



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



In the matter of:

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ISCR Case No. 16-04005

Applicant for Security Clearance

Appearances

For Government: Andre M. Gregorian, Esq., Department Counsel

For Applicant: Jennifer M. K. Mammen, Esq.

03/12/2018

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant is a dual citizen of his native Ukraine and of the United States since his U.S. naturalization in September 2012. His mother is a resident citizen of Ukraine. His parents-in-law are Ukrainian citizens who immigrated to the United States in 2015. Applicant has infrequent contact with his spouse's uncle and also with a family friend, both of whom hold significant positions in Ukraine's government. While foreign influence security concerns exist, Applicant is likely to resolve any conflict in favor of the United States. Clearance is granted.

Statement of the Case

On March 3, 2017, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B, foreign influence. The SOR explained why the DOD CAF was unable to grant or continue security clearance eligibility to him. The DOD CAF acted under Executive Order 10865 (EO), *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines for Determining Eligibility for access to Classified Information (AG) effective within the DOD on September 1, 2006.

Applicant responded to the SOR allegations on April 19, 2017, and he requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On June 1, 2017, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On October 30, 2017, I scheduled a hearing for December 4, 2017. In prehearing guidance, Applicant was informed that the Director of National Intelligence (DNI) had issued Security Executive Agent Directive 4 establishing the National Security Adjudicative Guidelines (AG) effective June 8, 2017, for all adjudications for national security eligibility or eligibility to hold a sensitive position.¹

I convened the hearing as scheduled. Two Government exhibits (GEs 1-2) were admitted into evidence without objection. A May 25, 2017 letter forwarding discovery of the Government's exhibits to Applicant was marked as a hearing exhibit (HE 1) for the record but was not admitted as an evidentiary exhibit. An email of November 20, 2017, forwarding the Government's Administrative Notice Request to Applicant's counsel, was marked as HE 2. A list of the Government's exhibits was marked as HE 3. Fourteen Applicant exhibits (AEs A-N) were admitted without objection. Applicant and one witness testified, as reflected in a hearing transcript (Tr.) received on December 12, 2017.²

At the hearing, both parties submitted requests for administrative notice.³ The Government objected in that some of the facts for administrative notice proposed by Applicant came from non-government publications. Applicant objected to the Government's Request for Administrative Notice in that it presented an incomplete account of both Ukraine and U.S.–Ukrainian relations. Required under Appeal Board precedent to take administrative notice of the most current political conditions in evaluating Guideline B concerns, see ISCR Case No. 05-11292 (App. Bd. Apr. 12, 2007), I accepted the requests for administrative notice and informed the parties of my intention

¹ Application of the AGs that were in effect as of the issuance of the SOR would not change my decision in this case.

² On December 12, 2017, Applicant's counsel proposed corrections to the hearing transcript, which I accepted with no objection from the Government.

³ The Government's Request for Administrative Notice-Ukraine, dated November 20, 2017, was based on the U.S. State Department's *Country Reports on Human Rights Practices 2016: Ukraine*; on the State Department's *Ukraine Travel Warning*, dated June 27, 2017; and on a Congressional Research Service (CRS) Report for Congress, *Ukraine: Current Issues and U.S. Policy*, dated October 27, 2016. I was provided extracts of the documents and given the URLs where I could obtain the full documents. Applicant's Request for Administrative Notice, undated, referenced 17 documents. The source documentation included statements or remarks from U.S. government officials and several U.S. government publications: the *CIA World Factbook: Ukraine*, dated November 14, 2017; the *CRS Report for Congress-Ukraine: Current Issues and U.S. Policy*, dated January 3, 2017; the Office of the National Counterintelligence Executive's *Report to Congress on Foreign Economic Collection and Industrial Espionage, 2009-2011*; and from the U.S. State Department, its June 2017 travel warning; its 2016 human rights report; its *Country Reports on Terrorism 2016*; two publications of its Bureau of European and Eurasian Affairs, *U.S. Relations with Ukraine*, dated September 6, 2016, and *United States-Ukraine Charter on Strategic Partnership*, dated December 19, 2008; and a publication of its Bureau of Economic and Business Affairs *Investment Climate Statements for 2017*.

to take administrative notice, subject to the reliability of the source documentation and the relevance and materiality of the facts proposed.

I held the record open for two weeks after the hearing for Applicant to supplement the record with additional exhibits. On December 8, 2017, Applicant submitted AEs O and P. On December 12, 2017, Applicant submitted AE Q. Department Counsel made no objections, and I accepted AEs O-Q as full exhibits.

Summary of SOR Allegations

The SOR alleges under Guideline B that Applicant's mother (SOR ¶ 1.a), parents-in-law (SOR ¶ 1.b), uncle by marriage (SOR ¶ 1.c), and a close friend (SOR ¶ 1.d) are all resident citizens of Ukraine; that his uncle-in-law is a field grade officer employed by Ukraine's defense ministry (SOR ¶ 1.c); that Applicant's friend heads a unit combating economic crimes for Ukraine's government (SOR ¶ 1.d); and that Applicant and his spouse each own homes in Ukraine with a combined value of \$20,000 to \$25,000 (SOR ¶ 1.e).

In a detailed response to the SOR allegations, Applicant admitted his mother's Ukrainian citizenship and residency. He described their relationship as one of affection and indicated that he has once weekly contact with her by telephone or Skype. Applicant explained that, under his sponsorship, his parents-in-law retired in 2015 and immigrated to the United States. Applicant admitted that his spouse's uncle is a Ukrainian resident citizen currently serving as a field grade officer with Ukraine's defense ministry and that this uncle is his oldest son's godfather. Applicant denied that this relationship posed any conflict of interest, citing his limited contact with his uncle-in-law by text once a month or once every few months involving only family matters. Applicant also admitted that he and his spouse have friendly relations with a Ukrainian married couple, elaborating that his spouse has a friendship with a former schoolmate in Ukraine whose spouse works for a ministry of the Ukrainian government. He explained that neither he nor this family friend knew about the other's job responsibilities. Concerning his and his spouse's real estate interests in the Ukraine, Applicant indicated that he owned a small country house purchased for approximately \$5,000 in 1993, which he intended to use on vacations to the Ukraine. He estimated its current value at \$3,050. His spouse owns inherited land from her grandmother containing a small garage but no dwelling, which Applicant estimated was worth \$6,450. Applicant denied any vulnerability because of these minimal foreign assets, given that his and his spouse's U.S. net worth exceeds \$700,000. (Answer.)

Findings of Fact

After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 44-year-old scientist with a company whose customers include U.S. military research commands, the National Aeronautics and Space Administration, and

several departments of health. Applicant started with the company in 2002 while a doctoral candidate in electrical engineering. He was highly referred by his academic advisor, who was a member of the company's board of directors. Applicant became a full-time employee in February 2003 while working on his dissertation for his doctorate degree in electrical engineering, which was awarded in May 2004. Applicant was promoted several times within his employer's research engineer career track because of his outstanding technical expertise. In 2010, he was promoted to distinguished research engineer, the highest of his employer's five staff levels. In 2014, he was named a corporate fellow in recognition of his history of technical leadership and potential to continue to create and develop strategic innovative technologies. (GEs 1-2; AEs B-C, F; Tr. 30-36.)

Applicant and his only sibling, an older brother, were born in Ukraine when the country was part of the Union of Soviet Socialist Republics (USSR). Their father was a researcher for a Ukrainian science institute before he retired. Their mother spent most of her career as an engineer for a Ukrainian government-run institute not involved with the Ukrainian military. For the last four years of her working life, she was employed as an inspector for a municipality. (GE 2; Answer; Tr. 84-85, 118-120.) In approximately 1994, Applicant's brother came to the United States to pursue his graduate education. He settled in the United States and became a naturalized U.S. citizen. (GE 1; Tr. 61.)

Applicant obtained his undergraduate education at a public university in Ukraine. As a youth, Applicant disliked the restrictions on travel and freedom of expression when the country was part of the USSR. During college, he participated in some student protests against the Communist regime. After graduating in 1995 with a bachelor's degree and a master's degree in applied mathematics, Applicant entered a post-graduate program in Ukraine. In August 1998, Applicant came to the United States for a doctorate degree program in applied mathematics. In September 1999, he transferred to a public university that had a more focused program in that discipline. Over his years of study in the United States, Applicant taught undergraduate students, conducted research in an engineering lab, collaborated with university professors, attended technical conferences, drafted research papers, and participated in empirical studies. Applicant received awards for the best student paper in 2002 and 2003, and for best paper in 2004, at an annual symposium funded by a DOD command and control research program. (GE 1; AE D; Answer; Tr. 54-62.) Applicant obtained an H-1B visa that allowed him to work for his current employer after he finished his doctoral studies (Answer), and in 2006 he became a U.S. permanent resident. (Tr. 57.)

Applicant traveled to Ukraine on a Ukrainian passport approximately annually to visit family members and for tourism, including in April 2001 for his wedding to a Ukrainian native citizen. He and his spouse first met in 2000 through their mothers, who worked for the same city office in Ukraine. His spouse, who has no siblings, came to the United States in 2001, and she and Applicant attended the same U.S. public university. (Tr. 64, 80, 91, 113-114.)

In August 2005, Applicant and his spouse purchased their first home in the United States. They sold that house and bought their current residence in March 2013. They have two sons, now ages 11 and 7, who are U.S. citizens from birth. (GE 1; Answer; Tr. 84.)

After their marriage, Applicant and his spouse continued their trips to Ukraine for family visits. Applicant usually took his family, but he also traveled alone on some occasions, and he stayed with his parents when in Ukraine. (Tr. 122-123.) Applicant renewed his Ukrainian passport in May 2007, which was valid to May 2017, and he used it on foreign travel, including to Ukraine every May between 2007 and 2012. (GE 1.)

In September 2012, Applicant and his spouse became naturalized U.S. citizens. (GE 1; AE L; Tr. 114.) Applicant became a citizen of the United States by choice because the country is aligned with his personal preferences. (Tr. 76.) In his mind, he renounced his Ukrainian citizenship when he took the U.S. oath of naturalization, but he took no steps at that time to formally renounce his Ukrainian citizenship. (Tr. 60.) In early October 2012, Applicant obtained his U.S. passport. (GE 1.) On October 19, 2012, Applicant surrendered his Ukrainian passport to the custody of his facility security officer (FSO). (AE M.) Applicant used his U.S. passport exclusively for foreign travel thereafter (Tr. 79), including to the Ukraine in February 2014 to visit family and in April 2015 for his father's funeral. When Applicant was in Ukraine in April 2015, he started the process of renouncing his Ukrainian citizenship by obtaining a police record showing that he had no legal proceedings filed against him. He has to be present in Ukraine to obtain some of the documents, and he did not appreciate the time needed to complete the process. (GE 1; Answer; Tr. 58.)

On May 6, 2015, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86). Applicant disclosed his dual citizenship and indicated that he had started the process of renouncing his Ukrainian citizenship. He reported the U.S. naturalizations of his spouse and his brother, and the Ukrainian residency and citizenship of his parents, parents-in-law, his spouse's uncle, and a friend. Applicant reported that he has weekly contact (telephone or electronically) with his mother and parents-in-law and that his mother-in-law was employed as a state inspector while his father-in-law worked for a private company in Ukraine. Among his foreign contacts, Applicant disclosed that his spouse's uncle (Ukrainian uncle-in-law) is godfather to his oldest son and is a field grade officer in the Ukrainian defense ministry. He indicated that he had monthly contact by telephone or electronic means with his Ukrainian uncle-in-law between April 2001 and June 2014. Applicant also disclosed that he had quarterly electronic contact and in-person contact annually when in Ukraine between August 2004 and February 2014 with a Ukrainian friend who works for Ukraine's government. As for any foreign real estate, Applicant disclosed that he owns a "country house" purchased in February 1993 for \$5,000 and that his spouse owns a real estate parcel worth approximately \$16,000 that was gifted to her.⁴ In response to an inquiry

⁴ Applicant indicated at his hearing that he overestimated the value of the two parcels in Ukraine. His "summer house" consists of a kitchen and two rooms and has no running water. His family had the home when there was no private ownership. On the privatization of property after Ukraine's independence, the

regarding any financial support for a foreign national, Applicant listed support of \$10,000 yearly to his parents to help his father with medical prescription costs (Tr. 87, 121) and \$5,000 yearly to his parents-in-law. He disclosed that he had sponsored his in-laws for U.S. permanent residency. In a section for additional comments, Applicant stated that he would expedite the process for renouncing his Ukrainian citizenship if required for his security clearance eligibility. (GE 1.)

On September 24, 2015, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant indicated that he had surrendered custody of his Ukrainian passport to his employer's security office, and he expressed willingness to renounce his Ukrainian citizenship. He clarified that his in-laws were living with him in the United States, and that they had retired in 2015. Applicant indicated his foreign real estate was financially unimportant since most of his assets were in the United States. (GE 2.)

Applicant's mother retired more than ten years ago. (Tr. 120.) She receives a \$100 monthly pension from the Ukrainian government. Applicant has contact with his mother by telephone or Skype on average once weekly. Their conversations are about family, including his children, and do not involve his work. His mother knows very little about his work other than he works with computers. She does not know that he has applied for DOD security clearance eligibility. (Tr. 88.) Applicant had seen his mother once a year either in Ukraine or the United States. (Tr. 85-86.) She visited Applicant and his family in the United States most recently in the fall of 2017 for six weeks. (Tr. 86, 124.) Applicant has not sponsored her for U.S. immigration because she does not speak English. She has not felt comfortable during her trips to the United States because of the language barrier. (Tr. 124.)

Applicant and his spouse traveled to western Ukraine for tourism purposes in 2016. They went to museums and other public locations. Given his parents-in-law's immigration to the United States, Applicant anticipates future travel to Ukraine once every two or three years rather than annually to visit his mother, who does not live in an area in Ukraine subject to a U.S. travel warning covering Ukraine. Applicant asserts that he would not travel to any area covered by a U.S. travel warning. (Tr. 97.)

In his Answer to the SOR, Applicant denied supporting his mother financially other than sending her small gifts for her birthday or holidays. At his hearing, he volunteered that he provides her some financial support at \$100 a month in the form of his credit card. She has a U.S.-issued credit card in his name that she uses when needed, and he receives the bill. (Tr. 85-87, 121-122.) To Applicant's knowledge, his mother does not have any contact with the Ukrainian government, its defense or security. (Tr. 87.) He considers it unlikely that someone would attempt to coerce or blackmail him because of his relationship with his mother, but if it happened, he would report any contact to his FSO. So as to not raise suspicion, his mother has not told her neighbors in the Ukraine that her sons are in the United States. (Tr. 89-90.)

property was signed onto his name for convenience. He testified that they are not required to pay taxes on the property because their values are less than the threshold subject to taxation. (Tr. 100-104.)

Applicant's father-in-law had worked as an information technology administrator and network engineer for a private industrial company in Ukraine until he retired. His mother-in-law had worked as an inspector for a municipality. (GE 1; Tr. 126.) In March 2015, Applicant's in-laws obtained authorization to work in the United States. (AE P.) With Applicant's sponsorship, they were granted U.S. permanent residency in mid-July 2015. (AE O.) They have lived with Applicant and his family for the past three years. (GEs 1-2; Tr. 125.) Applicant believes they intend to reside permanently in the United States and seek U.S. citizenship. (Answer; Tr. 90, 126.) Applicant's mother-in-law receives a pension of less than \$100 a month from the Ukrainian government. (Tr. 91.) To Applicant's knowledge, his parents-in-law are unaware that he has applied for a DOD security clearance. He does not discuss his job with his in-laws. (Answer; Tr. 92.)

Applicant's Ukrainian uncle-in-law is 47 years old and godfather to the elder of Applicant's sons, in recognition of the family relationship. (GE 1; Tr. 127.) As of December 2017, he was still serving as a field grade officer in Ukraine's military. (Tr. 93-94, 127-128.) In his Answer, Applicant reported contact with his Ukrainian uncle-in-law by text once a month to once every few months involving family matters. They have in-person contact during Applicant's trips to Ukraine or when his Ukrainian uncle-in-law and his immediate family have come to the United States. (Answer.) His Ukrainian uncle-in-law was last in the United States two or three years ago. (Tr. 131.) At his hearing, Applicant described less frequent contact with his Ukrainian uncle-in-law: a couple of times a year by text message on birthdays or holidays and in-person once a year, most recently in 2016 when Applicant and his spouse traveled to Ukraine. (Tr. 93, 129.) Applicant previously expressed a belief that his Ukrainian uncle-in-law planned to retire in a few years, although he now recalls that the reference about possible retirement was meant for his Ukrainian friend. (Tr. 136-137.) Applicant has not shared information about his job responsibilities with his Ukrainian uncle-in-law, who has been led to believe that Applicant is a computer programmer. To Applicant's knowledge, his Ukrainian uncle-in-law is unaware that Applicant has applied for DOD security clearance eligibility. (Tr. 95, 128.)

Applicant indicated in his Answer that he has contact with his Ukrainian friend "perhaps once a month" by texting, and that they have in-person contact in Ukraine and during this friend's visits with his family to the United States. Applicant now asserts that their contact is infrequent, a couple of times a year on holidays, and by text only. He saw this family friend during his trip to Ukraine in 2016. A few years ago, Applicant's family vacationed with the Ukrainian couple in the United States at the latter's invitation. (Tr. 131.) The relationship is stronger between their respective spouses, who met in college in Ukraine. Applicant's spouse is godmother to her former schoolmate's son. (GE 1.) Applicant understands that his Ukrainian friend's employment involves protecting some rights in Ukraine, but they do not discuss the details of their respective jobs. His Ukrainian friend has been told that Applicant is a computer programmer and does not know that Applicant has applied for a DOD clearance. Applicant denies any loyalty or obligation to this Ukrainian friend that would make him reveal any sensitive information. (Tr. 95-97, 129-130.)

Applicant expressed a sense of “deep responsibility and obligation to the United States.” Should he be placed in a position where he would have to choose between the interests of Ukraine and the United States, he asserts that he would “unquestionably” support and defend the United States and promptly report any requests for information and any suspicious contacts to his security personnel and appropriate authorities. (Answer; Tr. 92, 95, 116.) Applicant is willing to take the additional steps necessary to renounce his Ukrainian citizenship. He had not done so as of December 2017 because he was told by the OPM investigator that others trying to renounce their non-U.S. citizenship for security clearance reasons are being targeted. (Tr. 58-59.) Applicant has no intention of renewing his now expired Ukrainian passport. He last voted in a Ukrainian election in May 1998, before he came to the United States. (Tr. 78-79.)

Applicant and his spouse are committed to their lives here. Applicant has voted in all but one U.S. election since becoming a registered voter in the United States. He registered too late to vote in an election after he and his spouse moved to a new precinct. (Tr. 77.) His spouse works as a financial analyst. She earns approximately \$80,000 a year while Applicant’s income is approximately \$150,000 annually. (Tr. 114.) Their net worth in the United States exceeds \$700,000.⁵ Their home in the United States was valued at \$555,500 in 2016. They have 401(k) assets, bank deposits, and stock holdings in the United States. (AE N.) They pay taxes to the United States government. (Tr. 76.)

Applicant is a member of an advisory board for the electrical engineering department at the university where he earned his doctorate degree. (Tr. 65.) He has been a soccer coach for his younger son’s soccer team for two seasons. (Tr. 82.)

Applicant and his spouse have not divested themselves of their real estate interests in Ukraine, but the total value of the foreign real estate is now approximately \$9,500 because of a 50% decline in property values in Ukraine. (AE N; Tr. 132.) Applicant is willing to abandon his property in Ukraine. He is definite that he could not be coerced or pressured because of the foreign property. (Tr. 102.) He has considered selling the property but has not advertised it for sale. (Tr. 134.) His spouse inherited her property in Ukraine, a parcel of land of about 400 square meters with a garage, a couple of years ago. She receives no rent from the property and does not pay taxes on it because its value is lower than the threshold set for assessing taxes. He believes his spouse is willing to abandon the property. (Tr. 103-104.) Their foreign properties have no sentimental value. (Tr. 134.) Neither Applicant nor his spouse has any bank accounts in Ukraine. (Tr. 104.)

Work References

Over the past 15 years, Applicant has amassed considerable expertise in his field while working predominantly on programs for two U.S. military research facilities and a

⁵ When he answered the SOR allegations, Applicant indicated that his and his spouse’s joint net worth in the United States exceeded \$700,000. At his hearing in December 2017, Applicant listed total assets of \$1,196,000. (AE N.) The amount owed on his home loan is unclear, although he indicated that he had paid off “a large amount” of his mortgage loan. (Tr. 100.)

DOD agency. Several of his employer's U.S. government customers have been transitioning research into products for the U.S. intelligence community and have requested that Applicant work on these new applications, which will require that he access classified information. (AE I; Tr. 39-40, 114.)

Applicant enjoys an outstanding reputation for his job performance, his trustworthiness, and his reliability. In a company where one third of its 135 employees holds a doctorate degree, Applicant has distinguished himself by being an "exceptional scientist and engineer." (Tr. 35-36, 52.) His employer has a serious security policy and all employees are made aware of the requirements to protect sensitive, non-classified information. Applicant has complied with restricted data and material subject to International Traffic in Arms Regulations (ITAR). (Tr. 33-35, 106.) He has been careful at conferences to discuss only information that has been published in open sources and vetted by security. (Tr. 107.) Applicant has also complied with his employer's requirements regarding the reporting and logging of foreign travel to security personnel both before and after his trips abroad. (Tr. 108, 118-119.)

The company's principal founder currently serves as its chief executive officer (CEO) and chairman of the board. He holds a top secret clearance, and as a naturalized U.S. citizen, he is aware of the potential security concerns raised by foreign ties. He knows that Applicant's mother is in the Ukraine; that Applicant's parents-in-law are Ukrainian citizens with U.S. permanent residency and live with Applicant; and that Applicant has an uncle by marriage and a friend in Ukraine. He has absolute trust in Applicant and believes Applicant would act in the interests of the United States. He has witnessed nothing about Applicant's behavior that would lead him to question Applicant's loyalty to the United States. He is convinced Applicant will not only abide by the rules but will raise a flag if someone approached him "with suspicious offerings." Applicant is one of the very few data scientists to whom the CEO entrusts the development of key algorithms related to the company's unclassified DOD work. Should Applicant be granted a secret clearance, he would be able to participate to the benefit of the U.S. government in an innovative research project with a military research command. As evidence of his technical expertise, Applicant is only one of two employees named a corporate fellow since the company was founded. Applicant has been nominated several times by other employees for making significant contributions to the company's success, and he has received that award 16 times. He has also received some annual awards for best technical achievement, best paper, innovative patent application, and best teamwork. The CEO and his work colleagues have confidence in Applicant's integrity. (AEs A-C; Tr. 30-44, 47-49.)

The company's chief financial officer (CFO) also supports Applicant for security clearance eligibility. Applicant has consistently followed company policies and procedures, including complying with expense reimbursements and cost allocation in accord with federal acquisition regulations. In addition to knowing about Applicant's family ties to Ukraine, the CFO is aware that Applicant has had contact with other citizens and/or residents of Ukraine and that Applicant and his spouse own small parcels in Ukraine. He believes Applicant would always place the interests of the United States before those of

any other country, including his native Ukraine. Applicant is held in high respect by his peers and is sought after by company project managers and customers for his scientific expertise and leadership. (AE H.)

A principal scientist at a U.S. military research laboratory endorses Applicant for a secret clearance. This scientist, who holds a top secret clearance and sensitive compartmented information access, began collaborating with Applicant on projects for the laboratory in 2012. Due to his significant contributions, Applicant was selected as principal investigator for four ongoing projects within the laboratory's information directorate. This scientist considers Applicant "to be an extremely talented engineer, a man of high principles, and great integrity, and a loyal citizen of the United States." Through his research, Applicant has already made valuable contributions to the effectiveness of the U.S. military. Aware that Applicant came to the United States from Ukraine, this scientist believes Applicant has a "unique background that supports the cultural experience and understanding to make sense of situations vital to the U.S." (AE I.) In November 2015, Applicant was given a \$1,000 bonus by his employer based in part on the effusive praise of this scientist. (AE G.)

Applicant's doctoral advisor, who has held a secret clearance since 1984, has continued to collaborate with Applicant on research. He recommends Applicant very highly for a security clearance. Applicant has been "singularly responsible" for defining a new DOD research program, so he believes it would be of value to the United States for Applicant to have a security clearance. This professional colleague is aware that Applicant's mother is a resident citizen of the Ukraine and that Applicant's parents-in-law are Ukrainian citizens who reside with Applicant and his spouse. Based on his interactions with Applicant over the past 20 years, he believes Applicant is patriotic and committed to his future in the United States with his family. (AE E.)

The chief scientist of a military research facility authored a reference letter in his personal capacity attesting to his knowledge of Applicant's character. He worked most actively with Applicant as a program manager from 2003 to 2008 on a large-scale advanced technology research program. Since then, he has worked with Applicant on research concepts pertaining to cyber security. This scientist values Applicant highly as a colleague and as "an exceptionally gifted and productive contributor to the US military science and technology." He believes Applicant meets the requirements of DOD security clearance eligibility. (AE J.)

Similarly, a program manager for a DOD agency recommends Applicant for a secret clearance. Applicant served as a technical mentor for her in the past. She attests to Applicant's "marked ability to deeply examine complex problems and develop creative solutions." In her opinion, without a security clearance, Applicant is inhibited in his ability to solve problems central to U.S. national security. Applicant has shown a respect for the "need-to-know" associated with classified work by never probing her for information as she applied unclassified methods Applicant developed to classified datasets. She found him to be trustworthy and believes he would respect classification boundaries if granted a security clearance. Aware that Applicant's mother lives in Ukraine and that his in-laws

are Ukrainian citizens, this program manager opines that the benefits of granting Applicant a security clearance outweigh the risks, given Applicant's expertise relevant to cyber technologies. (AE K.)

Administrative Notice

Ukraine is a semi-presidential republic that gained its independence in August 1991 on the dissolution of the USSR. Democracy and prosperity initially remained elusive as the legacy of state control and endemic corruption stalled efforts at economic reform, privatization, and civil liberties. Ukraine's politics were dominated by a powerful political elite and politically well-connected businessmen ("oligarchs") who manipulated the government for their own security and profit. A peaceful mass protest referred to as the "Orange Revolution" in 2004 led to a reformist government, but questionable legislative elections led to a former president, Viktor Yanukovych, reassuming the presidency in February 2010. Yanukovych drew his main support from Russian-leaning oligarchs in eastern Ukraine, and his government was criticized by the United States and European Union for high levels of corruption, poor human rights, and flirtations with Russia. In November 2013, under pressure from Moscow, the Yanukovych government rejected a free trade agreement with the European Union that would have aligned Ukraine more closely with Europe in terms of economics and trade. A violent crackdown by the government in February 2014 on a three-month protest camp led the Ukrainian parliament to call for the removal of Ukrainian military forces from the streets. Yanukovych fled Ukraine for Russia and was formally deposed by the parliament for abandoning his duties.

Russia responded by invading Ukraine's Crimea Peninsula in February 2014 and announcing that it was formally annexing Crimea. On March 16, 2014, Crimean authorities held a "referendum" in support of the annexation by Russia, which allegedly was overwhelming approved by those who voted. The "referendum" was condemned as illegitimate by Ukraine, the European Union, the United States, and the United Nations General Assembly. Two days later, Russia signed a "treaty" with Crimean leaders formally incorporating Crimea in the Russian Federation. Russia continues to supply separatists in two of Ukraine's eastern provinces with manpower, funding, and material resulting in armed conflict with Ukraine's government, which has been led by a pro-West, anti-corruption president since June 2014. More than 33,000 civilians have been killed or wounded in the fighting resulting from Russian aggression in eastern Ukraine.

National parliamentary elections in Ukraine in October 2014 led to a pro-Western reform coalition gaining a majority of seats. Regarded as a victory for forces in favor of closer ties with the European Union and the United States, the incoming parliament approved the new coalition government under President Poroshenko and Prime Minister Yatsenyuk in December 2014. With the primary goal to adopt European standards and ultimately European Union membership for Ukraine, the government launched political, economic, and judicial reform (anti-corruption) initiatives with mixed results. Some reforms were slow to be implemented. The dismantling of ingrained corruption was met with considerable resistance from organized business, political, and criminal networks. In February 2015, President Poroshenko asked for Prime Minister Yatsenyuk's resignation

over the slow pace of reform. Yatsenyuk survived a vote of “no confidence” in the parliament, but two parties left the coalition, weakening the government. Some reforms stalled, but Ukraine had largely stabilized its currency; had seen some modest economic growth without relying on gas from Russia; had passed civil service reform to create competition and transparency; had begun to decentralize power and budget authorities to local communities; and had approved a 2016 budget in line with International Monetary Fund (IMF) requirements.

In April 2016, by a slim margin, the parliament named its speaker Groysman as Ukraine’s new prime minister with serious doubts about his ability to move Ukraine’s reform program forward. Yet, under Groysman, the Ukrainian government has continued to work diligently to address corruption and to strengthen the economy. Several key officials, including the Prosecutor General and the Minister of Finance, have been replaced with reformers. Some notable successes were achieved on the issues of energy subsidies, corruption, transparency, and banking reform. Progress has been noted by the West in increased media freedom and accountability of democratically-elected politicians. However, a small number of powerful oligarchs continued to maintain influence in Ukraine’s politics and economy because of their financial capabilities and organizational strength in some sectors of the economy, their control over some members of parliament, and their ownership of nearly all major television stations. Significant challenges persist in protecting property rights in Ukraine. Ukraine is host of some of the largest Internet piracy sites in the world. Ukraine has begun limited efforts to license the business software used by the government, but a significant percentage remains unlicensed.

In July 2016, increased fighting broke out in eastern Ukraine that resulted in the deaths of some 27 Ukrainian soldiers. A car bomb explosion in Kyiv killed a well-known Belarussian investigative reporter who worked for an outspoken Ukrainian investigative website that has riled politicians, government officials, and business tycoons with its investigations into their dealings. The Ukrainian government considers the bombing an attempt to destabilize the country. In early November 2016, Ukraine’s parliament adopted a landmark anti-corruption reform requiring thousands of government officials to declare their wealth in an online database, which fulfilled a key requirement of the IMF in exchange for a release of funds and met conditions set out by the European Union for an agreement on visa-free travel for Ukrainians.

Russia has continued to interfere in Ukraine’s domestic political affairs and economy. Sentiment toward Russia among a majority of Ukrainians has declined since 2014. As fighting between Russian-backed armed separatists and Ukraine’s military increased in eastern Ukraine in December 2016, disinformation and cyberattacks against Ukraine attributed to Russian sources also increased. The United States and European Union strongly condemn the Russian military invasion and annexation of Crimea and Russia’s ongoing efforts to destabilize eastern Ukraine. Both the European Union and the United States have imposed sanctions on Russian companies and individuals in response to the Russian offensive in Ukraine.

The United States has had diplomatic relations with Ukraine since 1991. U.S. policy is centered on realizing and strengthening a democratic, prosperous, and secure Ukraine more closely integrated into Europe and Euro-Atlantic structures. Ukraine acceded to the World Trade Organization in May 2008. In December 2008, the United States and Ukraine entered into the U.S.-Ukraine Charter on Strategic Partnership highlighting the importance of the bilateral relationship; outlining enhanced cooperation in the areas of defense, security, economics and trade, energy security, democracy, and cultural exchanges; and emphasizing the continued commitment of the United States to support engagement between Ukraine and the European Union and NATO. The United States has committed significant financial (more than \$1.3 billion since 2013) and technical assistance to Ukraine in support of its reform and anti-corruption initiatives. The United States and Ukraine participate in joint military exercises. In 2015, the United States announced a comprehensive \$335 million bilateral security assistance package for Ukraine for fiscal year 2016. At a July 2016 summit, NATO pledged additional training and technical support for Ukraine's military. In September 2016, the United States and Ukraine signed a bilateral partnership providing a framework for the countries to enhance the defense capacity of Ukraine's military forces, advance critical Ukrainian defense reforms, improve resource management processes, and boost defense cooperation.

Ukraine has permanent normal trade relations status with the United States. The two countries have had a bilateral investment treaty since 1996. Ukraine continues to move forward with a reform agenda to improve the investment and business environment in the country. During a July 2017 visit to Ukraine, the U.S. Secretary of State expressed the U.S.' commitment to restoring Ukraine's territorial sovereignty and integrity, and pride in the "profound friendship" between the countries. During a joint press conference between Ukraine's president and the U.S. Secretary of Defense in Ukraine on Ukraine's Independence Day in August 2017, the U.S. Secretary of Defense expressed the U.S.' intent to strengthen the relationship between the two nations, stating in part, "Have no doubt that the United States stands with Ukraine in all things."

The Ukrainian government has not been known for targeting U.S. citizens for human rights abuses or intelligence collection. The United States remains concerned about some human rights abuses in Ukraine. Ukraine continued to suffer in 2016 from impunity for corruption and deficiencies in the administration of justice. Human rights groups and the United Nations noted the government's failure to investigate, prosecute, or punish abuses committed by government security forces. Other problems included alleged beatings and torture of detainees and prisoners, harsh conditions in government-run detention facilities, nongovernmental attacks on journalists, societal violence against women and abuse of children, and discrimination and harassment against some segments of society. There were also limitations on workers' rights to strike and failure to effectively enforce labor and occupational safety laws.

The most significant human rights abuses in 2016 were the result of the ongoing conflict in Crimea and eastern Ukraine. Russian-backed separatists in Donbas engaged in abductions, torture, and unlawful detention, employed child soldiers, stifled dissent, and

restricted humanitarian aid. In Crimea, Russian occupation authorities systematically targeted perceived dissidents for abuse and politically-motivated persecution.

As of December 2017, the United States continued to warn U.S. citizens to avoid all travel to Crimea and the eastern regions of Donetsk and Luhansk in light of the ongoing unrest. A cease fire agreement established a de facto dividing line between Ukrainian-government controlled and non-government controlled areas, but both sides of the line are mined. Artillery and rocket attacks near the line of contact occur regularly, and individuals, including U.S. citizens, have been threatened, detained, or kidnapped for hours or days after being stopped at separatist checkpoints. One U.S. citizen was killed inside the non-government controlled area of Luhansk. U.S. citizens throughout Ukraine are advised to avoid large crowds and be prepared to remain indoors should protests or demonstrations escalate.

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant’s eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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 national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government

reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of EO 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 *a/so* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline B: Foreign Influence

The security concern about foreign influence is articulated in AG ¶ 6:

Foreign contacts and interests, including but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way that is inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

Applicant’s mother, his uncle-in-law, and a close friend, are resident citizens of Ukraine. Applicant’s mother spent most of her working life as an engineer for a Ukrainian government-run institute not involved with the Ukrainian military. For the last four years of her working life, she was employed as an inspector for a municipality. She lives on a small pension from the Ukrainian government. Applicant’s Ukrainian uncle-in-law is godfather to Applicant’s oldest son and is a field grade officer in Ukraine’s military. Applicant’s friend in the Ukraine works for Ukraine’s government in a law enforcement-related position. Applicant’s parents-in-law are Ukrainian citizens with U.S. permanent residency. His father-in-law worked as an information technology administrator and network engineer for a private industrial company in Ukraine until he retired. Applicant’s mother-in-law worked for a municipality, and because of that government employment, she has a small pension from Ukraine’s government.

Review of Applicant’s contacts and connections to these foreign citizens is warranted to determine whether they present a heightened risk under AG ¶ 7(a) or AG ¶ 7(e) or create a potential conflict of interest under AG ¶ 7(b). AG ¶¶ 7(a), 7(b), and 7(e) provide:

(a) contact, regardless of method, 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;

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology; and

(e) 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.

Not every foreign contact or tie presents a heightened risk. The "heightened risk" denotes a risk greater than the normal risk inherent in having a family member living under a foreign government. The nature and strength of the family ties or other foreign interests and the country involved (*i.e.*, the nature of its government, its relationship with the United States, and its human rights record) are relevant in assessing whether there is a likelihood of vulnerability to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government; a family member is associated with, or dependent on, the foreign government; or the country is known to conduct intelligence operations against the United States. In considering the nature of the foreign government, the administrative judge must take into account any terrorist activity in the country at issue. *See generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006).

Ukraine's government has been led by a pro-West, anti-corruption president since June 2014. In recent years, Ukraine has strengthened its engagement with the West and its commitment to reform. Russia's illegitimate annexation of Crimea and its efforts to destabilize eastern Ukraine through Russian-backed separatists present significant challenges for Ukraine's government. Some human rights problems persist, especially in the government's failure to investigate, prosecute, or punish abuses committed by government security forces. However, Ukraine has not been known for targeting U.S. citizens for human rights abuses or intelligence collection. The United States has friendly relations with Ukraine and is committed to assisting Ukraine in its efforts at strengthening democracy. Yet AGs 7(a) and 7(b) are established because of Applicant's close ties to his mother, who depends in part on her government pension in Ukraine, and because of Applicant's relations and contacts with his Ukrainian uncle-in-law and a Ukrainian friend, who hold positions with Ukraine's military and government that heighten the risk. Applicant's uncle-in-law is a field grade officer in Ukraine's military. Applicant's contact with this uncle-in-law may have lessened somewhat from once a month to only a few times a year lately, but the family bond was enough for Applicant and his spouse to choose this uncle (who is only three years older than Applicant) to be godfather to their first child. Applicant may feel no sense of obligation or loyalty to his Ukrainian friend, but

their spouses are longtime friends. Applicant's spouse is godmother to the Ukrainian couple's child. The two families have visited each other in the Ukraine and in the United States. Applicant's friend's law enforcement-related position presents a heightened risk, given the opposition of some persons in Ukraine to effective law enforcement and government reforms. The risk of undue foreign influence because of his parents-in-laws' Ukrainian citizenship is minimal because they have immigrated to the United States and have no intention to resume permanent residency in Ukraine. The evidence to support AG ¶ 7(e) is minimal.

Although Applicant and his spouse own real estate in Ukraine, neither asset is a substantial interest under AG ¶ 7(f) likely to heighten the risk of undue foreign influence.⁶ The total value of their foreign property is less than \$10,000. Applicant's property is in a rural area and has no running water. He testified credibly to have no sentimental tie to the property and to a willingness to abandon it. His spouse inherited her parcel from her grandmother, but it is developed only in that it has a small garage on the land. Applicant believes his spouse would be willing to abandon her property as well.

Concerning the family members and friends in Ukraine, the close affection Applicant has for his mother, the volatile situation in eastern Ukraine with attempts by Russia and pro-Russian separatists to destabilize the country, the human rights abuses in Ukraine, and the positions of Applicant's uncle-in-law and Applicant's friend in Ukraine's government, make it difficult to mitigate the foreign influence concerns under AG ¶ 8(a), which provides:

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States.

Applicant has very significant ties to the United States that could trigger the second component of AG ¶ 8(b), which states:

(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 came to the United States in August 1998 to pursue his doctorate degree. He married a Ukrainian native in 2000, and she immigrated to the United States.

⁶ Disqualifying condition AG ¶ 7(f) applies when the foreign asset is substantial:

(f) substantial business, financial, or property interests in a foreign country, or in any foreign owned or foreign-operated business that could subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest.

Applicant began working for his current employer, a U.S. defense contractor, in 2002 while he was a doctoral candidate in electrical engineering. He became a full-time employee in February 2003, and has since then devoted his considerable expertise to projects sponsored by the DOD and U.S. military research commands. He and his spouse established significant roots in the United States by purchasing their first home in August 2005 and their current residence in March 2013. Their children were born in the United States. In 2006, Applicant acquired U.S. permanent residency. In September 2012, he and his spouse became naturalized U.S. citizens by choice. In October 2012, Applicant obtained his U.S. passport and used it in preference to his Ukrainian passport on all subsequent foreign trips, including to the Ukraine. He and his spouse have amassed considerable financial assets in the United States while their foreign interests consist solely of a rural cottage acquired by Applicant in 1993 and a small parcel inherited by Applicant's spouse. Applicant has voted in every local and national election in the United States but one since he registered as a voter in the United States. He has not exercised a right or benefit of his Ukrainian citizenship since he became a U.S. citizen. While in Ukraine for his father's funeral in April 2015, he began the process of renouncing his Ukrainian citizenship by obtaining a police record noting that no law enforcement actions had been taken against him. By all accounts, Applicant has been a law-abiding citizen of the United States. He sponsored his parents-in-law for U.S. immigration. These factors reflect "deep and longstanding relationships in the United States" and weigh in his favor in granting him security clearance eligibility.

In August 2015, the Appeal Board reversed the grant of security clearance eligibility to an applicant,⁷ who was born in the Ukraine and came to the United States with her Ukrainian-born husband in the early 2000s. The applicant came to the United States to pursue an advanced degree. Neither she nor her spouse had any property or assets in Ukraine, and both had become naturalized U.S. citizens. As in this case, the applicant enjoyed an outstanding reputation for her job performance and her trustworthiness and reliability. When she traveled abroad, she properly reported any suspicious activity. She no longer traveled to Ukraine. Her connections to Ukraine included her parents, sibling, and in-laws, and her sibling worked at the same Ukrainian agency that had previously employed the applicant, her spouse, and her father. None of her relatives had any connection with separatists operating in Ukraine. In reversing the favorable grant, the Appeal Board held that character is less an issue than are the circumstances in a Guideline B case, and concluded that the administrative judge had failed to consider important aspects, including that the United States and Russia "are

⁷ See ISCR Case No. 14-02563 (App. Bd. Aug. 28, 2015). The Appeal Board held in ISCR Case No. 01-26893, decided on October 12, 2002, that character is relevant and material under the whole-person concept with the following caveat:

Evidence of good character and personal integrity is relevant and material under the whole person concept. However, a finding that an applicant possesses good character and integrity does not preclude the government from considering whether the applicant's facts and circumstances still pose a security risk. Stated otherwise, the government need not prove that an applicant is a bad person before it can deny or revoke access to classified information. Even good people can pose a security risk because of facts and circumstances not under their control.

undergoing a period of significant tension regarding their competing policies in Ukraine;” that the applicant had herself worked for a state-owned entity that currently employed her sibling; that the applicant communicated regularly with some of her Ukrainian relatives; and that her husband had some Russian ties. The Appeal Board concluded in part:

This is not to suggest that [applicant] is disloyal or that she is other than a person of excellent character. However, common sense and a knowledge of the ways of the world suggest that even those character is unimpeachable could be faced with circumstances that would seriously tempt them to place the safety of parents, siblings, or parents-in-laws ahead of other competing interests.

With due consideration to Appeal Board precedent, this case is factually distinguishable in some important aspects. Ukraine’s government is more reform-minded and has stronger ties to the West than was the case in 2014. Neither Applicant nor his spouse ever worked for Ukraine’s government. Of those family members with whom Applicant has close bonds of affection or obligation, only his mother is in Ukraine, and she has been retired from a Ukrainian government-run entity for more than ten years. Applicant is understandably closer to his spouse and children, who are U.S. resident citizens, than to an uncle by marriage or to a family friend with whom he has a relationship largely because of his spouse. Applicant would have a stronger case in mitigation if he had no contact whatsoever with his uncle-in-law and with his Ukrainian friend, but his contacts with them appear to be casual and involve only family matters. They know little about his work and do not know that he has applied for DOD security clearance eligibility. AG ¶ 8(c), “contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation,” has some applicability.

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 his conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(d).⁸ The analysis under Guideline B is incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

⁸ The factors under AG ¶ 2(a) are as follows:

(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.

Applicant demonstrated personal integrity by candidly detailing to the DOD his foreign contacts. His professional colleagues, including scientists and program managers at U.S. military research facilities, endorse him for his expertise, high principles, and loyalty to the United States. Applicant has made such valuable contributions to the U.S. military that a DOD program manager considers the benefit of granting him a clearance outweigh the risks. Applicant has handled unclassified but sensitive restricted data and ITAR-controlled material appropriately and shown an appropriate respect for the “need-to know” requirements associated with classified work. Applicant’s value to the U.S. military is not controlling in the security clearance context, but he has shown that he can be trusted.

Acknowledging that even persons with unimpeachable character could be faced with a circumstance that could tempt them to place the safety of relatives ahead of competing interests, the risk of undue foreign influence cannot be completely ruled out because of Applicant’s ties to Ukraine detailed above. However, Applicant can control his response to the security risk. Applicant has credibly indicated that he would have no problem reporting any suspicious contacts or activity, even if it involves his mother. After considering all the facts and circumstances, I find it is clearly consistent with the national interest to grant security clearance eligibility for Applicant.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B:	FOR APPLICANT
Subparagraphs 1.a-1.e:	For Applicant

Conclusion

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

Elizabeth M. Matchinski
Administrative Judge