



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 12-01122

Appearances

For Government: Ray Blank, Esq., Department Counsel
For Applicant: *Pro se*

11/29/2013

Decision

WESLEY, Roger C., Administrative Judge:

Based upon a review of the pleadings, exhibits, and testimony, I conclude that Applicant mitigated the security concerns covering foreign preference and foreign influence. Eligibility for access to classified information is granted.

Statement of Case

On July 10, 2013, the Department of Defense (DOD) issued a Statement of Reasons (SOR) detailing reasons why the DOD could not make the affirmative determination of eligibility for granting a security clearance, and the DOD recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. 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 (AGs) implemented by the Department of Defense on September 1, 2006.

Applicant responded to the SOR on August 1, 2013, and requested a hearing. The case was assigned to me on September 6, 2013, and was scheduled for hearing on September 25, 2013. The hearing was convened on that date. At hearing, the Government's case consisted of two exhibits (GEs 1-2). Applicant relied on one witness (himself) and five exhibits (AEs A-E). The transcript (Tr.) was received on October 3, 2013.

Besides the exhibits offered by the parties, I took administrative notice of 14 documents cited in the Government's Administrative Notice: *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage - 2008*, Office of the National Counterintelligence Executive (July 2009); *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage-2000*, Office of the National Counterintelligence Executive (undated); *Foreign Spies Stealing U.S. Economic Secrets in Cyberspace, Report to Congress on Foreign Economic Collection and Industrial Espionage, 2009-2011*, Office of the National Counterintelligence Executive (October 2011); *Summary of Major U.S. Espionage, Economic Espionage, Trade Secret and Embargo-Related Criminal Cases, January 2007 to the Present* (Feb. 2013); *High Tech Firms/Executives Sentenced in Export Case*, U.S. Department of Commerce (November 2005); *Chyron Corporation Settles Charges of Unlicensed Export to India*, U.S. Department of Commerce (August 2004); *Berkeley Nucleonics Corporation Settles Charges of Unlicensed Exports*, U.S. Department of Commerce (June 2004); *Sentry Settles Charges of Unlicensed Exports*, U.S. Department of Commerce (June 2004); *Background Note: India*, U.S. Department of State (April 2012); *Country Specific Information, India*, U.S. Department of State (January 2013); *2011 Country Reports on Terrorism, Chapter 2-Country Reports*, U.S. Department of State (July 2012); *2008 Country Reports on Terrorism, Chapter 2-Country Reports*, U.S. Department of State (April 2009); *Country Reports on Human Rights Practices for 2012: India*, U.S. Department of State (2012); *CRS Report for Congress: India-U.S. Relations: Strategic Issues*, Congressional Research Service (January 2013).

Administrative or official notice is the appropriate type of notice used for administrative proceedings. Administrative notice is appropriate for noticing facts or government reports that are well known. See *Stein*, Administrative Law, Section 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situation in India, consistent with the provisions of Rule 201 of Fed. R. Evid.

Procedural Issues

Before the close of the hearing, Applicant requested leave to supplement the record to document: (a) his wife's renunciation of her Indian citizenship upon acquisition of citizenship of another country; (b) copies of his wife's Indian passport with cancellation notice; and (c) a copy of a verification screen substantiating his wife's U.S. security clearance verification. For good cause shown, Applicant was granted seven days to supplement the record; Department Counsel was afforded two days to respond. Within the time permitted, Applicant submitted copies of his wife's Indian citizenship

verification, passport cancellation, security clearance verification, and an endorsement email from his senior manager. Applicant's exhibits were received without objection, and were admitted as AEs F-I.

For good cause shown, I granted Applicant an additional seven days to supplement the record to document his election to surrender his Person of India Origin (PIO) card or retain the card. The Government was afforded two days to respond. After exploring other surrender options, Applicant elected to voluntarily surrender his PIO card to his employer's facility security officer (FSO). Applicant's documented surrender was admitted without objection as AE J.

Summary of Pleadings

Under Guideline B, Applicant allegedly has (a) a mother-in-law, father-in-law, brother-in-law, and sister-in-law who are citizens and residents of India; (b) extended family members who are citizens and residents of India; and (c) a spouse's uncle who worked for the government of India (capacity unknown). Under Guideline C, Applicant allegedly obtained a Person of Indian Origin (PIO) card for himself, his wife, and his two children.

In his response to the SOR, Applicant admitted each of the allegations. He claimed he has been consistently up-front about his wife's having family members, who are citizens and residents of India. He claimed he showed no preference for India when he obtained a PIO card for himself and his immediate family. He claimed he obtained the PIO card to enable him and his wife (a naturalized U.S. citizen) to gain expedited access for himself and his wife to enter and exit India. Applicant claimed he sought the advice of his employer about whether his obtaining a PIO card would affect his security clearance and was told it would not. He claimed that were his possession of a PIO card to create security concerns, he would take the necessary steps to freely renounce the card and return it to the Indian government.

Findings of Fact

Applicant is a 47-year-old engineer for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

Background

Applicant, a U.S. citizen by birth, met his wife in 1990 while attending college, and married her six months later in August 1990. (GE 1; Tr. 57-58) He has two children from this marriage. (GE 1) Applicant's spouse was born and raised in India to parents of Indian descent. She immigrated to the United States in 1989 and became a naturalized U.S. citizen in 1999. (GEs 1 and 2; Tr. 58)

Both of Applicant's children are U.S. citizens by birth and have no dual citizenship with any other country. (GEs 1 and 2) Applicant earned a bachelor's degree from an accredited university in May 1989. (GE 1) He claims no military service.

When Applicant's wife became a naturalized U.S. citizen, she believed she implicitly renounced her Indian citizenship. (GE 2) Later, she learned that she needed to submit a completed form to the Indian consulate (GE 2 and AEs F-G) In September 2013, she completed a form renouncing her Indian citizenship and obtained the signature of an Indian consulate who transmitted the form to the Indian government for recording. (AE F) Applicant's wife earned a master's degree in computer programming and currently holds a security clearance in her work as a computer programmer for a defense contractor. (AE H; Tr. 71-72) His wife's loyalties extend only to the United States, and not to India. (GE 2 and AEs B, F, and G)

Applicant and his wife applied for a PIO card through the Indian consulate located in their community in September 2010. (GE 2; Tr. 82) Applicant was interested in obtaining a visa for himself and his wife to travel to India. From consulate officials he learned that a PIO card had a longer use life than a visa permit, was less expensive, and avoided the need for signing up for a visa every five years. (GE 2; Tr. 82) Applicant and his wife were approved for PIO cards, which entitled them to expedited customs processing without the need for visas when entering India. (GE 2 and AE E) Possession of the card did not entitle Applicant or his wife to any special benefits and privileges, such as voting in Indian elections, owning property in India, or holding political office in India. (GE 2)

Following the hearing, Applicant documented his wife's renouncing of her Indian citizenship (AE F) He also documented his wife's Indian passport cancellation notice (undated) based on her acquiring U.S. citizenship. (AE G) Afforded an opportunity to surrender his PIO card, Applicant documented his surrender of his card to his employer's FSO. (AE J)

Applicant's father-in-law and mother-in-law are citizens and residents of India. (GE 2; Tr. 59) His father-in-law owned an import-export business, concentrating on rugs and semi-precious gemstones, before he retired a few years ago. (Tr. 59-60) His mother-in-law is a homemaker. (Tr. 59) Neither of Applicant's wife's parents have ever been affiliated with the Indian government or military. (GE 2) Applicant communicates with his wife's parents every two to three months (Tr. 72), and provides them occasional financial assistance. (GE 2; Tr. 61-62, 76-77) His wife has more frequent contacts with her parents; she talks with them twice a week. (Tr. 60-62) Neither Applicant nor his wife have any business or property interests in India, or plans to relocate to India. (GE 2)

Besides her parents, Applicant's wife has a sister and brother-in-law, as well as cousins, aunts, and uncles who are citizens and residents of India. (GEs 1 and 2; Tr. 64-65) His sister-in-law is a homemaker, and her husband operates a small business that has not been "overly successful." (Tr. 64) Applicant's brother-in-law relies on his father-in-law for financial assistance. (GE 2) His brother-in-law is currently out of work

and receives financial assistance from Applicant's wife's parents. (GE 2 and AE A) Applicant maintains contact with his sister-in-law every six months, and less with her husband. (Tr. 69-70)

Because of Applicant's brother-in-law's financial reliance on his father-in-law, Applicant harbors some concerns over how this brother-in-law might approach Applicant once his father-in-law is no longer available to assist him. (GE 2). None of Applicant's wife's family members have any known affiliations with the Indian government or military. (GE 2 and AE A)

Applicant's travels to India

Since 1990, Applicant and his wife have traveled to India on a number of occasions (seven trips in all) to visit her family. He made family-related visits to India in 1993, 1995, 1996, 1998, 2001, and in 2010 and 2012. (GE 2 and AE C; Tr. 62-63, 73-74) In turn, his wife's parents have visited Applicant and his wife on three occasions since 1989 (i.e., 1990, 1997, and 2000).

Consistently, Applicant has informed his security department of his travels and any foreign contacts he encountered. (AEs B and D) Both Applicant and his program manager expressed assurances of Applicant's commitments to keep his security department alerted to any foreign travels, contacts, and money transfers in the future. (AE 1; Tr. 81-82) Applicant's assurances are credible and are accepted.

Country information on India

Considered the world's largest democratic republic, India is also a very diverse country, in population, geography, and climate. (*Background Note, India, supra*, at 2-4) India is the world's second most populous country and the world's seventh largest country in area. (*Id.*)

India is a constitutional democracy, whose Constitution defines it as a "sovereign, socialist, secular democratic republic." (*Background Note: India, supra*) It is a "multiparty, federal, parliamentary democracy with a bicameral parliament" and it has an historical reputation for respecting the rights of its citizens. *See id.* However, there have been reports of extrajudicial killings of persons in custody, disappearances, torture and rape by police and security forces, who generally enjoy de facto impunity. (*2010 Human Rights Reports, India, supra*, at 2-12) The basic problem stems from the lack of clear accountability, which too often has resulted in cited human rights violations going unpunished. (*Id.*, at 1) Police and security officials reportedly use torture and threaten violence during interrogations to extort money and summarily punish prisoners. (*Id.* at 6-8)

Since gaining its independence from Great Britain in 1947, India has been involved in wars with Pakistan in 1947, 1965, and 1971, and has had to defend itself against a 1999 intrusion of Pakistani-backed forces into Indian-held territory that nearly turned into full-scale war. (*CRS Report for Congress: India-U.S. Relations, supra*, at 7;

Background Note: India, supra, at 3-4) India survived a 1975 declaration of a state of emergency that carried a suspension of many civil liberties. (*Id.* at 3) The country has experienced two assassinations of its leaders: Prime Minister Indira Gandhi in October 1984 and Prime Minister Rajiv Gandhi in May 1991. (*Id.*) In recent years, India has been confronted with sporadic outbreaks of religious riots that resulted in numerous deaths and casualties, and violent attacks by separatist groups in various parts of the country. See *id.*

Before its demise in the early 1990s, the Soviet Union was India's principal and most reliable trading partner, and an important source of economic and military assistance. (*Background Note: India, supra*, at 8-9) U.S. efforts to strengthen its ties with India have been hampered some by U.S. differences over India's nuclear weapons programs, its cooperation with the Iranian military, its lack of a negotiated resolution of the Kashmir dispute with Pakistan, and the pace of India's efforts to achieve long-planned economic reforms. (*CRS Report for Congress: India-U.S. Relations, supra*, at 11, 22-23, and 45)

Important U.S. concerns have been raised, too, over reported cases involving government-sponsored entities and their illegal export, or attempted illegal export, of U.S. restricted dual use technology to India, including: (1) high-tech testing equipment that posed potential risks of diversion to a weapons of mass destruction program; (2) dual use equipment that can be used in military and civilian aircraft to extract engine vibration information; (3) equipment that can be used to manufacture material that improves the accuracy of strategic ballistic missiles with nuclear capabilities; (4) an animation system that can be diverted to weapons of mass destruction technology; (5) nuclear pulse generators to two Indian entities capable of mounting diversion to the development of weapons of mass destruction or missiles; and (6) heat treating containers to an Indian entity capable of mounting diversion to the development of weapons of mass destruction or missiles. See Administrative Notice, *supra*, at 5, and the specific cases referenced, *supra*.

Recommended travel restrictions do exist for U.S. citizens visiting India. The State Department cautions U.S. citizens to avoid travel in general (with several noted exceptions) to the state of Jammu & Kashmir. (*Country Specific Information, supra*, at 2-8)

Endorsements

Applicant has good character references from a life-long friend and program manager who know Applicant and are familiar with his demonstrated character. His friend served as Applicant's best man and characterizes him as a person who can be trusted to be faithful to his duties. (AE B)

Applicant's program manager described him as always "extremely vigilant in his concerns regarding security issues and compliance." (AE I) He credited Applicant with being serious about his integrity and sensitive to security matters. (AE I)

Policies

The AGs list guidelines to be used by administrative judges in the decision-making process covering Defense Office of Hearings and Appeals (DOHA) cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information.

These guidelines include "[c]onditions that could raise a security concern and may be disqualifying" (disqualifying conditions), if any, and many of the "[c]onditions that could mitigate security concerns." They must be considered before deciding whether or not a security clearance should be granted, continued, revoked, or denied. The guidelines do not require administrative judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision. Each of the guidelines is to be evaluated in the context of the whole person in accordance with AG ¶ 2(c)

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in AG ¶ 2(a). AG ¶ 2(a) is intended to assist the judges in reaching a fair and impartial commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following AG ¶ 2(a) factors:

- (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.

Viewing the issues raised and evidence as a whole, the following adjudication policy factors are pertinent herein:

Foreign Preference

The Concern: When an individual acts in such a way as to indicate preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States. See AG ¶ 9.

Foreign Influence

The Concern: 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. See AG ¶ 6.

Burden of Proof

Under the AGs, a decision to grant or continue an applicant's security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a commonsense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. See *United States, v. Gaudin*, 515 U.S. 506, 509-511 (1995).

As with all adversarial proceedings, the judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) it must prove by substantial evidence any controverted facts alleged in the SOR, and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required materiality showing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, the judge must consider and weigh the cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the evidentiary burden shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Exec. Or. 10865 that all security clearances be clearly consistent with the national interest, the applicant has the ultimate burden of demonstrating his or her clearance eligibility.

"[S]ecurity-clearance determinations should err, if they must, on the side of denials." See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988). And because all security clearances must be clearly consistent with the national interest, the burden of persuasion must remain with the Applicant.

Analysis

Applicant is an engineer for a U.S.-based defense contractor. He is a U.S. citizen by birth and is married to a woman of Indian descent who immigrated to the United States in 1989 and became a naturalized U.S. citizen in 1999. While his wife's parents, siblings and extended family are citizen/residents of India, his own family, friends, and business associates reside in the United States with U.S. citizenship. Trust concerns relate to foreign preference based on Applicant's obtaining a PIO card for himself, his wife, and his two children that entitles them to expedited entry and exit in India and foreign influence relative to his wife's having immediate family members who are citizens and residents of India. Additional trust concerns relate to Applicant's wife's having immediate and extended family members who are citizens and residents of the India.

Foreign Preference

Preference concerns necessarily entail allegiance assessments and invite critical considerations of acts indicating a preference for the interests of the foreign country (India) over the interests of the United States. By electing to obtain a PIO card for himself, his wife, and their children that entitle them to special access privileges when entering and exiting India, he demonstrated some disposition for a split preference for India and the United States.

Since obtaining a POI card, Applicant has taken two trips to India with his wife and children using his POI card. These exercises of travel privileges reflect some active indicia of Indian preference. Since the hearing, Applicant's wife documented her renouncing of her Indian citizenship (assuming she did not implicitly renounce it when she became a naturalized U.S. citizen) and relinquished her Indian passport. And Applicant has since surrendered his PIO card to his FSO.

Because Applicant elected to obtain and use his Indian PIO card after his wife became a naturalized U.S. citizen, he acquired travel privileges not available to other U.S. citizens. The Government may apply certain provisions of disqualifying condition (DC) ¶ 10(a) of AG ¶ 9, "exercise of any right, privilege or obligations of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member. This DC includes but is not limited to:

- (1) possession of a current foreign passport;
- (2) military service or a willingness to bear arms for a foreign country;
- (3) accepting educational, medical, retirement, social welfare, or other such benefits from a foreign country;
- (4) residence in a foreign country to meet citizenship requirements;

(5) using foreign citizenship to protect financial or business interests in another country;

(6) seeking or holding political office in a foreign country; and

(7) voting in a foreign election.

Specifically, DC ¶ 10(a)(3) has some application to the established facts and circumstances herein. By obtaining and using his PIO card, which replaces the need for a foreign visa for travel to India in 2010 and 2012, Applicant was able to achieve travel privileges and conveniences not available to other U.S. citizens.

Still, Applicant has since surrendered his PIO card to his FSO and has no other special access privileges with India. As a result, he no longer has any material privileges that can realistically create split preferences between India and the United States.

Whole-person precepts are helpful to Applicant in surmounting the Government's preference concerns herein. The positive trust impressions he has forged with his program manager and long-time friend corroborate his claims of undivided loyalty and preference for the United States.

Overall, Applicant is able to persuade that his current preference is solely with the United States. Because he made limited use of Indian privileges associated with his obtaining and retaining an Indian PIO card, he manifested some initial preference for India under the criteria established by the Appeal Board. Applicant absolves himself, though, of foreign preference concerns associated with the presented issue of whether he retains a preference or split preference for his wife's birth country (India), or his own birth country (the United States). Favorable conclusions warrant with respect to the allegations covered by Guideline C.

Foreign Influence

Applicant's wife and family have deep roots in India, a country rich in history and socio/political traditions, constitutional government and institutional respect for human rights, intermixed with periodic reports of abuses by police and government authorities. Despite encouraging efforts in the development of strategic partnerships between India and the U.S. in recent years, there have been cited instances of illegal and damaging export practices by Indian firms associated with the Indian government to create dual use diversion risks.

The Government urges security concerns over risks that Applicant's wife's parents and family members residing in India, might be subject to undue foreign influence by Indian government authorities to access classified information in Applicant's possession or control. Because Applicant's wife has family members who have Indian citizenship by birth and reside currently in India, they present potential heightened security risks covered by disqualifying condition (DC) ¶ 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,” of the AGs for foreign influence. The citizenship/residence status of these family members and cited friend in India pose some potential concerns for Applicant because of the risks of undue foreign influence that could potentially impact the privacy interests subject to Applicant’s control.

Because neither Applicant’s wife nor her family members residing in India have any identified Indian government or military service affiliation, no consideration of DC ¶ 7(b), “connection 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,” or DC ¶ 7(d), “sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion,” have some potential application. To be sure, neither Applicant’s wife nor her immediate and extended family members residing in India have any history of being subjected to any coercion or influence, or appear to be vulnerable to the same. No more than partial application of these disqualifying conditions are warranted.

The AGs governing collateral clearances do not dictate *per se* results or mandate particular outcomes for applicants with relatives who are citizens/residents of foreign countries in general. What is considered to be an acceptable risk in one foreign country may not be in another. The AGs take into account the country’s demonstrated relations with the U.S. as an important consideration in gauging whether the particular relatives with citizenship and residency elsewhere create a heightened security risk. The geopolitical aims and policies of the particular foreign regime involved do matter.

While the reports of illegal exporting of potential dual-use technology to India is a matter of some security concern to the United States, India’s emergent status as a strategic partner of the United States in controlling the proliferation of nuclear weapons is an important political development that serves to promote political solidarity, and reduce security risks and concerns between the two nuclear powers.

Based on his case-specific circumstances, MC ¶ 8(a), “the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these 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 a foreign individual, group, organization, or government and the interests of the United States,” is available to Applicant. Neither Applicant’s wife’s parents, siblings, or extended family members residing in India pose heightened security risks that could subject them to potential pressures and influence from Indian government and military officials.

Another mitigating condition available to Applicant is MC ¶ 8(b): “there is no conflict of interest, either because the individual’s sense of loyalty or obligation to the

foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest.” Applicant’s demonstrated loyalty and professional commitments to the United States are well demonstrated and sufficient under these circumstances to neutralize any potential conflicts that are related to his relationships with his immediate and extended family. MC ¶ 8(c), “contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create risk for foreign influence or exploitation,” has some applicability, too, based on Applicant’s infrequent contacts with his wife’s family members residing in India.

One other mitigating condition has mixed application to Applicant’s situation. MC ¶ 8(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,” applies as well. Both Applicant and his program manager express confidence in Applicant’s stated commitment to continue to report any foreign contacts with members of his family to his employer’s security department.

Whole-person assessment is available also to minimize Applicant’s exposure to potential conflicts of interests with his wife’s Indian family members. Most importantly, Applicant is not aware of any risks of coercion, pressure, or influence that any of his wife’s family members might be exposed to. So, in Applicant’s case, the potential risk of coercion, pressure, or influence being brought to bear on him, or any of his wife’s respective family members is minimal and mitigated.

Overall, potential security concerns over Applicant’s wife’s having family members in India are sufficiently mitigated to permit safe predictive judgments about Applicant’s ability to withstand risks of undue influence attributable to his wife’s familial relationships in India. Favorable conclusions warrant with respect to the allegations covered by Guideline B as well.

Formal Findings

In reviewing the allegations of the SOR and ensuing conclusions reached in the context of the findings of fact, conclusions, conditions, and the factors listed above, I make the following formal findings:

GUIDELINE B (FOREIGN INFLUENCE):	FOR APPLICANT
Subparagraphs 1.a through 1.d:	For Applicant
GUIDELINE C (FOREIGN PREFERENCE):	FOR APPLICANT
Subparagraph 2.a:	For Applicant

Conclusion

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant's security clearance. Clearance is granted.

Roger C. Wesley
Administrative Judge