individually, Applicant owns an IRA account valued at \$164,778 and a 401(k) account valued at \$173,877. (Ex. D.)

Applicant provided documentation showing that, in 2011 and 2012, she had completed numerous training courses provided by her employer to increase security awareness. The program manager who supervises Applicant's work team stated that she "was dependable in her work effort, respectful to the customer and her peers, and an excellent contributor to the team's success." The manager also stated that Applicant is a valued employee. (Ex. B; Ex. C.)

I take administrative notice of the following facts about the Islamic Republic of Iran. These facts² were provided by the Government to Applicant and to me:

The United States, by executive orders issued by the President as well as by congressional legislation, prohibits nearly all trade and investment with Iran. Sanctions have been imposed on Iran because of its sponsorship of terrorism, its refusal to comply with international obligations on its nuclear program, and its human rights violations.

- In January 2012, the Director of National Intelligence expressed concern that the 2011 plot to assassinate the Saudi Ambassador to the United States shows that some Iranian officials--probably including Supreme Leader Ali Khamenei--have changed their calculus and are now more willing to conduct an attack in the United States in response to real or perceived U.S. actions that threaten the regime. He also expressed concern about Iranian plotting against U.S. or allied interests overseas. He assessed that Iran is keeping open the option to develop nuclear weapons, in part by developing various nuclear capabilities that better position it to produce such weapons, should it choose to do so.

- In January 2012, the Director of National Intelligence assessed that the most menacing foreign intelligence threats in the next two to three years will involve espionage by China, Russia, and Iran. He also assessed that Iran's intelligence operations against the United States, including cyber capabilities, have dramatically increased in recent years in depth and complexity.

- The United States has long-standing concerns over Iran's nuclear program, sponsorship of terrorism, and human rights record. Iran still has not recognized Israel's right to exist and has hindered the Middle East peace process by arming militants, including Hamas, Hizballah, and Palestinian Islamic Jihad.

- Designated as a State Sponsor of Terrorism in 1984, Iran remained an active state sponsor of terrorism in 2011 and increased its terrorist-related activity. Iran also continued to provide financial, material, and logistical support for terrorist and militant groups throughout the Middle East and Central Asia. In 2011, the United States discovered that elements of the Iranian regime had conceived and funded a plot to assassinate Saudi Arabia's Ambassador to the United States in Washington D.C, which underscored anew Iran's interest in using international terrorism--including in the United States--to further its foreign policy goals. Despite its pledge to support the stabilization of Iraq, Iran continued to provide lethal support, including weapons, training, funding, and guidance, to Iraqi Shia militant groups targeting U.S. and Iraqi forces, as well as civilians. Iran

² Footnotes are omitted.

provided training to the Taliban in Afghanistan and shipped a large number of weapons to Kandahar, Afghanistan. Since 2006, Iran has arranged arms shipments to select Taliban members. During the wave of pro-democracy demonstrations in Syria, Iran provided weapons and training to assist the Assad regime in its brutal crackdown that has resulted in the death of more than 5,000 civilians. In 2011, Iran remained unwilling to bring to justice senior al-Qa'ida members it continued to detain, and refused to publicly identify those senior members in its custody. Iran also allowed al-Qa'ida members to operate a core facilitation pipeline through Iranian territory, enabling al-Qa'ida to carry funds and move facilitators and operatives to South Asia and elsewhere.

- In 2011, the Iranian Government continued its policy of severely limiting citizens' rights to peacefully change their government through free and fair elections, restricting civil liberties, and disregarding the sanctity of life through the government's use of arbitrary detention, torture, and deprivation of life without due process. Human rights abuses included the following: 1) politically motivated violence and repression, including torture, beatings and rape; 2) severe officially sanctioned punishments, including amputation and flogging; 3) arbitrary arrests and detentions, often holding individuals incommunicado; 4) little judicial independence and few fair public trials; 5) severe restrictions on right to privacy and civil liberties, including freedoms of speech and the press, assembly, association, and movement, and 6) monitoring the social activities of citizens, entering homes and offices, monitoring telephone conversations and internet communications, and opening mail without court authorization.

- In October 2011, the Office of National Counterintelligence Executive reported that losses of sensitive economic information and technologies to foreign entities represent significant costs to U.S. national security. It also reported that the illicit transfer of technology with military applications to a hostile state such as Iran or North Korea could endanger the lives of U.S. and allied military personnel. Finally, it reported that Russia and Iran have aggressive programs for developing and collecting U.S. civilian and dual-use technologies, specifically in one area of advanced materials and development: nanotechnology.

There have been various cases involving the illegal export, or attempted illegal export, of U.S. restricted, dual-use technology to Iran, including: aircraft parts and fighter jet components, specialized metals, missile components and radio tests sets, and radio frequency modules later found in bombs in Iraq.

The Iranian government does not recognize dual nationality and will treat U.S.-Iranian dual nationals solely as Iranian citizens subject to Iranian

laws. The U.S. government does not have diplomatic or consular relations with Iran. U.S. citizens of Iranian origin should consider the risk of being targeted by Iranian authorities. Iranian authorities have prevented a number of U.S. citizen academics, scientists, journalists, and others who traveled to Iran for personal/cultural/business reasons from leaving the country and in some cases have detained, interrogated, and imprisoned them. Iranian security personnel may at times: (i) place foreign visitors under surveillance; (ii) monitor hotel rooms, telephones and fax machines; and (iii) search personal possessions in hotel rooms.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, and it has emphasized that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant an applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

When evaluating an applicant’s suitability for a security clearance, an administrative judge must consider the revised adjudicative guidelines (AG). 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, the administrative judge applies these 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 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, 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 obtaining 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 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

Under Guideline B, Foreign Influence, “[f]oreign 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.” AG ¶ 6.

Additionally, adjudications under Guideline B “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 U.S. citizens to obtain protected information and/or is associated with the risk of terrorism.” AG ¶ 6.

A Guideline B decision assessing the security worthiness of a U.S. citizen with Iranian contacts must take into consideration Iran’s hostility to the United States, its sponsorship of terrorism, its refusal to comply with international obligations on its nuclear program, its increased espionage capacity, and its human rights violations. American citizens with immediate family members who are citizens or residents of Iran could be vulnerable to coercion, exploitation, or pressure.

I have considered all of the disqualifying conditions under the foreign influence guideline. The facts of Applicant's case raise security concerns under disqualifying conditions AG ¶¶ 7(a), 7(b), 7(d), and 7(e).³

Applicant's mother was a citizen and resident of Iran. At her hearing, Applicant reported that her mother died recently. With this close relationship sadly ended, Applicant has one less familial tie to Iran. The SOR allegation at ¶ 1.a. is concluded for Applicant. However, Applicant's brother, two sisters, and two nieces are citizens and residents of Iran. Applicant shares living quarters with her spouse, and he also has Iranian contacts. Applicant's spouse's sister is also a citizen and resident of Iran. Applicant's familial relationships and contacts with her living relatives and her spouse's relative in Iran, a country which is openly hostile to the United States, create a heightened risk of foreign exploitation, inducement, manipulation, or coercion. Additionally, Applicant has a bank account in Iran, which could expose her to a heightened risk of foreign influence or exploitation.

Several mitigating conditions under AG ¶ 8 might be applicable to Applicant's case. If "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.," then AG ¶ 8(a) might apply. If "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," then AG ¶ 8(b) might apply. If "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," then AG ¶ 8(c) might apply. If "the value or routine nature of the foreign business, financial, or property interest is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual" then AG ¶ 8(f) might apply to Applicant's bank account in Iran.

Applicant has been a citizen of the United States for 23 years, and she has built her personal, professional, and financial life in the United States. As a daughter, she remained attentive to her mother, a citizen and resident of Iran, during her mother's life. Additionally, as a faithful family member, she has maintained contacts with her family

³ AG ¶ 7(a) reads: "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." AG ¶ 7(b) reads: "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." AG ¶ 7(d) reads: "sharing 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." AG ¶ 7(e) reads: "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."

and her spouse's family in Iran. Those contacts, while varying in frequency over the years, reflect enduring family ties. Given Iran's hostility to the United States and its reliance on terrorism and espionage to achieve its political ends, Applicant's contacts with her six family members and her spouse's sister currently living in Iran raise serious security concerns because those connections could raise a conflict of interest between Applicant's obligation to protect sensitive information or technology and her desire to help her family members.

Applicant's contacts and relationships with relatives who are citizens and residents of Iran could force her to choose between loyalty to them and the security interests of the United States. (ISCR Case No. 03-15485 at 4-6 (App. Bd. June 2, 2005); ISCR Case No. 06-24575 (App. Bd. Nov. 9, 2007)) It is not clear that she has such deep and longstanding relationships in the United States that she could be expected to resolve a conflict of interest in favor of U.S. interests. I conclude that the mitigating conditions identified under AG ¶¶ 8(a), 8(b), and 8(c) do not fully apply to the facts of Applicant's case.

I also note that Applicant's financial interest of \$5,000 to \$7,000 in an Iranian bank account which was once a trust fund is minimal when weighed against her substantial financial interests in the United States. I conclude, therefore, that AG ¶ 8(f) applies in mitigation to the allegations at SOR ¶¶ 1.e. and 1.f.

Nothing in Applicant's answers to the Guideline B allegations in the SOR suggested she is not a loyal U.S. citizen. Section 7 of Executive Order 10865 specifically provides that industrial security clearance 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."

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." Such an individual "may be prone to provide information or make decisions that are harmful to the interests of the United States."

AG ¶ 10 describes several conditions that could raise a security concern and may be disqualifying. These disqualifying conditions are as follows:

(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;
- (2) military service or a willingness to bear arms for a foreign country;

- (3) accepting educational, medical, retirement, social welfare, or other such benefits from a foreign country;
- (4) residence in a foreign country to meet citizenship requirements;
- (5) using foreign citizenship to protect financial or business interests in another country;
- (6) seeking or holding political office in a foreign country; and,
- (7) voting in a foreign election;

(b) action to acquire or obtain recognition of a foreign citizenship by an American citizen;

(c) performing or attempting to perform duties, or otherwise acting, so as to serve the interests of a foreign person, group, organization, or government in conflict with the national security interest; and

(d) any statement or action that shows allegiance to a country other than the United States: for example, declaration of intent to renounce United States citizenship; renunciation of United States citizenship.

Under AG ¶ 11(a), dual citizenship might be mitigated if “it is based solely on [an applicant’s] parents’ citizenship or birth in a foreign country.” Under AG ¶ 11(b), an individual’s dual citizenship might be mitigated if he or she “expressed a willingness to renounce dual citizenship.” Under AG ¶ 11(c), an individual’s “exercise of the rights, privileges, or obligations of foreign citizenship might be mitigated if it occurred before becoming a U.S. citizen or when the individual was a minor.” Under AG ¶ 11(d), an individual’s use of a foreign passport might be mitigated if it were “approved by the cognizant security authority.” Under AG ¶ 11(e), an individual’s use of a foreign passport might be mitigated if he or she presents credible evidence that “the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated.”

After becoming a U.S. citizen in 1991, Applicant renewed her Iranian passport and used it in 1994, 2005, and 2012 to travel to Iran to visit her family there. In 2012, she renewed her current passport, which will expire in 2017. Applicant explained that she acquired and used an Iranian passport to travel to Iran after becoming a U.S. citizen because Iran does not recognize dual citizenship and considers U.S.-Iranian dual nationals as Iranian citizens and subject to Iranian law. Under Iranian law, Applicant could only enter and exit Iran by presenting an Iranian passport. If she wished to visit her mother, siblings, and other relatives in Iran, Applicant had to use an Iranian passport to enter and leave the country.

Applicant’s dual citizenship was not a passive condition based solely on her birth in Iran. Instead, by acquiring an Iranian passport after becoming a U.S. citizen,

Applicant actively exercised dual citizenship with Iran. I conclude, therefore, that AG ¶¶ 11(a) and 11(c) are not applicable.

However, when Applicant learned that her dual citizenship and possession of an active Iranian passport raised security concerns, she surrendered her Iranian passport to her security officer, who invalidated the document. Applicant stated that she has no future plans to travel to Iran. I conclude that AG ¶ 11(e) applies in mitigation in this case. AG ¶ 11(b) applies in part, and AG ¶ 11(d) is not applicable because it is not raised by the facts in this case.

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(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.

I considered the potentially disqualifying and mitigating conditions in light of the whole-person concept and all the facts and circumstances surrounding this case. Applicant is a talented and valued employee of a U.S. government contractor. Applicant's manager wrote a letter on her behalf which spoke highly of her professional skills. Applicant provided documentation establishing that she has diligently pursued security awareness training provided by her employer.

Applicant has been a U.S. citizen for 23 years. She was a faithful and loyal daughter to her mother, who was a citizen and resident of Iran. She maintains familial ties with her siblings, her nieces, and her spouse's sister in Iran. She visited Iran three times after becoming a U.S. citizen.

Iran is a country openly hostile to the United States and its citizens. While nothing in the record suggests that Applicant is not a loyal U.S. citizen, her familial contacts with her relatives in Iran raise concerns that she could be subject to foreign exploitation, coercion, or duress. Overall, the record evidence leaves me with questions

and doubts as to Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude that while Applicant mitigated security concerns under the foreign preference adjudicative guideline, she failed to mitigate the security concerns arising under the foreign influence adjudicative guideline.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the amended SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B:	AGAINST APPLICANT
Subparagraph 1.a.:	For Applicant
Subparagraphs 1.b. - 1.d.:	Against Applicant
Subparagraphs 1.e. - 1.f.:	For Applicant
Paragraph 2, Guideline C:	FOR APPLICANT
Subparagraphs 2.a. - 2.b.:	For Applicant

Conclusion

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

Joan Caton Anthony
Administrative Judge