



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 09-06815

Appearances

For Government: Kathryn MacKinnon, Esquire, Deputy Chief Department Counsel

For Applicant: *Pro se*

April 6, 2011

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant has failed to mitigate the security concerns regarding foreign influence. Eligibility for a security clearance and access to classified information is denied.

Statement of the Case

On July 1, 2009, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) Sensitive Positions version of a Security Clearance Application (SF 86).¹ On an unspecified date, the Defense Office of Hearings and Appeals (DOHA) furnished him a set of interrogatories. He responded to the interrogatories on March 6, 2010.² On an unspecified date, DOHA furnished him another set of interrogatories. He responded to the interrogatories on March 6, 2010.³ On May 17, 2010, DOHA issued a Statement of Reasons (SOR) to

¹ Item 4 (SF 86, dated July 1, 2009).

² Item 5 (Applicant's Answers to Interrogatories, dated March 6, 2010).

³ Item 6 (Applicant's Answers to Interrogatories, dated March 6, 2010).

him, pursuant to Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (effective within the Department of Defense on September 1, 2006) (AG) for all adjudications and other determinations made under the Directive. The SOR alleged security concerns under Guideline B (Foreign Influence) and detailed reasons why DOHA could not make a preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

Applicant acknowledged receipt of the SOR on May 20, 2010. In a sworn statement, undated, Applicant responded to the SOR allegations and elected to have his case decided on the written record in lieu of a hearing. A complete copy of the Government's file of relevant material (FORM) was provided to Applicant on August 16, 2010, and he was afforded an opportunity, within a period of 30 days after receipt of the FORM, to file objections and submit material in refutation, extenuation, or mitigation. Applicant received the FORM on August 20, 2010, and elected not to make any additional submissions. The case was assigned to me on November 3, 2010.

Rulings on Procedure

Department Counsel requested that I take administrative notice of certain enumerated facts pertaining to the Islamic Republic of Iran (Iran), appearing in 15 written submissions. Facts are proper for administrative notice when they are verifiable by an authorized source and relevant and material to the case. In this instance, the Government relied on source information regarding Iran in publications of the White House,⁴ U.S. Department of State,⁵ U.S. Department of Justice,⁶ U.S. Department of Commerce,⁷ and the Office of the Director of National Intelligence.⁸

⁴ The White House, Office of the Press Secretary, Press Release, *Continuation of the National Emergency with Respect to Iran*, dated November 12, 2009.

⁵ U.S. Department of State, *Country Specific Information: Iran*, dated June 28, 2010; Bureau of Near Eastern Affairs, *Background Note: Iran*, dated July 23, 2010; U.S. Department of State, Office of the Coordinator for Counterterrorism, *State Sponsors of Terrorism*, undated; U.S. Department of State, Office of the Coordinator for Counterterrorism, *State Sponsors of Terrorism*, dated August 5, 2010; U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *2009 Human Rights Reports: Iran*, dated March 11, 2010; U.S. Department of State, Press Release, *UN Calls on Iran to Address Serious Human Rights Violations*, dated November 20, 2009; U.S. Department of State, Press Release, *Secretary Clinton and Foreign Minister Cannon Express Concern over Continued Detention of U.S. and Canadian Nationals in Iran*, dated September 25, 2009; U.S. Department of State, Press Release, *Robert Levinson's 1,000th Day Missing*, dated December 3, 2009; U.S. Department of State, Bureau of Consular Affairs, *Travel Warning*, dated April 20, 2010.

⁶ U.S. Department of Justice, Press Release, *Iranian Pleads Guilty to Attempted Exportation of Arms and Money Laundering*, dated April 13, 2005.

⁷ U.S. Department of Commerce, Bureau of Industry and Security, Press Release: *Pennsylvania Company Fined for Export Violations Involving Iran, UAE and Syria*, dated December 7, 2007; U.S. Department of Commerce,

The various press releases were presented apparently to substantiate that Iran actively pursues collection of U.S. economic and propriety information, and, therefore, Applicant's relationships with his two family members in Iran raises suspicion of him. None of the cases cited involves Applicant personally or involved espionage through any familial relationship. The anecdotal evidence of criminal wrongdoing of other U.S. citizens is of decreased relevance to an assessment of Applicant's security suitability, especially where there is no evidence that Applicant, or any member of his family, was ever involved in any aspect of the cited cases or ever targeted by any Iranian intelligence official. Furthermore, these press releases are public relations products issued by public relations offices, with the collateral effect of deterring other criminals contemplating possible attacks on our national security.

After weighing the reliability of the source documentation and assessing the relevancy and materiality of the facts proposed by the Government, pursuant to Rule 201, *Federal Rules of Evidence*, I take administrative notice of certain facts,⁹ as set forth below under the Iran subsection. However, while I do not reject the facts set forth in the various press releases, any inference that Applicant or his family participated in criminal activity was not argued in the FORM and is specifically rejected.

Findings of Fact

In his Answer to the SOR, Applicant admitted all of the factual allegations (¶¶ 1.a. through 1.c.) of the SOR. Those admissions are incorporated as findings of fact.

Applicant is a 33-year-old employee of a defense contractor, and he is seeking to obtain a security clearance, the level of which has not been specified. He has been employed as a software engineer with his current employer, a government contractor, since June 2009.¹⁰

Bureau of Industry and Security, Press Release: *Singapore Businessman Convicted of Secretly Diverting U.S. Military and Civilian Aircraft Parts to the Islamic Republic of Iran*, dated May 18, 2006; U.S. Department of Commerce, Bureau of Industry and Security, Press Release: *New York Man Sentenced for Illegally Exporting Stolen NBC Night Vision Lenses for Delivery to Iran*, dated August 8, 2005.

⁸ Office of the Director of National Intelligence, *Annual Threat Assessment of the US Intelligence Community for the Senate Select Committee on Intelligence*, dated February 2, 2010.

⁹ Administrative or official notice is the appropriate type of notice used for administrative proceedings. See *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986); ISCR Case No. 05-11292 at 4 n.1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004)). The most common basis for administrative notice at ISCR proceedings, is to notice facts that are either well known or from government reports. See Stein, *ADMINISTRATIVE LAW*, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice). Requests for administrative notice may utilize authoritative information or sources from the internet. See, e.g. *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006) (citing internet sources for numerous documents).

¹⁰ Item 4, *supra* note 1, at 17.

Applicant was born in 1977 in Iran.¹¹ The record is silent regarding Applicant's early life in Iran. He entered the United States in May 2002, using his Iranian passport, with a U.S. visa issued in Abu Dhabi.¹² Within one week he was married in the United States.¹³ He and his wife were divorced in July 2006.¹⁴ Applicant was unemployed from June 2002 until November 2002.¹⁵ He obtained an associate's degree in an unspecified discipline from a community college in May 2006,¹⁶ and a bachelor's degree in an unspecified discipline from a university in May 2009.¹⁷ While in school, he worked in various part-time positions.¹⁸ Applicant became a naturalized U.S. citizen in October 2008.¹⁹

In order to enter Iran, Applicant used his Iranian passport on several occasions before he became a U.S. citizen.²⁰ He was issued a U.S. passport in November 2008.²¹ He also used his Iranian passport to travel to and from Iran on one occasion after he became a U.S. citizen, and his U.S. passport to enter the United States.²² Applicant used his Iranian passport for convenience for ease of travel to Iran.²³ Although Applicant contends the U.S. Department of State advised him to retain his Iranian citizenship and passport after becoming a naturalized U.S. citizen,²⁴ he has offered no evidence to support his contention. Applicant surrendered his Iranian passport to his facility security officer on October 16, 2009, and it was destroyed by shredding that same day.²⁵

¹¹ *Id.* at 6.

¹² Item 7 (Iranian passport, with U.S. visa, protected date), at 5. Some details pertaining to Applicant's passport and visa have not been included in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

¹³ Item 4, *supra* note 1, at 28-29.

¹⁴ *Id.* at 29.

¹⁵ *Id.* at 24.

¹⁶ *Id.* 15-16.

¹⁷ *Id.* at 14-15.

¹⁸ *Id.* at 18-23.

¹⁹ *Id.* at 8.

²⁰ Item 1 (Applicant's Response to the SOR, undated), at 1.

²¹ Item 6 (U.S. passport, dated November 7, 2008, at 3), attached to Applicant's Answer to Interrogatories.

²² Item 4, *supra* note 1, at 36; Item 5 (Personal Subject Interview, dated July 24, 2009), at 1, attached to Applicant's Answer to Interrogatories; *id.* at 4. Applicant's U.S. passport contains an entry stamp (with a protected date) for one trip he took to Iran, but there is no Iranian entry stamp covering that trip.

²³ Item 5, at 1.

²⁴ *Id.*; Item 4, *supra* note 1, at 10, 36.

²⁵ Item 5 (Foreign Passport Disposition Certificate, dated October 16, 2009), attached to Applicant's Answer to Interrogatories. An identical copy of the document is attached to Item 6.

Applicant's Iranian-born mother is deceased.²⁶ His father was born in Iran before that country became an Islamic republic.²⁷ He is retired.²⁸ Applicant has one sister, and she currently works outside the home she shares with her father.²⁹ Both are citizen-residents of Iran.³⁰ Neither his father, nor his sister, has ever had any affiliation with the Iranian government or intelligence service.³¹

Applicant calls his father and sister once every week or two.³² He is in the process of sponsoring them for permanent entry into the United States.³³ Applicant does not have any financial, medical, educational, retirement, social welfare, or any other benefits or interests in Iran.³⁴

When Applicant became a naturalized U.S. citizen, he took an oath of allegiance to the United States. That oath included the words:³⁵

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen.

Iran

Iran has been designated a State Sponsor of Terrorism since January 1984, and is a member of what President George W. Bush characterized as the "axis of evil."³⁶ While there was previously a lengthy period of friendship and cooperation between Iran and the U.S., since the fundamentalist Islamic revolution that toppled the Shah in early 1979, the resulting theocratic government has repressed its people, pursued weapons of mass destruction, ignored customary principles of international law, endorsed fundamentalist Muslim political movements abroad, and supported international terrorism. In fact, Iran has remained the most active state sponsor of terrorism and has

²⁶ Item 4, *supra* note 1, at 30-31.

²⁷ *Id.* at 31-32. Some details pertaining to Applicant's father have not been included in order to protect his right to privacy. Specific information is available in the cited exhibits.

²⁸ Item 5, *supra* note 22, at 1.

²⁹ Item 4, *supra* note 4, at 32; *Id.* at 1-2.

³⁰ Item 4, at 31-32.

³¹ Item 5, *supra* note 22, at 1-2.

³² *Id.*

³³ *Id.*

³⁴ Item 4, *supra* note 4, at 33.

³⁵ 8 C.F.R. § 337.1(a) (1995).

³⁶ President George W. Bush's comments regarding Iran in The President's State of Union Address, dated January 29, 2002, at www.gov.com/union_1_2002.html, at 5.

continued to exhort a variety of groups throughout the Middle East, Europe, and Central Asia to use terrorism in pursuit of their stated goals. For example, Iran has provided weapons, training and funding to Hamas and other Palestinian terrorist groups, Lebanese Hezbollah, Taliban in Afghanistan, and Iraq-based jihadists. Iran is modernizing its military, acquiring weapons of mass destruction, and continues to seek nuclear capabilities. Iran is in non-compliance with its international obligations, and flouts the United Nations Security Council restrictions on its nuclear program. Iran has the largest inventory of ballistic missiles in the Middle East. The U.S. does not currently have diplomatic or consular relations with Iran and cannot provide protection to U.S. citizens in that country.

Iran has a poor human rights record, and has been implicated in politically motivated violence, including death, torture, beatings and rape; officially sanctioned punishments, including death by stoning, amputation, and flogging; arbitrary arrest and detention; lack of judicial independence and fair public trials; severe restrictions on civil liberties; and the monitoring of the social activities of its citizens, including telephone conversations and internet communications, and the opening of mail without court authorization. Since 2009, Iranian authorities have, for lengthy periods, prevented the departure of a number of Iranian-American citizens, including journalists, who traveled to Iran for personal or professional reasons. This is significant as it relates to Applicant, for all persons who were at one time Iranian citizens are considered Iranian nationals by Iranian authorities and, despite the fact that they may possess U.S. citizenship, they must enter and exit Iran with an Iranian passport with an exit visa. Recent mass demonstrations throughout Iran were violently suppressed by Iranian authorities, resulting in significant deaths. Iran is known to conduct aggressive intelligence operations and economic espionage against the United States, and is a nation whose interests are inimical to the United States.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.”³⁷ 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. The President has authorized the Secretary of Defense or his designee to grant an applicant eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.”³⁸

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating

³⁷ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

³⁸ Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

conditions, which are used in evaluating an applicant's eligibility for access to classified information.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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 meaningful decision.

In the decision-making process, facts must be established by "substantial evidence."³⁹ The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and it has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government's case. The burden of disproving a mitigating condition never shifts to the Government.⁴⁰

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 as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information. Furthermore, "security clearance determinations should err, if they must, on the side of denials."⁴¹

Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned."⁴² Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant's allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict

³⁹ "Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record." ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

⁴⁰ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

⁴¹ *Egan*, 484 U.S. at 531

⁴² See Exec. Or. 10865 § 7.

guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Analysis

Guideline B, Foreign Influence

The security concern relating to the guideline for Foreign Influence is set out 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 mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country, and an applicant has contacts with that relative, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information.⁴³ Applicant's relationship with his father and sister are current security concerns for the Government.

The guideline notes several conditions that could raise security concerns. Under 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" is potentially disqualifying. Similarly, under 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" may raise security concerns. I find AG ¶¶ 7(a) and 7(b) apply in this case. However, the security significance of these identified conditions requires further examination of Applicant's respective relationships with his family members who are Iranian citizen-residents, to determine the degree of "heightened risk" or potential conflict of interest.

The guideline also includes examples of conditions that could mitigate security concerns arising from foreign influence. Under AG ¶ 8(a), the disqualifying condition

⁴³ See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 at 12 (App. Bd. Feb. 8, 2001).

may be mitigated where “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.” Similarly, AG ¶ 8(b) may apply where the evidence shows:

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.

In addition, AG ¶ 8(c) may apply where “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.” In this instance, Applicant’s relationship with his father and sister is neither casual nor infrequent. Accordingly, AG ¶ 8(c) does not apply as it pertains to them.

In assessing whether there is a heightened risk because of an applicant’s relatives or associates in a foreign country, it is necessary to consider all relevant factors, including the totality of an applicant’s conduct and circumstances. One such factor is the potential for pressure, coercion, exploitation, or duress. In that regard, it is important to consider the character of the foreign power in question, including the government and entities controlled by the government within the relevant foreign country. Nothing in Guideline B suggests it is limited to countries that are hostile to the United States.⁴⁴ In fact, the Appeal Board has cautioned against “reliance on overly simplistic distinctions between ‘friendly’ nations and ‘hostile’ nations when adjudicating cases under Guideline B.”⁴⁵

Nevertheless, the relationship between a foreign government and the United States may be relevant in determining whether a foreign government or an entity it controls is likely to attempt to exploit a resident or citizen to take action against the United States. It is reasonable to presume that because of the nature of the government in Iran and the relationship it has with the United States, it may make it more likely that Iran would attempt to exploit a U.S. citizen through relatives or associates in Iran.

As noted above, despite the absence of Iranian government contacts or attempted contacts with Applicant or his father or sister, or the apparent absence, so far, of coercive means to obtain sensitive information, it does not eliminate the *possibility* that Iran would employ some coercive or non-coercive measures in an attempt to exploit a relative. There is no evidence that Applicant’s father or sister are, or have been, political activists, challenging the policies of the Iranian government; that

⁴⁴ See ISCR Case No. 00-0317 at 6 (App. Bd. Mar. 29, 2002); ISCR Case No. 00-0489 at 12 (App. Bd. Jan. 10, 2002).

⁴⁵ ISCR Case No. 00-0317 at 6 (App. Bd. Mar. 29, 2002).

terrorists have approached or threatened Applicant or his father or sister; that the Iranian government has approached Applicant; or that his father or sister currently engage in activities that would bring attention to themselves. Nevertheless, considering the Iranian government and its position with respect to human rights, its aggressive intelligence operations and economic espionage against the United States, and its relationship with the United States, it is foreseeable that Applicant's father and sister could be a means through which Applicant could come to the attention of the regime. They could also be the vehicle through which Iran might attempt to coerce Applicant. The obscurity of Applicant's father and sister is not a meaningful basis for concluding that they are beyond the reach of the regime. The Appeal Board has consistently held that factors such as an applicant's relatives' obscurity or the failure of foreign authorities to contact those relatives in the past do not provide a meaningful measure of whether an applicant's circumstances pose a security risk, when, for example, the relatives are subject to the authority of a regime that is hostile to the United States and has a dismal human rights record.⁴⁶ AG ¶¶ 8(a) and 8(b) only minimally apply.

It is true that, before becoming a U.S. citizen in 2008, Applicant had taken two trips to Iran during which he visited his parents, and one trip to Iran after he became a U.S. citizen. The most recent trip has significant security significance which has been reduced by his surrender and destruction of his Iranian passport.

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 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.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant's "closest family" -- his father and sister -- are Iranian citizens residing in Iran, hoping to immigrate to the United States. Applicant is not vulnerable to direct coercion or exploitation so long as he

⁴⁶ See ISCR Case No. 07-18283, at 5 (App. Bd. Apr. 24, 2009); ISCR Case No. 07-13696 at 5 (App. Bd. Feb. 9, 2009).

remains outside of Iran. However, should he return to Iran, his vulnerability to direct coercion or exploitation rises significantly. His vulnerability to indirect coercion or exploitation through his father and sister while they remain in Iran is possible, if not highly probable. If Applicant becomes successful in bringing his father and sister to the United States, these security concerns will no longer be present, unless they return to visit family or friends living in Iran.

A Guideline B decision concerning Iran must take into consideration the geopolitical situation in that country, as well as the potential dangers existing there. Iran, one of the world's most active state sponsors of terrorism, is seeking to improve and enhance its weapons of mass destruction, is known to conduct aggressive intelligence operations and economic espionage against the United States, and is a nation whose interests are inimical to the United States. (See AG ¶¶ 2(a)(1) through 2(a)(9).)

Overall, the record evidence leaves me with significant questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has failed to mitigate the security concerns arising from foreign influence 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:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against 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.

ROBERT ROBINSON GALES
Administrative Judge