



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 15-00053

**Appearances**

For Government: Eric H. Borgstrom, Esq. Department Counsel  
For Applicant: Alan V. Edmunds, Esq.

05/18/2016

**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 24, 2015, the Department of Defense (DOD) Consolidated Adjudication Facility (CAF) issued a Statement of Reasons (SOR) detailing reasons why the DOD could not make the affirmative determination of eligibility for granting a security clearance. The DOD CAF 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 16, 2015, and requested a hearing. The case was assigned to me on October 20, 2015, and was scheduled for hearing on November 19, 2015. The hearing was convened on that date. At hearing, the Government's case consisted of four exhibits (GEs 1-4). Applicant relied on one witness (himself) and 18 exhibits (AEs A-R). Three documents (HEs 1-3) were admitted as hearing exhibits. The transcript (Tr.) was received on December 4, 2015.

Department Counsel requested I take official notice of facts covered by identified source documents. Source documents were identified as follows 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); *2015 Special 301 Report*, U.S. Trade Representative (2015); *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); and *Summary of Major U.S. Espionage, Economic Espionage, Trade Secret and Embargo-Related Criminal Cases, January 2008 to the Present* (January 2015).

Other source documents identified included the following documents: *Press Release, Six Defendants Indicted in Alleged Conspiracy to Bribe Government Officials in India to Mine Titanium Minerals*, U.S. Department of Justice (April 2014); *Press Release, Former Owner of Defense Contracting Business Pleads Guilty to Illegally Exporting Military Blue Prints to India Without a License*, U.S. Department of Justice (April 2015); *United States-India Peaceful Atomic Energy Cooperation and U.S. Additional Protocol Implementation*, Report of the committee on Foreign Relations, Rep. 109-288 to Accompany S. 3709 (undated); *Background Note: India*, U.S. Department of State (April 2012); and *Country Information, India*, U.S. Department of State (April 2015); C

Additional source documents identified were the following: *Country Reports on Terrorism 2014, Chapter 2-Country Reports*, U.S. Department of State (2014); *2008 Country Reports on Terrorism, Chapter 2-Country Reports*, U.S. Department of State (April 2009); *Country Reports on Human Rights Practices for 2014: India*, U.S. Department of State (2014); *Worldwide Caution*, U.S. Department of State (July 2015); and *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). After timely receipt of the requested source documents within the post-hearing time (three days) afforded Department Counsel for keeping the record open, I took administrative notice of the 14 source documents covered by Department

Counsel's Administrative Notice, addressing the geopolitical situation in India, consistent with the provisions of Rule 201 of Fed. R. Evid. (Tr. 24-26)

### **Summary of Pleadings**

Under Guideline B, Applicant allegedly has (a) a mother and father who are citizens and residents of India; (b) sisters who are citizens and residents of India; (c) a father-in-law and mother-in-law who are citizens and residents of India; and (d) a spouse who maintains a public fund in India that is worth at least \$49,000. Allegedly, Applicant's family and business interests in India present heightened security risks to the United States.

In his response to the SOR, Applicant admitted all of the allegations, with some qualifications and explanations. He claimed his mother passed away in January 1985, and his father still resides in India with no plans to come to the United States. He claimed he has just one sister who is a citizen and resident of India, with his older sister having become a citizen and resident of the United States.

Applicant claimed his father-in-law and mother-in-law have lived all of their lives in India; his father-in-law owns a well-established business, while his mother-in-law is a homemaker. He claimed his wife sold her provident fund (acquired in 1986) in August 2015. Applicant claimed that he and his wife have lived in the United States with their two children since 1997 and currently own their own house. And he claimed that he and his wife have accumulated their own 401(k) retirement accounts, which hold over \$700,000 in invested funds. Altogether, Applicant claimed to have approximately \$1.1 million in net assets and plans to retire with his wife in the United States. Applicant also claimed he has established college accounts for his children, who plan to attend U.S. graduate schools.

### **Findings of Fact**

Applicant is a 45-year-old senior principal of a defense contractor who seeks a security clearance. (Ges 1 and 4; Tr. 51) The allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

### **Background**

Applicant was born and raised in India (an Indian citizen by birth). He immigrated to the United States in December 1997. (GE 1; Tr. 81) He met his wife in India and married her in 1996. (GEs 1 and 4 and AE R; Tr. 50, 81) His wife (born and raised in India to parents of Indian descent) immigrated to the United States in 1998. (GEs 1 and 2). Both became naturalized U.S. citizens in 2006. (GE 1) Applicant's two children are U.S. citizens: one by naturalization (age 17) and the other by birth (age 13). Neither holds any dual citizenship with any other country. (GEs 1 and 2 and AE Q; Tr. 52)

Applicant earned his high school diploma in India in April 1989. He earned bachelor's and master's degrees in computer technology in 1995 from Indian universities. (GE 1 and AEs O and R; Tr. 75) He claims no military service in either India or the United States. (GE 1 and AE R)

Before immigrating to the United States, Applicant never voted in Indian elections. (Tr. 85) Since becoming a U.S. citizen in 2006, he has voted in U.S. elections. (Tr. 80-81)

Applicant has worked for his present employer since October 2008 and currently holds a position as a senior principal with his company. (GEs 1 and 4) Previously, he held manager positions with other firms that did not have contracts with other federal agencies that required a security clearance. (GEs 1 and 4)

Applicant's mother, a homemaker with no ties to the Indian government or military, passed away in January 1985. (GEs 1 and 2 and AE B; Tr. 68, 83) His father is retired and still resides in India in his own home, with no known plans to come to the United States. Before his retirement, he was employed as an engineer for a public works department of an Indian province. (Tr. 73-74) None his father's projects covered classified materials that required approvals from the Indian government. (GE 4) His father never served in the Indian military or sought or held an elected position. He has no affiliations with the Indian government or military and has never received any threats or pressure from Indian government or military officials. (GE 4) His father has no financial interests in India besides his home. (GE 4) Applicant provides little financial support to his father. (Tr. 74)

Applicant has just one sister who is a citizen and resident of India, and she resides there with her husband (a practicing dentist) and two daughters. (GEs 1 and 2; Tr. 57-58, 69) His sister is a fashion designer who provides no services to the Indian government. (GE 4) She has no affiliations with the Indian government or military. (GE 2) Applicant provides no financial assistance to this sister or her husband. (Tr. 58)

Applicant's older sister immigrated to the United States in 1987 and became a citizen and resident of the United States. (GEs 1-2 and 4; Tr. 56) She and her husband currently live in the United States, and she works as a business analyst for a U.S. company. (GE 2; Tr. 56-57)

Applicant's father-in-law and mother-in-law are citizens and residents of India and have lived all of their lives in India. (GEs -2 and 4; Tr. 59) His father-in-law owns a well-established business; while his mother-in-law is a homemaker. (GE 4; Tr. 60) Neither of Applicant's wife's parents have any affiliations with the Indian government or military. (GEs 2 and 4; Tr. 59)

Neither Applicant nor his wife has any business or property interests in India, or plans to relocate to India. (GEs 2 and 4; Tr. 58) While his wife once maintained a provident public fund worth around \$49,000, she closed the account in March 2015 and

gifted the money to her parents. (GE 3 and AE K; Tr. 75) She no longer holds any bank or investment accounts in India. (AE K; Tr. 61-62)

### **Applicant's family contacts and travels to India**

Applicant communicates with his father by telephone on a weekly basis and visits him at least once a year to care for his health issues. (GEs 1-2 and 4; Tr. 53-55) When he travels for his company, he always get prior approval from his program manager. (Tr. 54). However, he has not, to date, traveled abroad for his company. (Tr. 64) He also talks to his wife's parents weekly and visits them when he visits his father. (GE 2) His wife, though, has more frequent contacts with her parents.

Applicant maintains phone and email contact with his younger sister in India once or twice a month. (GE 2; Tr. 70-71) Neither his younger sister nor any of Applicant's relatives residing in India have any knowledge of Applicant's work-related responsibilities with his U.S. employer. (Tr. 54, 57, 78)

### **Applicant's U.S. assets**

Applicant and his wife have considerable U.S. assets. Included are their home valued at \$645,000, with a carried mortgage of \$414,246 and monthly mortgage payments of \$2,948. (AE A; Tr. 65) He and his wife also hold 401(k) retirement accounts, which hold over \$700,000 in invested funds. (AEs A and E) He has established college accounts for his two daughters, which collectively total more than \$100,000. (AE A; Tr. 65) Altogether, Applicant holds approximately \$1.1 million in net assets and plans to retire with his wife in the United States. (AEs E-; Tr. 53) Applicant earns \$200,000 a year from his business. (Tr. 51-52) With annual bonuses and stock options, he can make as much as \$280,000 a year. (Tr. 51) Applicant benefits financially from his wife, who also earns \$200,000 a year from free lance software consulting. (Tr. 79)

Applicant and his wife are current with their federal and state taxes. (AE J; Tr. 53) He has no pensions or entitlements from India and no inheritance expectancies from his father or younger sister.

### **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.*

Human rights problems continue to persist, though, in India. Most notable are reported police and security force abuses, disappearances, hazardous prison

conditions, arbitrary arrests and detention, and lengthy pretrial detentions. Rape, domestic violence, dowry-related deaths, honor killings, sexual harassment, and discrimination against women remain serious problems as well. A cited basic problem stems from the lack of clear accountability, which too often has resulted in cited human rights violations going unpunished. See *Country Reports on Human Rights Practices for 2014: India, supra, at 1-2* and *Administrative Notice, supra, at 6*.

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. See *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.*) More recently, 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. (*Id.*) The Indian states of Jammu and Kashmir remain unstable, and a number of of terrorist groups operate there, particularly along the line of control separating Indian and Pakistani-controlled Kashmir. (*Id.*)

India continues to experience terrorist and insurgent activities that may affect U.S. citizens. See *Country Information, India, supra, at 2-8*. Anti-Western terrorist groups are active, and India remains subject to violent terrorist attacks. Terrorist attacks on multiple locations in Mumbai in 2008, targeting areas frequented by Westerners, killing 183 people, is a case in point. See *Country Reports on Terrorism 2014, Chapter 2-Country Reports, supra, at 5* and *Administrative Notice, supra at 5*.

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, its long-standing military supply relationships with the old Soviet Union and Russia, and the pace of India's efforts to achieve long-planned economic reforms. (*Background Note, India, supra; CRS Report for Congress: India-U.S. Relations, supra, at 11, 22-23, and 45*) Still, the United States and India share a number of security perspectives, including those on China, Asian balance of power calculations, terrorism, Afghanistan, maritime issues, and weapons of mass destruction. (*Id.*, at 43-44)

Important U.S. concerns have been raised, too, over reported cases involving government-sponsored entities and their illegal export, or attempted illegal export, of unlicensed, controlled products to India, including: (1) products associated with the development of ballistic missiles, as well as space-launch vehicles and combat fighter jets; (2) nuclear testing equipment; (3) microwave amplifiers; (5) illegal mining of titanium; (6) unlicensed military blueprints; and (6) controlled high-tech testing equipment that posed potential risks of diversion to a weapons of mass destruction

program. See *Summary of Major U.S. Espionage, Economic Espionage, Trade Secret and Embargo-Related Criminal Cases, January 2008 to the Present, supra*, at 89-91; Administrative Notice, *supra*, at 3, and the specific cases referenced, *supra*.

Dual use equipment that can be used in military and civilian aircraft are of concern, too. Specifically, dual use equipment to extract engine vibration information; equipment that can be used to manufacture material that improves the accuracy of strategic ballistic missiles with nuclear capabilities; animation systems that can be diverted to weapons of mass destruction technology; nuclear pulse generators to two Indian entities capable of mounting diversion to the development of weapons of mass destruction or missiles; and heat treating containers to an Indian entity capable of mounting diversion to the development of weapons of mass destruction or missiles all present areas of security concerns for the United States. See *Summary of Major U.S. Espionage, Economic Espionage, Trade Secret and Embargo-Related Criminal Cases, January 2008 to the Present, supra*, at 89-91; Administrative Notice, *supra*, at 3, and the specific cases referenced, *supra*.

Other cases involving the illegal export, or attempted illegal export, of U.S. restricted dual use technology to India have included unlicensed export equipment used to manufacture carbon-carbon components with applications in ballistic missiles to the export of equipment used by a Indian laboratory involved with developing India's principal nuclear-capable ballistic missiles; illegal export of pulse non-proliferation reasons; and unauthorized export of U.S. military list hardware to India. See *Summary of Major U.S. Espionage, Economic Espionage, Trade Secret and Embargo-Related Criminal Cases, January 2008 to the Present, supra*, at 89-91; Administrative Notice, *supra*, at 3, 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. Extremists have targeted and attempted attacks on subways and rail systems, aviation, and maritime services. See *Country Information, India, supra*, at 2-8; *Worldwide Caution, supra*, at 1-2; and Administrative Notice, *supra*, at 5.

## **Endorsements**

Applicant has good character references from his business managers with his current employer. (AE P) They extolled his strong work ethic and contributions to his company and never found any reason to doubt or question him. (AE P) They credited Applicant with being an outstanding citizen and proactive member of his community. Former colleagues similarly characterized Applicant as a trusted advisor and a valued resource. (AE P)

Applicant's performance evaluations for 2012 through 2014 reflect highly valued service to his company. He was credited meeting or exceeding expectations in all of the most rating categories. (AE L) Applicant was awarded certificates of completion of courses in business ethics and special access programs. (AE M)

## 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 ¶ (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 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 the 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 Executive Order 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 a senior principal for a U.S.-based defense contractor. He immigrated to the United States in 1997 and is married to a woman of Indian descent who immigrated to the United States in 1998. Both Applicant and his wife became naturalized

U.S. citizens in 2006. While Applicant's father, youngest sister, and his wife's parents are citizen/residents of India, his wife and children and oldest sister reside in the United States with U.S. citizenship. Trust concerns relate to foreign influence relative to Applicant's (a) father, sister, and in-laws having citizenship and residence in India and (b) his wife's controlling investment funds in India.

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 father and sister and his wife's parents, all citizens and residents of 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 immediate family members and in-laws have Indian citizenship by birth and reside 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 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 father, sister, or in-law's residing in India have any history of being subjected to any coercion or influence, or appear to be vulnerable to the same. Considering all of the circumstances present, 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 United States as an important consideration in gauging whether the particular relatives with citizenship, residency, and foreign assets 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 father and sister nor his wife's parents residing in India pose heightened security risks that could subject them to potential pressures and influence from Indian government and military officials. Further, since his wife has since closed her investment account in India, she no longer holds foreign assets that could pose a risk of compromise, coercion, or influence.

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 family members and in-laws. 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 relatively infrequent contacts with his wife's family members residing in India.

One other mitigating condition has some limited 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," partially 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. The lack of a developed track record of reporting precludes Applicant from benefitting any further from this mitigating condition.

Whole-person assessment is available also to minimize Applicant's exposure to potential conflicts of interests with his father, sister, and his wife's parents. Most importantly, Applicant is not aware of any risks of coercion, pressure, or influence that any of his immediate family and his wife's family members might be exposed to. Further,

Applicant is aided by the strong support he has received from his company's managers and former colleagues. When combined with his own demonstrated commitments to U.S. values and security interests, conclusions warrant that the potential risk of coercion, pressure, or influence being brought to bear on him or any member of his family or his wife's family is minimal and mitigated.

Overall, potential security concerns associated with (a) Applicant's father, sister, and in-laws having citizenship and residence in India and (b) his wife's having foreign investment funds in India are sufficiently mitigated to permit safe predictive judgments about Applicant's ability to withstand risks of undue influence attributable to his familiar relationships with his father, sister, and in-laws in India. Favorable conclusions warrant with respect to the allegations covered by Guideline B.

### **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
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Subparagraphs 1.a through 1.f:	For Applicant
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### **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.

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Roger C. Wesley  
Administrative Judge

