



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



In the matter of:)
)
 1) ISCR Case No. 07-17916
)
)
 Applicant for Security Clearance)

Appearances

For Government: Nichole L. Noel, Department Counsel
For Applicant: *Pro Se*

March 10, 2009

Decision

HEINY, Claude R., Administrative Judge:

Applicant’s parents are naturalized citizens who visit their son, Applicant’s brother, in Iran. Applicant’s brother is a citizen and resident of Iran who has recently been informed the administrative process for his immigration to the United States had been completed and he needed to visit the Immigrant Visa Unit to finalize the process. Applicant has rebutted or mitigated the government’s security concerns under foreign influence. Clearance is granted.

Statement of the Case

Applicant contests the Defense Department’s intent to deny or revoke her eligibility for an industrial security clearance. Acting under the relevant Executive Order

¹ Applicant's name is misspelled in the Statement of Reasons.

and DoD Directive,² the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) on August 26, 2008, detailing security concerns under foreign influence.

On September 9, 2008, Applicant answered the SOR, and requested a hearing. On October 23, 2008, I was assigned the case. On November 6, 2008, DOHA issued a notice of hearing scheduling the hearing held on November 20, 2008. The government offered Exhibits (Ex.) 1 through 3, which were admitted into evidence. Applicant testified on her own behalf and submitted Exhibits A through E, which were admitted into evidence. The record was kept open to allow Applicant to submit additional matters. On November 24, 2008, two additional documents were received. There being no objection, the material was admitted into evidence as Ex. F and G. On November 26, 2008, the transcript (Tr.) was received.

Request for Administrative Notice

Department Counsel submitted a formal request that I take administrative notice of certain facts relating to Iran. The request and the attached documents were not admitted into evidence, but were included in the record as Hearing Exhibit 1. The facts administratively noticed are set out in the Findings of Fact, below.

Findings of Fact

In her Answer to the SOR, Applicant admitted the factual allegations of the SOR. Applicant is a 28-year-old engineer who has worked for a defense contractor since January 2006, and is seeking to obtain a top secret security clearance. She is part of a manufacturing excellence team³ following a rotational engineering leadership development program. (Tr. 37, 38) Co-workers, colleagues, and friends state Applicant is talented, dedicated, dependable, conscientious employee with an impeccable work ethic. (Ex B) She is organized, efficient, extremely competent, has strong leadership skills, and has excellent rapport with people. She goes beyond all requirements to achieve all her goals and those of the team.

Applicant is civic minded and engaged in her community. Applicant has a passion for volunteer work. (Tr. 57) She volunteers her time and talents to help and aid others. She provided valuable service to the Red Cross during fires in her state. (Ex C, Tr. 58) She does volunteer work with the United Service Organizations (USO) welcoming the soldiers home and seeing them off. (Tr. 58) She has also done volunteer work with Habitat for Humanity, CoCo Best, Mathcount, and RoboRock, motivating

² Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

³ The company selects 17 individuals from the 73,000 employees of the company. (Tr. 49, 50)

middle and high school students toward studies and careers in engineering, science, and technology. She also volunteered with Cradle to Crayons and organization that provides clothing and necessities to children. (Ex A, Tr. 59) She also spends time visiting the VA hospital. (Tr. 59)

Applicant was born in Iran. Applicant has 31 relatives living in the U.S. Twenty-four years ago, when Applicant was five years old, her uncle who has lived in the U.S. since 1978, sponsored her family for immigration to the U.S. (Tr. 23) The process was not completed until Applicant was 18 years old and her brother was 23 years old. Because her brother, at that time, was then a single child over 21 years old, his status had changed. In October 1997, when Applicant and her parents came to the U.S., her brother was not able to accompany them. When they arrived in the U.S., Applicant's mother applied to allow him to come to the U.S.

Applicant's brother lives in an apartment in Iran owned by her parents. (Tr. 40) Since 1998, her brother has been in the process of obtaining his green card. (Gov Ex 1) He is a doctor, a general practitioner, who has taken and passed the United States Medical Licensing Examination (MLE) with a score of 99. (Ex F, Tr. 25) In December 2008, her brother was informed the immigration administrative process was complete and he needed to visit the Immigrant Visa Unit to finalize the process. (Ex G) Her brother's interview was set for January 29, 2009. Applicant contacts her brother twice a year; at New Years and on her brother's birthday. Applicant has talked to her sister-in-law once, but has never met her. (Gov Ex 2) Applicant is unsure if her sister-in-law is employed, but Applicant knows her sister-in-law has a master's degree in architecture. (Tr. 41) Applicant has cousins who are citizens and residents of Iran who she talks to once a year at New Year's time. (Tr. 24)

Applicant's mother has four sisters and four brothers, all but one of which live in the U.S. (Tr. 25) One sister is retired and lives in Iran with her two children. One of Applicant's other aunts has applied for that sister to immigrate to the U.S. (Tr. 26) Applicant does not talk to this aunt. (Tr. 42) Both her cousins have applications to immigrate to the U.S. (Tr. 43)

Some of Applicant's family migrated to the U.S. in the late 1970's, before the revolution. (Tr. 28) They have been living in the U.S., some since birth and others between 8 and 34 years. (Ex F) Applicant's uncle, a cardiologist (Tr. 47), has lived in the U.S. for 31 years, her aunt, an accountant, 18 years. Their three children are students living in the U.S. Applicant's uncle, who is an electrical engineer, has lived in the U.S. eight years. An aunt, who is a medical director and practicing internist, has lived in the U.S. for 25 years. (Tr. 47) An uncle, a college department chair, was born and raised in the U.S. Another uncle, a university professor, has lived here 34 years. She has four cousins who were born and raised in the U.S.

Applicant has an aunt, a retired dentist, who has lived here 10 years as has her aunt's son. An uncle, who is a retired agricultural engineer, has lived in the U.S. for 10 years. She has an uncle, who is a retired editor and writer, who was born and raised in

the U.S. who is married to Applicant's aunt, a science teacher, who has lived in the U.S. for 32 years. Their daughter, a student, has lived here 11 years. Applicant has an uncle, who works for a pizza restaurant, who has been in the U.S. 31 years. She has an aunt, a nurse, who has been here 13 years. Her uncle, an anesthesiologist, has been in the U.S. 10 years as has his wife, a retired teacher. (Tr. 47) An uncle, a store manger and his wife, a cosmetologist, and their child, a student, have lived in the U.S. for eight years. A cousin, an internal medicine doctor, his wife, also an M.D., and their two daughters, both students, have lived in the U.S. for 12 year. (Ex F)

In March 2003, Applicant became a naturalized U.S. citizen. (Ex A, Tr. 16) Her parents have lived in the U.S. for 11 years and are naturalized U.S. citizens. Her father is a retired accountant, who had worked for a private company, and her mother is a retired economist. (Tr. 28) In April 2005, Applicant's father became a naturalized U.S. citizen. (Gov Ex 1) In December 2006, Applicant's mother became a naturalized U.S. citizen. (Gov Ex 2) Her parents periodically return to Iran to visit their son and usually stay for a month or two In Iran. (Tr. 39, 40)

In August 2002, Applicant received a bachelor of science degree in electrical engineer from an American institute of technology. While attending school she was awarded an academic excellence award and was recognized for the highest academic achievement in mathematics and calculus. She was a member of Phi Theta Kappa society⁴ and on the college Dean's list numerous times. She is certified to be a community college teacher. While working on her master's degree, she taught college mathematics. (Tr. 30) In 2006, Applicant received a Master of Science degree in electrical engineering from an American university. (Ex D) That same year she relocated to a new state to begin working at her current job. (Tr. 35)

In 2000, Applicant married a U.S. citizen whose parents were born in Iran. Her in-laws were naturalized U.S. citizens. In December 2005, Applicant and her spouse filed for separation and the divorce was final in June 2006. (Gov Ex 2) Since the divorce, she has not had any contact with her ex-spouse or his parents.

In July 2002, Applicant received an Iranian passport, which expired in July 2007. Applicant surrendered the passport to her company's security officers and it was destroyed. (Tr. 53) Applicant traveled to Iran in 1999, 2001, 2002, 2003, and 2005 when Applicant was between the ages of 20 and 26. In 2005, during her last trip to Iran, she realized so many things had changed. She realized she had grown apart from her cousins and her brother, who she talks with once or twice a year. (Tr. 27) In 2005, Applicant realized she did not want to return to Iran even though her passport did not expire until 2007. (Tr. 27) She was simply fed up with the conditions and regulations in Iran. Applicant has lived her adulthood in the U.S. and her way of thinking vastly differs from the way those in Iran think. (Tr. 56) She finds it hard to relate to her cousins in Iran.

⁴ Phi Theta Kappa is the equivalent for two-year universities what Phi Beta Kappa is for four-year universities.

Applicant owns no property or funds in Iran or any other foreign location. (Tr. 41) Applicant has approximately \$30,000 in her company retirement program. (Tr. 45) She owns a home in the U.S. worth approximately \$175,000. (Ex E, Tr. 44) She has known since age 5 that she wanted to come to the U.S. to live. (Tr. 28) Applicant chose the U.S. to be her home and her total allegiance and loyalty is to the U.S. (Tr. 67) She is a proud and committed citizen of the U.S. supporting the nation, its government, institutions, and military. She believes in the U.S. constitution, the nation's laws, and the founding father's beliefs.

Iran

Iran is a constitutional Islamic republic with a theocratic system of government in which Shi'a Muslim clergy dominate the key power structures, and ultimate political authority is vested in a learned religious scholar. The U.S. has not had diplomatic relations with Iran since 1980. The President's National Security Strategy has stated that the United States "may face no greater challenge from a single country than from Iran."

The U.S. Government has defined the areas of objectionable Iranian behavior as:

- Iran's efforts to acquire nuclear weapons and other weapons of mass destruction;
- Its support for and involvement in international terrorism;
- Its support for violent opposition to the Middle East peace process;
- Its dismal human rights record; and
- Iran's intervention in the internal affairs of Iraq.⁵

The U.S. has designated and characterized Iran as the most active state sponsor of terrorism. Iran provides critical support to non-state terrorist groups. The government of Iran has committed numerous, serious human rights abuses against the Iranian people. Abuses include political killings and incarceration; summary executions, including of minors; disappearances; religious persecution; torture; arbitrary arrest and detention, including prolonged solitary confinement; denial of due process; severe restrictions on civil liberties - speech, press, assembly, association, movement and privacy; severe restrictions on freedom of religion; official corruption; violence and legal and societal discrimination against women, ethnic and religious minorities, and homosexuals; trafficking in persons; and child labor.

Travel to Iran remains problematic. The State Department continues to warn U.S. citizens to consider carefully the risks of travel to Iran. U.S. citizens who were born in Iran and the children of Iranian citizens—even those without Iranian passports who do not consider themselves Iranian—are considered Iranian citizens by Iranian authorities, since Iran does not recognize dual citizenship. Therefore, despite the fact that these

⁵U.S. Department of State; Country Reports on Terrorism, Chapter 3 – State Sponsors of Terrorism Overview, dated April 30, 2008, U.S. Department of State, State Sponsors of Terrorism.

individuals hold U.S. citizenship, under Iranian law, they must enter and exit Iran on an Iranian passport, unless the Iranian government has recognized a formal renunciation or loss of Iranian citizenship. U.S.-Iranian dual nationals have been denied permission to enter/depart Iran using their U.S. passport; they even had their U.S. passports confiscated upon arrival or departure. U.S.-Iranian dual citizens have been detained and harassed by the Iranian government. Iranian security personnel may place foreign visitors under surveillance. Hotel rooms, telephones and fax machines may be monitored, and personnel possessions in hotel rooms may be searched.

Some elements of the Iranian government and population remain hostile to the U.S. Consequently, American citizens may be subject to harassment or arrest while traveling or residing in Iran. The U.S. government does not currently have diplomatic or consular relations with the Islamic Republic of Iran, and therefore, cannot provide protection or routine consular services to American citizens in Iran. The Swiss government, acting through its Embassy in Tehran, serves as protecting power for U.S. interests in Iran. Neither U.S. passports nor visas to the United States are issued in Tehran.

The Iranian government does not recognize dual citizenship and generally does not permit the Swiss to provide protective services for U.S. citizens who are also Iranian nationals. In addition, U.S. citizens of Iranian origin who are considered by Iran to be Iranian citizens have been detained and harassed by Iranian authorities.

Policies

When evaluating an Applicant's suitability for a security clearance, the 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 useful 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 over-arching adjudicative goal is a fair, impartial and common sense 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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 as to 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

Foreign Influence

AG ¶ 6 expresses the security concerns regarding foreign influence:

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.

In every case where a relative lives overseas, there is a risk of pressure on this relative and through them upon the holder of a security clearance. Under the facts of this case, a heightened risk for exploitation, inducement, manipulation pressure, or coercion is substantiated. However, Applicant has significant ties to the U.S. and few ties to Iran. While she still has a brother, aunt, and cousins living in Iran, and her parents periodically visit their son in Iran, she has 31 relatives living in the U.S. She has

no financial or property interests in Iran. She owns a home in the U.S. and her ties with the U.S. are much stronger than her ties with Iran.

However, Applicant's brother, aunt, and two cousins are citizens and residents of Iran. She visited Iran five times between 1999 and 2005 using an Iranian passport for these visits. Having considered all of the Foreign Influence disqualifying conditions, applicable conditions that could possibly raise a security concern are 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" and 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." AG ¶¶ 7(a) and 7(b) apply.

AG ¶ 8 provides conditions that could mitigate security concerns:

(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 U.S.;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligations 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;

(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;

(d) the foreign contacts and activities are on U.S. Government business or are approved by the cognizant security authority;

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; 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.

In 1997, Applicant left Iran with her parents at age 18. They were in the immigration process for 13 years. In 2003, she became a U.S. citizen. Her work performance has been outstanding. Since leaving Iran, Applicant visited Iran five times. During her last visit in 2005, she realized how much she had changed and how she differed from her cousins living in Iran. She has no desire to ever return to Iran. She has contact with her two cousins once a year during the Iranian New Years. Applicant surrendered her expired Iranian passport to her company's security officers and it was destroyed. She talks with her brother twice a year. She has only talked to her sister-in-law once. Applicant has no contact with her aunt living in Iran. Another of Applicant's aunts has started the process of sponsoring the aunt and cousins who reside in Iran, which as previously noted is a lengthy process to immigrate to the U.S.

AG ¶¶ 8(a) and 8(c)⁶ partially apply. Because of her limited contact with her brother and cousins, "it is unlikely [she] will be placed in a position of having to choose between the interest of [her family living in Iran] and the interest of the U.S. "Her infrequent contact (twice a year) with her brother, (once a year) with her cousins, only one time with her sister-in-law and not particularly close relationship with them results in a very low potential for forcing her to choose between the United States and Iran. She met her burden of showing there is "little likelihood that [her relationship with her Iranian siblings] could create a risk of foreign influence or exploitation." However AG ¶¶ 8(a) and 8(b) cannot be fully applied because of Iran's hostile relationship with the U.S and Iran's negative human rights record makes it more likely that Iran would violate the law to gain classified information.

⁶ In ISCR Case No. 06-17838 at 4 (App. Bd. Jan. 28, 2008), the Appeal Board discussed the precedential value of the decisions predating the revision of the Adjudicative Guidelines indicated in n. 3, *supra*, and determined where the language of the Directive is unchanged or not substantively altered, the precedent remains valid. AG ¶ 8(c) apparently adopted the Appeal Board's interpretation of Foreign Influence Mitigating Condition 1 (FIMC 1) under the previous guidelines. The Appeal Board had determined that contacts with relatives living in a foreign country must be both casual and infrequent to apply FIMC 1. See ISCR Case No. 04-12500 at 4 (App. Bd. Oct. 26, 2006). Moreover, contacts with such family members are presumed to be "not casual." *Id.* In the analysis of countervailing evidence, it is legal error to give significant weight to any of the following facts or factors: applicant's ties to the United States (ISCR Case No. 02-13595 at 5 (App. Bd. May 10, 2005)); lack of prominence of relatives living in a foreign country (*Id.*); "family members' low-key and noncontroversial lifestyle, and the fact that the Iranian government has not contacted them about Applicant" (ISCR Case No. 04-12500 at 4 (App. Bd. Oct. 26, 2006)); one relative living in a foreign country may be sufficient to negate FIMC 1 (ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006)); a foreign relative's fragile health (ISCR Case No. 02-29403 at 4 (App. Bd. Dec. 14, 2004)), advanced age (ISCR Case No. 02-00305 at 7 (App. Bd. Feb. 12, 2003), financial independence (ISCR Case No. 02-31154 at 6 (App. Bd. Sep. 22, 2005), or lack of financial dependency upon applicant (ISCR Case No. 03-15205 at 4 (App. Bd. Jan 21, 2005)); foreign relatives spend part of each year in the U.S. (ISCR Case No. 02-31154 at 6 (App. Bd. Sep. 22, 2005)); the lack of any connection between the foreign relative and the foreign government in question (ISCR Case No. 02-31154 at 6 (App. Bd. Sep. 22, 2005)); the absence of any attempt at exploitation in the past (ISCR Case No. 03-15205 at 4 (App. Bd. Jan. 21, 2005)); a foreign country's friendly relationship with the U.S., its stable, democratic government, or its extensive foreign military agreements with the United States (ISCR Case No. 02-22461 at 5-6 (App. Bd. Oct. 27, 2005)) and an applicant's "refusal to travel to Iran" and "meticulous work habits and practice of strictly following the rules relating to his work" (ISCR Case No. 03-15205 at 3 (App. Bd. Jan. 21, 2005)). Notwithstanding the Appeal Board's position, I conclude that many of these attributes are pertinent to the analysis in this case under the whole person concept.

Of concern are Applicant's parent's trips to Iran to visit their son. Of course, Applicant has no control over her parent's travel, but they do visit Iran. It is likely their visits will terminate in the near future. The sole reason for traveling to Iran is to visit their son. In 1978, when Applicant's uncle started the process of sponsoring Applicant's family, it was hoped that Applicant, her parents, and her brother would all immigrate to the U.S. together. However, when the process was completed her brother—then age 23 and single—was not able to accompany them. In the near future, they will all be together in the U.S.

Since 1998, her brother has been in the process of obtaining his green card. He is a doctor, a general practitioner, who has taken and passed the United States Medical Licensing Examination. In December 2008, he was informed the administrative process was complete and he needed to visit the Immigrant Visa Unit to complete the process. Having waited 20 years to be allowed to immigrate and rejoin his family, with his parents and sister being naturalized U.S. citizens, and having 31 additional relatives living in the U.S., it is likely he will move to the U.S. shortly.

While danger certainly exists for all who go to Iran, Applicant's parents, brother, and cousins are in no greater danger than any other individual living and working in Iran. Applicant is in less danger since she no longer travels to Iran and intends not to return.

There is no evidence that terrorists or the Iranian Government have approached or threatened her parents, brother, aunt, or cousins for any reason. There is no evidence that her retired parents or her brother, a general practitioner doctor living in Iran, or her other Iranian relatives currently engage in activities which would bring attention to them or that they or other Iranian elements are even aware of Applicant's work. As such, there is a reduced possibility that her relatives or Applicant would be targets for coercion or exploitation. None of her Iranian relatives are involved with organizations which seek to harm the U.S.

AG ¶ 8(b) fully applies. There is no evidence that her parents, her brother, her sister-in-law, or cousins have been political activists, challenging the policies of the Iranian Government. There is no evidence any of them currently works or ever worked for the Iranian Government, military, or new media, or that of any other foreign government. Applicant's parents are retired and her brother is a doctor.

Applicant was born in Iran and came to the United States following high school to attend college. She obtained a BS and MS degrees from U.S. universities. Applicant's views are in opposition of the current Iranian regime. Her trips to Iran, especially her final trip in 2005, reinforced her appreciation for the freedom she has in the U.S. Applicant has "such deep and longstanding relationships and loyalties in the U.S., [she] can be expected to resolve any conflict of interest in favor of the U.S. interest."

AG ¶ 8(f) partially applies because she has no interest in foreign property and she has significant U.S. property and assets. However, AG ¶ 8(f) does not apply because the SOR and record do not raise AG ¶ 7(e).

There is little likelihood that Applicant will be placed in a position of having to choose between the interests of the U.S. and a foreign entity. Likewise, because of her close ties and her loyalties to the U.S., she would resolve any conflict of interest in favor of the U.S. These mitigating conditions taken together are sufficient to fully overcome the foreign influence security concerns.

Whole Person Concept

Protection of our national security is of paramount concern. Security clearance decisions are not intended to assign guilt or to impose further punishment for past transgressions. Rather, the objective of the adjudicative process is the fair-minded, commonsense assessment of a person's trustworthiness and fitness for access to classified information. In reaching this decision, I have considered the whole person concept in evaluating Applicant's risk and vulnerability in protecting our national interests. I considered the totality of Applicant's family ties to Iran and the heavy burden an Applicant carries when she has family members in a foreign country, such as Iran.

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 the 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.

Applicant has lived in the U.S. for 11 years. She came to the U.S. following high school. Applicant chose the U.S. to be her home and her total allegiance and loyalty is to the U.S. She is a proud and committed U.S. citizen, of the supporting the nation, its government, institutions, and military. She believes in the U.S. constitution, the nation's laws, and the founding father's beliefs. She is active in her community and volunteers for an extraordinary number of charities. Her love of the U.S. was made especially clear

during her last trip to Iran in 2005, when she realized how different she was from her cousins.

Applicant does not intent to return to Iran. Her property and future are in the U.S. Shortly, her family will be here also. Although she visited Iran five times between 1999 and 2005; she has no intention of visiting Iran in the future and her Iranian passport has been destroyed. I have carefully weighed the evidence in favor of Applicant against the government's concerns about Applicant's ability to protect classified information. I have considered the Iranian government's hostile relationship with the U.S. and its unwillingness to comply with international law and respect the human rights of Iranians and former Iranians. I find that there is little potential for Applicant to be pressured, coerced, or exploited because she has family members living in Iran. Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude 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

Subparagraph 1.a – 1.e: 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.

CLAUDE R. HEINY II
Administrative Judge