



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



In the matter of:)
)
) ISCR Case No. 10-06592
)
Applicant for Security Clearance)

Appearances

For Government: Philip J. Katauskas, Esquire, Department Counsel
For Applicant: *Pro se*

October 31, 2011

Decision

ANTHONY, Joan Caton, Administrative Judge:

After a thorough review of the written record in this case, I conclude that Applicant failed to rebut or mitigate the Government's security concerns under Guideline B, Foreign Influence. His eligibility for a security clearance is denied.

Statement of Case

Applicant completed an Electronic Questionnaire for Investigations Processing (e-QIP) on September 26, 2008. On March 24, 2011, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline B, Foreign Influence. The action was taken under 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 adjudicative guidelines (AG) effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant answered the SOR on April 11, 2011. He requested that his case be determined on the record in lieu of a hearing. After compiling its File of Relevant

Material (FORM) on August 8, 2011, the Government provided the FORM to Applicant on August 11, 2011, with instructions to submit any additional information or objections within 30 days of receipt. The FORM contained documents identified as Items 1 through 5. In addition, the Government compiled a factual narrative about India from 16 official U.S. government publications, provided the narrative to Applicant and to me, and requested that I take administrative notice of facts about India in the narrative. The Government also compiled a factual narrative about Taiwan from 13 official U.S. government publications, provided the narrative to Applicant and to me, and requested that I take administrative notice of facts about Taiwan in the narrative. The two factual narratives appear at pages 2 through 11 of the FORM.

Applicant received the file on August 23, 2011. His response was due on September 22, 2011. Applicant timely submitted additional information. On September 27, 2011, the case was assigned to me for a decision. I marked Applicant's submission in response to the FORM as Item A and admitted it to the record without objection.

Findings of Fact

The SOR contains nine allegations that raise security concerns under Guideline B, Foreign Influence (SOR ¶¶ 1.a. through 1.i.). In his Answer to the SOR, Applicant admitted eight of the Guideline B allegations. He denied SOR ¶ 1.b., which alleged that his wife, a naturalized U.S. citizen, held dual citizenship with India. He corrected erroneous statements he had made on his e-QIP and in an affidavit that his wife held dual citizenship with India, and he reported that she held a lifetime visa for travel to India, which did not confer citizenship. He stated that his wife held only U.S. citizenship. Applicant's admissions are admitted as findings of fact. (Item 1; Item 3; Item 5.)

Applicant, who is 65 years old, was born and educated in India. Applicant married in India in 1973. He and his wife are the parents of two adult children. Applicant became a U.S. citizen in 1990. His wife became a U.S. citizen in 2005. She is employed as a substitute teacher. Both of Applicant's children are U.S. citizens. (Item 4; Item A.)

In 1973, Applicant received a Ph.D. from an Indian university. When his academic credentials were translated by the Indian university for presentation to prospective U.S. employers, Applicant's surname was misspelled. Applicant did not request that the Indian institution issue him new credentials reflecting the proper spelling of his surname. Instead, he adopted the misspelled surname and has used it in his personal and professional life in the United States. (Item 4; Item 5 at 3.)

From 1975 to 1977, Applicant carried out post-doctoral research in a European country. Later, during his professional career, he was employed by several large private U.S. companies. While carrying out his work for these companies, he had contact with government officials in European and Asian countries. In about 1997, he founded his own company and developed business contacts with Indian and other East Asian officials responsible for telecommunications. Applicant was first granted a security

clearance in 1994. He seeks a clearance at this time in order to carry out his current employment responsibilities. (Item 4; Item 5.)

From 2008 until the present Applicant has been employed with his current employer as the director of advanced technology systems. On his resume, he lists professional recognition “for pioneering the development and application of semiconductor monolithic microwave integrated circuit (MMIC) subsystems, advancements in solar cell technology and for overall leadership in the design of space communication satellites.” (Item 4; Item A at 3.)

In 1986, Applicant met a citizen of Taiwan who was residing in the United States and working for the same corporation as he was. The individual returned to Taiwan in 1990. Since his return, the Taiwanese citizen and Applicant have had telephone contact three or four times a year and e-mail contact twelve to fourteen times a year. When the Taiwanese citizen visits the United States every two or three years, he and Applicant meet. The Taiwanese citizen is now a professor of material science and engineering in Taiwan. Applicant’s friendship with the Taiwanese resident and citizen is alleged as a Guideline B security concern at SOR ¶ 1.f. (Item 1; Item 5.)

In 1992, as a personal favor to his Taiwanese friend, Applicant traveled with him and his Taiwanese business associates to India. The Taiwanese friend and his associates wanted to invest in telecommunications development in India. Applicant introduced his Taiwanese friend to Indian government officials who were in a position to help the Taiwanese friend achieve his business goals. Applicant was employed by a U.S. telecommunications company at the time. However, he used his personal funds to pay for his travel.¹ (Item 5.)

In December 1997, after starting his own company, Applicant was approached by a person claiming to be an employee of a foreign embassy. The person told Applicant he wanted Applicant’s company to design and build a communications radio for his government. Applicant, who was working from his home at the time, invited the person to come to his home to discuss his interest. He told the individual he would need a radio specification and an export license from the U.S. government before any further business could be conducted. The individual left and Applicant did not hear from him again. (Item 5.)

One year after Applicant met with the individual, he was visited by federal investigators, who asked him about his meeting in detail. The investigators told Applicant that the individual who met with him had not represented himself accurately. The individual was a person of interest in a federal investigation. Applicant cooperated fully with the investigators. (Item 5.)

¹ The record reflects that Applicant took this action while a citizen of India and before he became a U.S. citizen. However, he was employed at the time by a U.S. telecommunications company, and it is not clear from the record that his employer knew or approved of his actions on behalf of his Taiwanese friend’s interest in investing in telecommunication enterprises in India.

Several members of Applicant's family are citizens and residents of India. His sister and his three brothers are citizens and residents of India. Applicant is in frequent contact with his siblings in India either by telephone or e-mail. At least two of his siblings know he is under consideration for a security clearance. (Item 1; Item 5.)

Applicant's father-in-law, a retired city government employee, is a citizen and resident of India. Applicant speaks with his father-in-law on the telephone three to five times a year. The father-in-law also knows that Applicant is under consideration for a security clearance. (Item 1; Item 5.)

Applicant's brother-in-law, a citizen and resident of India, is an employee of an Indian city government. Applicant's two sisters-in-law are also citizens and residents of India. Applicant speaks with these relatives by telephone several times a year. One of his sisters-in-law knows that he is under consideration for a security clearance. (Item 1; Item 5.)

Applicant's nephew, a bank employee, is also a citizen and resident of India. Applicant speaks with his nephew three or four times a year by telephone. He communicates with the nephew by e-mail five or six times a year. Applicant told his nephew that he is under consideration for a security clearance. (Item 1; Item 5.)

Applicant and his wife own property in India. In the 1980s, Applicant's wife and her father purchased real property in India. In 2005, Applicant and his wife hired an architect to design and construct a home for them on the property. In March 2009, in an affidavit, Applicant reported that he and his wife had invested \$89,000 in the construction of the home. He said he expected construction of the home would be completed in late 2009 and 2010. After he retires, Applicant plans to reside in the home for three or four months each year. (Item 1; Item 5.)

In order to pay for the construction of their home in India, Applicant's wife opened a bank account in India in 2007.² Applicant also owns a certificate of deposit in India, valued at between \$600 and \$700. (Item 5.)

I take administrative notice of the following facts about India, as provided by the Government in the FORM:

According to its [c]onstitution, India is a 'sovereign, socialist, secular democratic republic.'

India's political history since it gained independence from Great Britain in 1947 has included: (a) wars with Pakistan in 1947, 1965, and 1971, and the 1999 intrusion of Pakistani-backed forces into Indian-held territory that

² Applicant stated that his name is not on the bank account. The record does not specify whether money earned by Applicant is deposited in the account. (Item 5.)

nearly turned into full-scale war; (b) a 1975 declaration of a state of emergency, with the suspension of many civil liberties; (c) the assassination of Prime Minister Indira Gandhi in October 1984; (d) the assassination of Prime Minister Rajiv Gandhi in May 1991 while he was campaigning for parliamentary elections; (e) sporadic outbreaks of religious riots, in which numerous people have been killed; and (f) violent attacks by a variety of separatist and terrorist groups in different parts of the country.

In late November 2008, terrorists coordinated attacks in Mumbai, targeting areas frequented by Westerners, which highlighted the risk of Americans becoming intended or unintended victims of terrorism in India. There is a continuing threat from terrorism throughout India, and the U.S. Department of State has recently issued a travel warning to U.S. citizens of the ongoing security concerns in India and possible threat of attack on targets where U.S. citizens or Westerners are known to congregate or visit.

According to the U.S. Department of State, the Indian Government, and in particular the police and security forces, have engaged in significant human rights abuses, including extrajudicial killings of persons in custody, killings of protesters, torture and rape. 'Investigations into individual abuses and legal punishment for perpetrators occurred, but for many abuses, a lack of accountability due to weak law enforcement, a lack of trained police, and an overburdened court system created an atmosphere of impunity.' There were also significant problems related to poor prison conditions and lengthy detentions. Also, '[c]orruption existed at all levels of government and police.' Crimes against women are common.

The Soviet Union was India's 'main foreign benefactor for the first four decades of Indian independence.' After the 1979 Soviet invasion of Afghanistan, India 'implicitly supported the Soviet occupation.' India had long-standing military supply relationships with the Soviet Union, and India continues to obtain the bulk of its military supplies from Russia.

Although the United States has sought to strengthen its relationship with India, there are some differences between the United States and India, including differences over India's nuclear weapons programs and the pace of India's efforts [in] economic reforms. Furthermore, during 2007, members of U.S. Congress . . . expressed concerns at India's relations with Iran, a country with which India 'launched a bilateral "strategic partnership,"' including concerns about India's increasing cooperation with the Iranian military. In July 2009, however, the United States and India issued a joint statement of their intentions to foster bilateral relations by establishing working groups to address (1) strategic cooperation, (2) energy and climate change, (3) education and development, (4)

economics, trade, and agriculture, and (5) science and technology, health, and innovation.

The 2008 Annual Report to Congress on Foreign Economic Collection and Industrial Espionage lists India, along with seven other countries, as being involved in criminal espionage and U.S. export controls enforcement cases in 2008. An earlier version of that report specifically lists India as being among the most active collectors of U.S. economic and proprietary information and highlights specific incidents wherein India engaged in attempts to acquire export-restricted products.

There have been numerous instances of violations of U.S. export laws involving India, which evidences India's desire to acquire U.S. technology regardless of the laws protecting that technology. In March 2008, the owner of an international electronics business pleaded guilty to conspiracy to illegally export controlled technology to government entities in India that participate in the development of ballistic missiles, space launch missiles, and fighter jets. Furthermore, there have been other cases involving the illegal export, or attempted illegal export, of U.S. restricted, dual use technology to India, including: (1) high-tech testing equipment that posed 'an unacceptable risk of being diverted to a weapons of mass destruction program;' (2) equipment 'which can be used in military and civilian aircraft to extract vibration information from engines and to simulate output for calibrating, servicing, and testing that equipment;' (3) 'equipment that is used to manufacture a material that improves the accuracy of strategic ballistic missiles with nuclear capabilities;' (4) an animation system to an Indian entity 'determined to present an unacceptable risk of diversion to programs for the development of weapons of mass destruction or their means of delivery;' (5) nuclear pulse generators to two Indian entities 'that have been determined to present an unacceptable risk of diversion to developing weapons of mass destruction or missiles used to deliver these weapons;' and (6) heat treating containers to an Indian entity 'determined to present an unacceptable risk of diversion to developing weapons of mass destruction or missiles used to deliver these weapons.' 'The threat to the United States from foreign economic intelligence collection and industrial espionage has continued unabated' with foreign collectors continuing to 'target a wide variety of unclassified and classified information in a range of sectors.'

(FORM at 2-8; footnotes and citations omitted.)

I also take administrative notice of the following facts about Taiwan, as provided by the Government in the FORM:

The 2008 Annual Report to Congress on Foreign Economic Collection and Industrial Espionage lists Taiwan, along with seven other countries, as

being involved in criminal espionage and export controls enforcement cases in 2008. The 2000 version of that report specifically lists Taiwan as being among the most active collectors of U.S. economic and proprietary information and highlights specific incidents wherein Taiwan engaged in attempts to acquire export-restricted products.

There have been various cases involving the illegal export, or attempted illegal export, of U.S. restricted, dual use technology to Taiwan, including: classified materials; laser gun aiming devices or sights; measuring probes controlled for nuclear non-proliferation and national security reasons; centrifugal pumps that are controlled for chemical and biological weapons and anti-terrorism reasons; metal organic vapor disposition tools controlled for national security and anti-terrorism reasons; fluid control valves that are controlled for national security, foreign policy, non-proliferation or anti-terrorism reasons; [and] radio communication encryption modules.

The People's Republic of China's (PRC) Ministry of State Security is the 'preeminent civilian intelligence collection agency in China,' and it maintains intelligence operations in Taiwan, through a bureau utilizing PRC nationals with Taiwan connections.

(FORM at 8-11; footnotes and citations omitted.)

Burden of Proof

The Government has the initial burden of proving controverted facts alleged in the SOR. The responsibility then shifts to the applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant then bears the burden of persuasion. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access to classified information in favor of protecting national security.

Policies

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

When evaluating an applicant's suitability for a security clearance, an administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, the administrative judge applies these guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion in seeking to obtain a favorable security decision.

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

Guideline B, Foreign Influence

Under Guideline B, Foreign Influence, “[f]oreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest.” AG ¶ 6.

Additionally, adjudications under Guideline B “can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target U.S. citizens to obtain protected information and/or is associated with the risk of terrorism.” AG ¶ 6.

While the governments of India and Taiwan have generally positive relations with the United States, both countries are known to be active collectors of U.S. economic and proprietary information. In recent years, both India and Taiwan have attempted to illegally acquire export-restricted technology products from U.S. companies that are federal contractors. Additionally, the PRC maintains intelligence operations in Taiwan.

In 2008, terrorists attacked areas in Mumbai, India, that were frequented by Westerners. Since that time, there has been a continuing threat that U.S. citizens might become the intended or unintended victims of terrorism in India. The U.S. Department of State has warned U.S. citizens traveling to India of these security concerns and the possible threat of attack on targets where U.S. citizens and other Westerners are known to congregate.

I have considered all of the disqualifying conditions under the Foreign Influence guideline. The facts in this case raise security concerns under disqualifying conditions AG ¶¶ 7(a), 7(b), and 7(e). AG ¶ 7(a) reads: “contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion.” AG ¶ 7(b) reads: “connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual’s obligation to protect sensitive information or technology and the individual’s desire to help a foreign person, group, or country by providing that information.” AG ¶ 7(e) reads: “a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation.”

Applicant provided information clarifying that his wife is not a dual citizen of India, as alleged in SOR ¶ 1.b. Accordingly, allegation 1.b. is concluded for Applicant.

However, the SOR also alleges that Applicant has nine close relatives who are citizens and residents of India. He owns real property in India and intends to live in a home he has built there for several months a year after he retires. Applicant is close to his family members who are citizens and residents of India, and he communicates with them frequently. Several of them know that he is under consideration for a U.S. security clearance. He failed to show that his relationships and contacts with these family members would not be of security significance.

Additionally, Applicant has a long-standing friendship with a citizen and resident of Taiwan. Applicant met the individual when he was working for a U.S. contractor in the 1980s. When the individual returned to Taiwan in 1990, Applicant remained in contact with him. For the past 20 years, he and the Taiwanese citizen have had telephone contact three or four times a year and e-mail contact twelve to fourteen times a year. When the Taiwanese citizen visits the United States every two or three years, he and Applicant meet. The Taiwanese citizen is now a professor of material science and engineering in Taiwan.

In 1992, Applicant learned that his Taiwanese friend and his Taiwanese business associates wanted to invest in telecommunications development in India. Applicant voluntarily accompanied his friend and the Taiwanese business group to India and introduced them to Indian government officials who were in a position to help them achieve their business goals. Applicant was employed by a U.S. telecommunications company at the time. However, the trip was of a personal nature to help his friend, and he used his personal funds to pay for his travel.

Applicant and his wife are building a home in India, and, as of March 2009, they had spent \$89,000 in the construction of the home. Applicant and his wife maintain a bank account in India to pay for the construction of his home there. He intends to reside in the home for three or four months each year after he retires.

Several mitigating conditions under AG ¶ 8 might be applicable to Applicant's case. If "the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.," then AG ¶ 8(a) might apply. If "there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest," then AG ¶ 8(b) might apply. If "contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation," then AG ¶ 8(c) might apply. If "the value or routine nature of the foreign business, financial, or property 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," then AG ¶ 8(f) might apply.

Applicant's relationships with family members who are citizens and residents of India are neither casual nor infrequent, but are based on long-standing family ties of affection and obligation. Several of his relatives in India know he is under consideration for a U.S. security clearance. Applicant is building a home in India, has a bank account there, and plans to live in India after his retirement. Moreover, Applicant's 30-year friendship with a citizen and resident of Taiwan is not casual, nor are his contacts with the individual infrequent. Instead, he speaks with the individual by telephone three or four times a year, exchanges e-mail communication with him 12 or 14 times a year, and sees him every two or three years when he comes to the United States.

India has a recent history of terrorist activity which exposed U.S. citizens and other Westerners to danger and exploitation. Additionally, both India and Taiwan have sought to obtain, through illegal means, U.S. technology that could be used for military purposes. Applicant has used his associations with Indian government officials to advance the interests of his friend who is a citizen and resident of Taiwan. Applicant's actions raise conflict of interest security concerns that remain unmitigated. His contacts with and concern for his family members who are Indian residents and citizens and his relationship with his friend who is a citizen and resident of Taiwan raise potential security vulnerabilities. His loyalties to his family members and his Taiwanese friend could expose him to exploitation and coercion.

Applicant owns a home valued at not less than \$89,000 in India. He also has a bank account in India. The value of these assets is not inconsequential, and the visible connections they provide to India raise unresolved security concerns, for they could make Applicant vulnerable to exploitation, pressure, or manipulation.

In summary, Applicant's familial relationships with relatives in India, a country where U.S. citizens and other Westerners can be the intended or unintended targets of terrorism, raise unresolved security concerns. His relationship with a citizen and resident of Taiwan raises unresolved conflict of interest security concerns. Additionally, Applicant's property interests in India expose him to the further risk of exploitation or pressure in his work as a federal contractor, and this could raise additional concerns that might also threaten U.S. security interests. Applicant failed to provide information to rebut or mitigate these security concerns. I conclude that the mitigating conditions under AG ¶¶ 8(a), 8(b), 8(c), and 8(f) are inapplicable.

Nothing in Applicant's answers to the Guideline B allegations in the SOR suggested he was not a loyal U.S. citizen. Section 7 of Executive Order 10865 specifically provides that industrial security clearance decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned."

Whole-Person Concept

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of an applicant's

conduct and all relevant circumstances. The administrative judge must also 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, who became a U.S. citizen in 1999, possesses knowledge and skill that makes him a valued federal contractor. He is in frequent contact with his immediate family members who are citizens and residents of India. Several of his relatives know he is under consideration for a security clearance. Applicant is also in frequent contact with a friend who is a citizen and resident of Taiwan. While employed by a U.S. firm, he provided his Taiwanese friend and his business associates with access to Indian officials who could advance the friend's desire to invest in telecommunications in India. Additionally, Applicant owns a house and a bank account in India and intends to live in India after he retires. By these actions, he is vulnerable to foreign influence and exposes himself to the risk of exploitation and coercion.

Overall, the record evidence leaves me with questions and doubts at the present time as to Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude Applicant failed to mitigate the security concerns arising under the foreign influence adjudicative guideline.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the 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.:	For Applicant
Subparagraphs 1.c. - 1.i.:	Against Applicant

Conclusion

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

Joan Caton Anthony
Administrative Judge