



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



In the matter of: )  
)  
) ISCR Case No. 14-02511  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Eric H. Borgstrom, Esquire, Department Counsel  
For Applicant: *Pro se*

04/24/2015

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**Decision**

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant, a native of Colombia, immigrated to the United States with his parents and brother in December 2000. He continued to retain a Colombian citizenship identification card (ID) after becoming a naturalized U.S. citizen in May 2011. He surrendered possession of his Colombian ID card to mitigate the foreign preference concerns. The foreign influence concerns raised by the Colombian residency and citizenship of his maternal grandmother and aunt are mitigated because Applicant can be counted on to act in the interest of the United States. Clearance is granted.

**Statement of the Case**

On August 5, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline C, Foreign Preference, and Guideline B, Foreign Influence, and explaining why it was unable to find it clearly consistent with the national interest to grant or continue a security clearance for him. The DOD CAF took the action under Executive Order 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) effective within the DOD on September 1, 2006.

Applicant answered the SOR allegations on September 2, 2014,<sup>1</sup> and he requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On December 11, 2014, the case was assigned to me to conduct a hearing and determine whether it is clearly consistent with the national interest to grant or continue security clearance eligibility for Applicant. On December 17, 2014, I scheduled a hearing for January 15, 2015.

I convened the hearing as scheduled. Two Government exhibits (GEs 1-2) and six Applicant exhibits (AEs A-F) were admitted into evidence without objection. Applicant and two witnesses testified, as reflected in the hearing transcript (Tr.) received on January 26, 2015.

### **Procedural Rulings**

In a request for Administrative Notice, dated January 9, 2015, the Government requested that the administrative judge take administrative notice of facts regarding the Republic of Colombia (Colombia). The Government relied on six publications from the U.S. State Department and on a Congressional Research Service Report for Congress.<sup>2</sup> The Administrative Notice request and source documents were provided to me at the hearing. The Administrative Notice request and copies of the source documents were sent by email to Applicant before the hearing. Applicant did not receive all the source documents by email, but he obtained them from the Internet and familiarized himself with them before the hearing.

At the hearing, I informed Applicant that due to Appeal Board precedent, I would take administrative notice as requested by the Government.<sup>3</sup> Applicant did not object to any of the facts proposed by the Government for administrative notice. He was offered the opportunity to propose additional facts for administrative notice after the hearing. Applicant declined, and offered no other facts for administrative notice, although he referred to Colombia's regional leadership in countering violent extremism in his closing argument.

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<sup>1</sup> Applicant's answer bears a typed date of August 20, 2014. However, it was not signed before a notary until September 2, 2014.

<sup>2</sup> The U.S. State Department publications are the *U.S. Relations with Colombia, Fact Sheet*, dated November 19, 2013 (I); *Foreign Terrorist Organizations*, dated January 9, 2015 (II); *Country Reports on Terrorism 2013*, dated April 30, 2014 (III); *Travel Warning, Colombia*, dated April 14, 2014 (IV); *Country Reports on Human Rights Practices for 2013*, undated (VI); and *Quick Facts, Colombia*, dated November 14, 2014 (VII). The Congressional Research Service's report is titled *Latin America Terrorism Issues*, dated March 2, 2012.

<sup>3</sup> The DOHA Appeal Board has repeatedly emphasized the importance of making accurate and timely assessments of the political landscape in foreign countries when adjudicating Guideline B cases. See e.g., ISCR Case No. 05-11292 (App. Bd. Apr. 12, 2007).

After reviewing the source documents, I took administrative notice of several facts pertinent to Colombia and its international relations, including with the United States, as set forth below.

### **Findings of Fact**

The SOR alleges under Guideline C that Applicant exercises foreign citizenship by possessing a Colombian ID card that will not expire before August 2020 (SOR 1.a). Under Guideline B, Applicant is alleged to have a grandmother (SOR 2.a) and aunt (SOR 2.b), who are residents and citizens of Colombia.

When he answered the SOR, Applicant admitted that he possessed the Colombian ID card. He expressed a willingness to surrender it to his security officer for the duration of his employment with his defense contractor employer. Applicant also admitted that his grandmother and aunt are residents and citizens of Colombia. He explained that both of his family members have vacationed in the United States, but his contact with them was otherwise limited. Applicant's admissions are incorporated as findings of fact. After considering the pleadings, exhibits, transcript, and the administrative notice documents, I make the following additional findings of fact.

Applicant started working for his current employer in October 2011. (GE 1.) The company is a small defense contractor of just under 50 employees. (Tr. 35.) As Art Director, Applicant is responsible for completing the user interface and user experience design of the company's software. His employer does not have a facility security clearance, so there is no classified information stored at the facility. (Tr. 56.) However, it has a contract with a military command that requires Applicant to access security sensitive, but not classified information. Applicant seeks a secret-level security clearance largely for access at military locations. (Tr. 33-34, 44, 56.)

Applicant was born in Colombia in 1986. (GE 1.) From ages 2 to 5, Applicant lived in the United States with his family while his father completed his education at a public university here. Applicant then attended primary and middle school in his native Colombia. When Applicant was 13, his father accepted a position as a scientist at a U.S. government research facility, although in later years, he worked for a succession of contractors at the same facility. (Tr. 102.) Applicant moved to the United States with his family in December 2000, entering on a Colombian passport issued to him in February 2000 and valid for ten years. (GEs 1, 2; AE C; Tr. 62, 67.)

Applicant attended public high school in the United States, graduating in June 2004. He then attended a community college, earning his associate's degree in general studies in June 2007. (GE 1; Tr. 67-68.) While in school, he worked part time as a retail sales associate in footwear and then as a drum instructor at a music store. In September 2008, Applicant matriculated in a private college in the United States (GE 1), where he became a member of a social fraternity that required some community service of its members. (AE F; Tr. 99.) Apart from a summer job in 2009, he did not work while pursuing his bachelor's

degree, which was conferred in May 2011. (GE 1.) He majored in visual communications design. (Tr. 68.)

In August 2006, Applicant and his brother obtained their Colombian citizenship ID cards at the Colombian Consulate. (GE 2; AE C.) Applicant described the Colombian ID card as similar to a social security card in the United States, "like a unique identifier." It is a common practice by Colombians to obtain the ID card after reaching age 18. He was not working for a government contractor at the time, and he had no reason to know that the Colombian ID card would be of concern. (Tr. 90.)

Applicant took no steps to renew his Colombian passport when it expired in February 2010, although he retained the expired Colombian passport in his possession after he became a naturalized U.S. citizen in May 2011. (GE 2; AE C.) He has taken no steps to acquire a U.S. passport. (GE 1.)

In October 2011, Applicant began working as a graphic designer for his current employer. (GE 1; Tr. 69.) At the time, the company had fewer than 20 employees. (Tr. 37.) For the last seven years, an engineering consultant and analyst with 25 years of employment with the company, has handled the duties of facility security officer (FSO). (Tr. 45.)

Around mid-2012, Applicant was promoted to his current position of Art Director, where he supervises two employees. (Tr. 37, 69.) On March 6, 2013, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP). He disclosed that he held dual citizenship with his native Colombia and with the United States. In response to whether he has ever been issued a passport or identity card for travel by a foreign country, he disclosed the ID card from Colombia issued on August 11, 2006. Applicant provided an expiration date of August 11, 2020, but he also discrepantly indicated that the ID card does not expire. Applicant denied any use of this ID card for foreign travel. Due to reported oversight (GE 2), Applicant did not list that he previously held a valid Colombian passport. Applicant disclosed that his parents and brother hold dual citizenship with Colombia and the United States. In response to any foreign contacts, Applicant indicated that he had bi-annual in-person contact with his maternal grandmother,<sup>4</sup> a resident and citizen of Colombia, during his grandmother's vacations in the United States from May 2003 to September 2011. Additionally, he had in-person contact with two maternal aunts with foreign residency and citizenship. One aunt, a Colombian resident-citizen, visited his family in the United States on vacations between June 2005 and July 2009. The other aunt, who is a resident and citizen of a European country, visited his family in the United States twice between July 2010 and December 2011. He reported that he had contact with the Colombian Consulate in August 2006 to obtain the Colombian ID card. (GE 1.)

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<sup>4</sup> Applicant checked "other" and added, "Saw my grandmother bi-annually when she came on vacation." (GE 1.) Bi-annual usually connotes a twice-yearly occurrence. When Applicant was interviewed by the OPM investigator, he indicated that he saw his grandmother once every two years since her first visit to the United States in May 2003. (GE 2.)

On April 12, 2013, Applicant was interviewed by an Office of Personnel Management (OPM) investigator about his dual citizenship and his foreign contacts. Applicant explained that he had taken no steps to renounce his foreign citizenship with Colombia because he was not asked to do so. Applicant denied receiving any benefit from his Colombian citizenship, and he expressed a willingness to renounce his Colombian citizenship on request. Applicant expressed some sympathy for Colombia because he was born there and has extended family members there, but he did not see it as interfering with his loyalty to the United States. Applicant related that he had an expired Colombian passport, which he used only to enter the United States in December 2000. Unaware at the time that possession of a foreign passport presented any security concern (Tr. 87), Applicant expressed intent to renew this foreign passport in the future for ease of travel to Colombia. While he had no present plan to travel to Colombia, he would like to visit extended family members in Colombia in the future. However, he also indicated that he would relinquish his expired Colombian passport on request. About his possession of a Colombian ID card, he acquired it when he was a lawful permanent resident of the United States solely for citizenship identification. Applicant indicated that he was willing to renounce his Colombian citizenship. Yet, he saw no need to do so at present. He had not been requested to renounce his foreign citizenship. (GE 2.)

Concerning family members with foreign or dual citizenship, Applicant told the OPM investigator that his parents and brother knew that he was working for a defense contractor and undergoing a background investigation for a security clearance. He expanded about his foreign contacts abroad. In addition to having in-person contact with his grandmother once every two years, he has three or four telephone contacts per year, usually on birthdays and holidays. While his aunt from Colombia visited him and his family in the United States once or twice since June 2005, he had no other contact with her. Applicant disclosed that he had contact with his aunt living in Europe via social media once every two months since 2010. Applicant believed none of these foreign relatives knew about his employment or his background investigation for a security clearance. Applicant denied any other close or continuing contact with other foreign relatives. (GE 2.)

After his interview, Applicant was advised by the Defense Security Service that he had to surrender his foreign travel document. Applicant turned over possession of his expired Colombian passport to his FSO. In turn, the FSO disfigured it by punching holes, and then informed the DOD that it had been voluntarily invalidated.<sup>5</sup> (AE C; Tr. 47, 51.) Neither Applicant nor his FSO was informed that Applicant had to turn over his Colombian ID card, so Applicant retained possession of the card. (Tr. 47.)

On August 5, 2014, the DOD CAF issued a SOR to Applicant, alleging, in part, foreign preference concerns because of his possession of the Colombian ID card. Sometime in late 2014, Applicant relinquished custody of his foreign ID card to his FSO for as long as he either is no longer employed by the company or is no longer eligible for a

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<sup>5</sup> The FSO testified to his recollection that Applicant surrendered possession of his expired Colombian passport "before the FBI interrogation" (i.e., the subject interview). (Tr. 51.) Applicant's recollection is that he turned over his passport after his interview (Tr. 88), which would be consistent with his admission during his interview that he still had the passport and no reference to it having been disfigured or invalidated.

security clearance. (AE B; Tr. 47-48, 54.) Applicant did not request that his Colombian ID card be defaced or otherwise disfigured by the FSO. Applicant did not indicate to the FSO why he chose to maintain the integrity of the ID card. (Tr. 54.) Applicant explained at his hearing that for him, there was no difference whether the card was destroyed or surrendered intact. He could reapply for the card, but it was important for him that he had no access to the card. Apart from proof of identity, were he to be stopped by the police in Colombia, Applicant is unaware of any other privileges it would carry. He could not enter Colombia on an ID card in lieu of a Colombian passport and would be required to obtain a visa to enter Colombia on a U.S. passport. Applicant acknowledged at his hearing that he is aware that as a dual citizen of Colombia and the United States, he is required to present a Colombian passport to enter and exit Colombia. Applicant expressed no intent to travel to Colombia. (Tr. 75, 95-96.)

As of mid-January 2015, Applicant did not have a valid passport for foreign travel. He is willing to renounce his Colombian citizenship, but only if absolutely required for a security clearance. (Tr. 91.) Renunciation of Colombian citizenship has not been required of his father, who holds a secret-level security clearance for his work with a U.S. government contractor. (Tr. 62, 91, 102-103.) Applicant's mother does not work outside the home. His brother is employed by an auto parts retailer. (Tr. 104.)

Applicant still resides at home with his parents and brother. (GE 1; Tr. 100.) He just finished repaying his college loans for his bachelor's degree. (Tr. 100.) Applicant does not intend to move back to his native Colombia. (Tr. 101-102.) Applicant's employer fully endorses Applicant for security clearance eligibility. The company's president/chief executive officer has found Applicant to be committed and loyal to the United States, and a model employee. (AE A.) The company's vice president of engineering attributed "a great deal" of the company's growth in recent years to Applicant's work. (Tr. 37.)

Applicant's parents own an apartment in Colombia. Applicant has no real estate interest or investments in his name in the country. (Tr. 97.) Applicant's parents come from large families. His mother has nine siblings, seven of whom are citizens and residents of Colombia. One of Applicant's aunts lives in Venezuela. To Applicant's knowledge, none of these foreign relatives is affiliated with the Colombian government or military. Applicant only disclosed on his e-QIP the two aunts with whom he has had contact. Applicant has had no in-person contact with his maternal grandmother since her most recent visit to the United States "a couple of years ago." (Tr. 76.) He has had telephone contact with her on infrequent, special occasions over the past 14 years (i.e., one year on her birthday and another year on Christmas). (Tr. 77.) The aunt in Colombia, with whom he has had some contact over the past 14 years, is a retired architect. (Tr. 79-80.) Applicant's aunt in Europe contacted him lastly in 2014, just to say hello. (Tr. 81-82.)

Applicant's mother contacts her siblings by telephone, email, and Skype. (Tr. 70-73.) She traveled to Colombia to visit her siblings twice: one when Applicant was in college and more recently in 2014. (Tr. 74-75.)

Applicant's paternal grandmother and all nine of his father's siblings reside in Colombia. Applicant denies close relations with any of his paternal relatives in Colombia, although he talked to his grandmother when she called over the holidays in late 2014. (Tr. 75, 82, 84-85.) He had in-person contact with his paternal grandmother when she visited the family in the United States "way before" his current employment. (Tr. 86.) To Applicant's knowledge, his father contacts his family members in Colombia on special occasions throughout the year, but Applicant does not know the full extent of his father's contacts with his relatives. A paternal uncle visited Applicant's family in the United States one time, before Applicant started his employment with the government contractor. (Tr. 83-84.) Applicant's father traveled to Colombia for about one week in 2014 when he was a keynote speaker at a conference. Applicant does not know whether his father visited any of his family during that trip. (Tr. 84.) To Applicant's knowledge, none of his father's family members in Colombia is employed by the Colombian government or military, although Applicant has never directly asked his father about any military affiliation. (Tr. 86.)

To Applicant's belief, his foreign relatives abroad are not aware that he works for a government contractor. (Tr. 65.) To his knowledge, none of his foreign relatives has been arrested in Colombia or interacted with terrorist organizations or affiliates operating in Colombia, such as the leftist Revolutionary Armed Forces of Colombia (FARC) or the leftist National Liberation Army (ELN). (Tr. 105.)

### **Administrative Notice**

After considering official U.S. government publications and statements about Colombia and its foreign relations, including with the United States, I took administrative notice of the following pertinent facts:

Colombia is a constitutional, multi-party republic, which has seen nearly a half century of intense armed conflict with insurgent and paramilitary groups involved in widespread illegal drug production and trafficking. The United States has long enjoyed favorable relations with Colombia. It provides substantial support to the Colombian government's counter-narcotics efforts, and encourages the Colombian government's efforts to strengthen its democratic institutions in order to promote security, stability, and prosperity in the region. Colombia participates in the U.S. State Department's Antiterrorism Assistance Program, which provides instruction and resources to assist Colombia in its efforts to build self-sustaining border security capabilities, investigate terrorists and terrorist activities, and protect critical infrastructure. Law enforcement cooperation between the United States and Colombia has been excellent.

Although some human rights abuses persist, the Colombian government's respect for human rights continues to improve. Colombia experienced a decrease in terrorist activity in 2013, due to success in its military campaign against the Colombian-based FARC, which, along with the ELN, remains on the U.S. list of designated terrorist organizations.<sup>6</sup> Illegal armed terrorist groups such as the FARC and the ELN, and

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<sup>6</sup> Another Colombian-based terrorist group, the rightist paramilitary United Self-Defense Forces of Colombia (AUC) was largely inactive as a formal organization by March 2012. See the CRS's *Latin America: Terrorism*

organized crime groups containing some former paramilitary members, committed the majority of human rights violations in Colombia in 2013 involving political killings and kidnappings; forced disappearances; subornation and intimidation of judges, prosecutors, and witnesses; infringement on rights of privacy and movement; violence against women; and killings, harassment, and intimidation of teachers and trade unionists.

Despite the significant improvement in security in Colombia in recent years, especially in tourist and business destinations, the State Department strongly encourages U.S. citizens to exercise caution and remain vigilant when in Colombia due to the threat of terrorist and criminal activities throughout the country, including from armed criminal gangs called BACRIM (*Bandas Criminales Emergentes*) that are heavily involved in the drug trade, extortion, kidnapping, and robbery. While the incidence of kidnapping has diminished significantly from its peak in 2000, terrorist groups and other criminal organizations continue to kidnap and hold civilians, including foreigners, for ransom. U.S. government officials in Colombia regularly travel to the major cities without incident, but with restrictions. U.S. government officials and their families are not permitted to travel by road between most major cities, use inter-city or intra-city bus transportation, travel by road outside urban areas at night, or hail a taxi on the street. The FARC and ELN continue to condemn any U.S. influence in Colombia.

As reported by the U.S. State Department, any person born in Colombia or of Colombian parentage may be considered a Colombian citizen. Under Colombian law, all Colombian citizens—regardless of dual citizenship—must present a Colombian passport to enter and exit Colombia. Colombian citizens traveling with non-Colombian passports frequently have been prevented from departing the country until they obtain a Colombian passport. Persons who are both U.S. and Colombian citizens must present their Colombian passport on departing Colombia and their U.S. passport on arrival in the United States.

## **Policies**

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered in evaluating an applicant’s eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall 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

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*Issues*, Mar. 2, 2012, at 2. The AUC had been designated by the United States as a foreign terrorist organization from September 10, 2001, until July 15, 2014, when it was delisted. See the U.S. State Department’s list, *Foreign Terrorist Organizations*.



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 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 that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information. Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See also EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline C—Foreign Preference**

The security concern relating to the guideline for foreign preference is articulated in AG ¶ 9:

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

At age 13, Applicant moved to the United States from his native Colombia with his parents and brother for his father’s employment with the U.S. government. Applicant attended middle school, high school, and college in the United States. As a lawful permanent resident of the United States, he acquired a Colombian ID card in August 2006, which he attests was customary for Colombian citizens. He held a valid Colombian passport until February 2010. The Directive provides for mitigation of active exercise of foreign citizenship when “the exercise of the right, privileges, or obligations of foreign

citizenship occurred before the individual because a U.S. citizen or when the individual was a minor.” See AG ¶ 11(c).

Applicant became a naturalized U.S. citizen in February 2011, during his last semester in college, but he also chose to retain his Colombian citizenship. Retention of foreign citizenship acquired from birth out of respect for one’s ethnic heritage, for example, is not disqualifying in the absence of an exercise of a right, privilege, or obligation of that citizenship. See AG ¶ 11(a), “dual citizenship is based solely on parents’ citizenship or birth in a foreign country.” As a dual citizen, Applicant has taken no affirmative act to exercise a privilege, right or obligation of his foreign citizenship, such as renewing his foreign passport, which would have triggered AG ¶ 10(a):

(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.

Even so, Applicant continued to hold onto his Colombian ID card, which is a significant indicia of his foreign citizenship. His rationale for having the card, to prove his identity as a Colombian should he travel to Colombia, raises some concerns of foreign preference, especially given his expressed intent in April 2013 to renew his expired Colombian passport so that he could travel to Colombia. He had no plans at that time to travel to Colombia, but it is also clear that he wanted to visit family members in Colombia in the future.

The U.S. government recognizes that dual nationality exists but does not encourage it as a matter of policy because of the problems that it may cause. As a dual citizen of Colombia and the United States, Applicant may have obligations of his Colombian citizenship that conflict with U.S. law. As a native Colombian citizen, Applicant is required under Colombian law to enter Colombia with a Colombian passport. His dual nationality could limit U.S. government efforts to assist him abroad, especially in Colombia. Concerns

of dual citizenship, such as competing obligations, could be mitigated under AG ¶ 11(b), “the individual has expressed a willingness to renounce dual citizenship.” During his subject interview in April 2013, Applicant expressed a willingness to renounce his Colombian citizenship, but he added that he saw no need to do so at that time. He had not been requested to relinquish his foreign citizenship. As of his hearing in mid-January 2015, Applicant had taken no steps in that regard. Although he again expressed a willingness to renounce his Colombian citizenship, he indicated that he would do so only if absolutely necessary. He added that it had not been required of his father, who apparently was granted a secret-level security clearance as a dual citizen. Applicant’s obvious preference is to retain his dual citizenship. Yet, his surrender of his Colombian passport and ID card is consistent with a willingness to renounce his foreign citizenship. AG ¶ 11(b) applies.

In addition, mitigating condition AG ¶ 11(e), “the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated,” is established. Applicant revealed during his subject interview in April 2013 that he still possessed his Colombian passport, which had expired in February 2010. Shortly after that interview, he was informed by the DOD that he had to surrender the passport. Applicant acted expeditiously to turn over custody of his expired passport to his FSO, who disfigured it. Concerns of future unverifiable travel as a Colombian citizen were largely mitigated at that point. Any concern that Applicant could renew his Colombian passport at the Consulate or obtain any other foreign benefit or privilege by using his Colombian ID card has been addressed by Applicant’s surrender of his foreign ID card to the custody of his FSO, who will maintain control of the ID card until such time as Applicant leaves his employment or is no longer eligible for a security clearance. Neither Applicant nor his FSO realized initially the security risk presented by a foreign ID card. When it became obviously an issue, Applicant demonstrated his willingness to comply with DOD requirements. Aware that he cannot enter Colombia without a Colombian passport, he made his choice in preference to the United States. The foreign preference concerns are mitigated.

## **Guideline B—Foreign Influence**

The security concerns about foreign influence are articulated in AG ¶ 6:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

The security concerns underlying AG ¶ 7(a), “contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation,

inducement, manipulation, pressure, or coercion,” are established. Applicant has ongoing, albeit infrequent, contact with his maternal grandmother and one of his mother’s sisters, who are residents and citizens of Colombia. While Colombia and the United States have good relations, Colombian resident-citizens are at heightened risk because of the violent activities and human rights abuses committed by designated terrorist organizations, such as the FARC, and armed criminal insurgents and gangs (BACRIM) operating in the country. While Applicant also has contact with a maternal aunt, who resides in Europe, the Government did not allege, and there is no evidence to suggest, that Applicant’s contacts or connections to this aunt present a heightened risk or a potential conflict of interest.

AG ¶ 7(b), “connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual’s obligation to protect sensitive information or technology and the individual’s desire to help a foreign person, group, or country by providing that information,” focuses not on contacts, but rather on relationships with foreign persons, organizations, governments, or countries that pose a risk of a conflict of interest. While there is a significant degree of overlap between AG ¶ 7(a) and ¶ 7(b), the concern under AG ¶ 7(b) is that Applicant has such close bonds to Colombian citizens that he could be placed in the position of having to choose between their interests and his obligation to protect classified information. Applicant’s contact with his grandmother has been more frequent than with his aunt. She visited Applicant and his family every two years or so starting in May 2003, although there is no evidence of any in-person contact with her in the last couple of years. Applicant has had telephone contact with his grandmother by telephone on special occasions, such as birthdays or holidays. Applicant’s contact with his aunt in Colombia has been limited to her two visits to the United States between June 2005 and July 2009. Given the limited contact, it is difficult to establish particularly strong personal bonds. Yet, AG ¶ 7(b) cannot be discounted completely, given Applicant expressed a desire in 2013 to visit his family members in Colombia someday.

Moreover, AG ¶ 7(d), “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,” applies in this case. Applicant resides with his parents and brother. His mother contacts her relatives in Colombia by telephone, email, and Skype. She traveled to Colombia to visit her family members at least twice, including in 2014.

The country in which Applicant’s grandmother and aunt are located makes it difficult to mitigate the foreign influence concerns under AG ¶ 8(a):

(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 that 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.

On the one hand, Colombia is largely a victim of terrorism. The Colombian government has had success in recent years in countering insurgent activity and combating narcotics trafficking. Security has improved significantly in tourist and business travel destinations.

Yet, due to the ongoing risk of violence, kidnapping, and terrorist acts by the FARC and illegally armed criminal organizations, the United States limits travel of U.S. government employees and their families in Colombia and warns U.S. citizens of the risks of travel to Colombia.

As a U.S. immigrant, Applicant may reasonably be expected to have some contact with, and some feelings of affection or obligation, for his grandmother and aunt in Colombia. While the extent of his contacts with them may reasonably be characterized as infrequent, AG ¶ 8(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,” the risk of foreign influence through his mother and her ties to her family in Colombia is not adequately addressed by AG ¶ 8(c).

Having considered Applicant’s preference to retain his Colombian citizenship, I am nonetheless persuaded that Applicant can be counted on to resolve any conflict of interest in favor of the United States. The decision to leave Colombia was made for him by his parents, who moved to the United States for his father’s career. Over the next 14 years, he was raised and educated in the United States. In college, he joined a social fraternity that required some level of community service. He voluntarily acquired his U.S. citizenship in February 2011, and after earning his bachelor’s degree, he remained in the United States to pursue his career in graphic design. While he has not yet acquired a U.S. passport, the evidence shows that he did not use his Colombian passport for any foreign travel after coming to the United States as a minor in December 2000. He took no steps to renew his foreign passport when it expired, even though he was not yet working for a defense contractor. Applicant does not own any real estate in the United States or in Colombia, but his contributions to his defense contractor employer show his commitment to his life here. Applicant’s closest personal bonds are to his parents and brother, who, like him, are dual citizens of the United States and Colombia. Their U.S. citizenship and residency lessen the risk of undue foreign influence that may exist because of their Colombian citizenship. Applicant’s father has been vetted and determined eligible to hold a DOD security clearance, despite his own familial and financial ties to Colombia. AG ¶ 8(b) applies to mitigate the foreign influence concerns:

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

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(a).<sup>7</sup>

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<sup>7</sup> The factors under AG ¶ 2(a) are as follows:

For the last 14 years, Applicant has maintained a lifestyle consistent with a preference for the United States, even though he became naturalized in the United States only four years ago. In comparison, his ties to Colombia are largely sentimental. His managers, who have had an opportunity to observe his work performance and his integrity, support his eligibility for a security clearance. They have seen nothing in Applicant's character or work that causes them to doubt Applicant's loyalty or commitment to the United States. After considering the evidence in light of the adjudicative guidelines, I conclude that it is clearly consistent with the national interest to grant Applicant a security clearance.

### **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 C:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline B:	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Elizabeth M. Matchinski  
Administrative Judge

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(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.