



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



In the matter of:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 07-06997

**Appearances**

For Government: James F. Duffy, Esquire, Department Counsel

For Applicant: *Pro Se*

August 26, 2008

**Decision**

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WESLEY, Roger C., Administrative Judge:

**Statement of Case**

On March 24, 2008, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to Applicant, which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant, and recommended referral to an administrative judge to determine whether clearance should be granted, continued, denied or revoked.

Applicant responded to the SOR on April 22, 2008, and requested a hearing. The case was assigned to me on June 14, 2008, and was scheduled for hearing on July 15, 2008. A hearing was held on July 15, 2008, for the purpose of considering whether it would be clearly consistent with the national interest to grant, continue, deny, or revoke Applicant's security clearance. At hearing, the Government's case consisted of six exhibits; Applicant relied on one witness (himself) and three exhibits. The transcript

(R.T.) was received on July 23, 2008. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility to access classified information is denied.

Besides its two exhibits, the Government requested administrative notice of 12 documents: *Background Note: Iran*, U.S. Department of State (March 2008); *Country Specific Information, Iran*, U.S. Department of State (June 2007) U.S. Department of State (August 2007); *Travel Warning, Iran*, U.S. Department of State (January 2008); *CRS Response for Congress, Iran: U.S. Concerns and Policy Responses*, U.S. Department of State (January 2008); *Country Reports on Human Rights Practices - 2007, Iran*, U.S. Department of State (March 2008); *Country Reports on Terrorism 2007, Chapter 3 - State Sponsors of Terrorism Overview*, U.S. Department of State (November 2007); *Country Reports on Terrorism, Chapter 3 - State Sponsors of Terrorism Overview*, U.S. Department of State (April 2008); *The National Security Strategy of the United States of America, President of the United States* (March 2006); *The Iranian Regime: A Challenge to the World*, U.S. Department of State (May 2006); *Making America Safer by Defeating Extremists in the Middle East, Statement by President of the United States* (August 2007); *President Bush Delivers State of the Union Address* (January 2008); *President Bush's Message to the Congress of the United States* (March 2008); *Annual Threat Assessment for the Senate Select Committee on Intelligence* (February 2008).

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292 (App. Bd. April 2007); ISCR Case No. 02-24875 (App. Bd. October 2006). Administrative notice is appropriate for noticing facts or government reports that are well known. See *Stein*, Administrative Law, Sec. 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situation in Iran. *Administrative notice was extended to the documents themselves*, consistent with the provisions of Rule 201 of Fed. R. Evi. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing Iran's current state.

### **Summary of Pleadings**

Under Guideline B, Applicant is alleged to (a) have immediate family members (his spouse, mother, brother and three sisters who are citizens and residents of Iran, (b) have a father-in-law and mother-in-law who are citizens and residents of Iran, (c) have traveled to Iran in 2001, and (d) traveled to the UAE in 2004 to visit family. For his answer to the SOR, Applicant admitted all of the allegations in the SOR with explanations.

### **Findings of Fact**

Applicant is a 48-year-old service systems engineer for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are adopted as relevant and material findings. Additional findings follow.

## **Applicant's background**

Applicant was born and raised in Iran and attended private schools there. He immigrated to the U.S. in 1978 at the age of 18 on a student visa to attend an accredited university and pursue an engineering curriculum (R.T., at 35-36, 39-40).

Applicant became a naturalized U.S. citizen in September 1996 (see ex. 1), and renewed his Iranian passport in February 1996 (see ex. 5). When he became a U.S. citizen, and obtained his U.S. passport, he retained his Iranian passport for a number of years and used it on one occasion when he traveled to Iran (R.T., at 42, 79). He only recently (in March 2008) surrendered his Iranian passport to his employer (see ex. 4; R.T., at 36-37), and still does not know how the Iranian government treats his dual citizen status (R.T., at 42). While he could conceivably obtain an Iranian passport in the future, he has no intention of doing so (R.T., at 42-43). Still, he has never made any attempt to renounce his Iranian citizenship. He has never served in the Iranian military, has no willingness to do so now, and immigrated to the U.S. to avoid military service in Iran's military forces (R.T., at 43). Applicant has had nothing to do with the Iranian government since immigrating to this country and has never worked for the Iranian government in any capacity (R.T., at 44-45).

Applicant met his wife (W) while attending college in the U.S. Like Applicant, she was born and raised in Iran and immigrated to the U.S. after high school to attend college. (R.T., at 49). She joined Applicant in becoming a naturalized U.S. citizen in September 1996 (see ex. 1; R.T., at 47). Applicant and his spouse were married in June 1979. They have two children: a daughter (age 25) who attends law school and a son (age 17) who will be senior in high school (see ex. 1; R.T., at 51-52).

Applicant's father, an Iranian citizen by birth, is deceased (ex. 1). During his lifetime, he neither served in the Iranian military or worked in the Iranian government (R.T., at 46-47, 53). His mother is a citizen and resident of Iran (see exs. 1 and 2; R.T., at 53-54). She is 79 years of age and has never worked for the Iranian government (see ex. 2; R.T., at 54). She has no pension or health insurance from the Iranian government. She is self sufficient through his father's savings insurance and receives no financial support from Applicant (R.T., at 54, 57). Applicant talks with his mother by telephone every couple of months (R.T., at 56).

Both Applicant's brother and three sisters are citizens and residents of Iran. His brother (two years younger than Applicant) works for a major university in Iran, which may or may not be affiliated with the Iranian government (R.T., at 59-60). His brother has worked for this university for most of his adult life. He served for two years in the Iranian military, which is mandatory for all male Iranian citizens (R.T., at 61). Applicant does not know whether his brother has a military pension or not (R.T., at 62). And to the best of his knowledge, his brother has had no other affiliations with the Iranian government (R.T., at 63). He makes telephone contact with his brother every six months (R.T., at 63). His brother has two children who reside in Iran and attend college there (R.T., at 64).

Besides his brother, Applicant has three sisters who are citizens and residents of Iran. The oldest previously worked for a bank and has not been in the work force for over 20 years (R.T., at 65). Her husband owns a private appliance store (R.T., at 66). Applicant's next oldest sister was a school teacher at a private school before she retired several years ago (R.T., at 66). She has a private pension from the same school. Her husband is an agricultural engineer, and they have two children; one resides abroad, while the youngest lives at home and attends an Iranian college (R.T., at 67). Applicant's youngest sister is also a retired school teacher (R.T., at 69). Her husband continues to teach school. They have three children: the oldest is an engineer for a private firm, and the youngest attends college (R.T., at 69-70). Applicant talks with his and sisters monthly by telephone (see ex. 2).

Most of W's family members are also citizens and residents of Iran (R.T., at 71-74). They visit the U.S. every five to six years to see Applicant and W, and typically spend two to three months with Applicant and his family. W's father owns a private business in Iran, and has neither served in the Iranian military nor worked for the Iranian government (R.T., at 72). Her mother is a housewife and has had no involvement with the Iranian government (R.T., at 72). W's brothers (two in all) and sisters (three in number) are Iranian citizens by birth and reside in Iran. Each of his sisters is a housewife, and has no involvement in the Iranian government. One brother sells appliances and has no involvement with the Iranian government (R.T., at 73). The other brother currently resides in India while attending college (R.T., at 73-74). Applicant has no relatives affiliated with the Iranian military or government that he is aware of.

Applicant has no assets in Iran, no expectation of any inheritance from his family, and no known obligations to any Iranian citizens/residents (ex. 2; R.T., at 75). W's family members own apartment units in Iran, but W has no interest in any of these units. Applicant's home in the U.S. has been appraised at \$365,000.00. When he last traveled to Iran in 2001 to visit his family, he used his Iranian passport, but always showed his U.S. passport as well (R.T., at 77-80). Iranian officials wanted to know here he was going (R.T., at 77-79). Frustrated with the Iranian government's internal and foreign policies, he has no plans to return to the country (R.T., at 38). In 2004, he picked the UAE as a venue to see his mother and sister, and used his U.S. passport to enter and exit the country (R.T., at 80-81). While he strongly opposes the current Iranian regime, he has no reason to believe that any of his family members are at any risk to pressure, duress or coercion from Iranian military and intelligence officials (see ex. 2; R.T., at 81-82). He provides no details, though, as to why he believes his family is not at risk.

### **Political and economic background of Iran**

According to official U.S. State Department documents, Iran is an Islamic republic that is constitutionally constructed and has a head of state, an elected president and counsel of ministers, a legislative body composed of a 290-member Islamic consultative assembly, and a judiciary (see *U.S. Dept. of State Background Note on Iran, supra*, at 5). Throughout its long history, Iran has been ruled by numerous dynasties. Following a nationalist uprising against the Shah in 1905, Iran enacted a limited constitution in 1906.

Two years later, oil was discovered, and Iran began its steady ascension to a modern, secularized political system. Under the reign of Reza Shah Pahlavi (an Iranian officer, who seized control of the government in 1921), Iran enacted policies of modernization and secularization, established a central government and reasserted its authority over the tribes and provinces (see *U.S. Dept. of State Background Note on Iran, id.*, at 3). During the Allied occupation of western Iran in 1941, the Shah was forced to abdicate and was succeeded by his son, Mohammad Reza Pahlavi (see *U.S. Dept. of State Background Note on Iran, id.*).

Domestic turmoil swept Iran in 1978 as the result of heated religious and political opposition to the Shah's rule and political/economic programs (especially the Shah's internal security and intelligence service). And in February 1979, exiled religious leader Ayatollah Ruhollah Khomeini returned from France to direct a revolution resulting in a new, theocratic republic guided by Islamic principles. Iran's 1979 constitution allocates the duties of the chosen religious leaders and governing bodies in such a way that their duties often overlap. Legislative issues on which the Majles (Iran's legislative governing body) and the Council of Guardians (making up Iran's religious leadership) fail to agree are resolved by the Council of Expediency (a body created by Ayatollah Khomeini in 1988). Following the Ayatollah's death in June 1989, the Assembly of Experts (an elected body of senior clerics) chose the outgoing president of the republic (Ali Khamenei) to be the Ayatollah's successor as national religious leader (see *U.S. Dept. of State Background Note on Iran, id.*, at 4).

Iran's post-revolution has been marked by an eight-year war with Iraq, internal political struggles and unrest, and economic disorder. Its post-revolution regime has been associated with human rights violations and political turmoil, including the seizure of the U.S. Embassy in November 1979 by Iranian militants and the hostage taking of 52 Americans (see *CRS Response for Congress, Iran: U.S. Concerns and Policy Responses*, U.S. Department of State (January 2008, *supra*, at 2). Succeeding power struggles have severely eroded the center and left of Iran's political institutions, leaving only the clergy. Both human rights and state sponsored terrorism remain serious problems in Iran and the Middle East. According to State Department reports, Iran's Islamic Revolutionary Guard Corps and Ministry of Intelligence and Security Forces have been directly involved in terrorist acts, and continue to support Palestinian groups with leadership cadres in Syria and Lebanese Hizballah to use terrorism in pursuit of their goals (see *Country Reports on Human Rights Practices 2007, Chapter 3 - State Sponsors of Terrorism Overview, supra*, at 1-5; *Country Reports on terrorism 2008, Chapter 3 - State Sponsors of Terrorism Overview, supra*, at 1-2). State Department reports claim Iranian authorities continue to provide military support and guidance to some Iraqi militant groups that target Coalition and Iraqi security forces and Iraqi civilians (see *Country Reports on terrorism 2008, Chapter 3 - State Sponsors of Terrorism Overview, id.*).

Long estranged from the West, Khomeini's regime charted regional goals that curtail the presence of the U.S. and other outside powers in the region. Iran's Islamic foreign policy continues to stress (1) vehement anti-U.S. and ant-Israel positions, (2)

elimination of outside influence in the region, (3) support for Muslim political movements abroad, (4) critical support to non-state terrorist groups, and (5) considerable increase in diplomatic contacts with developing countries (see *U.S. Dept. of State Background Note on Iran, supra*; *Country Reports on Human Rights Practices-2007, Chapter 3 - State Sponsors of Terrorism Overview, supra*; *Country Reports on Terrorism 2007, Chapter 3 - State Sponsors of Terrorism Overview, supra*). In this vein, Iran maintains regular diplomatic and commercial relations with Russia and the former Soviet republics. Of special U.S. concern has been Russian sales of military equipment and technology to Iran (see *U.S. Dept. of State Background Note on Iran, id.*, at 8).

Potential obstacles to improved relations between Iran and the U.S. include Iranian efforts to acquire technology that could be used to develop nuclear weapons and other weapons of mass destruction; its support for and involvement in international terrorism; its support for violent opposition to the Middle East peace process; and its dismal human rights record (see *The National Security Strategy of the United States of America, President of the United States* (March 2006), *supra*; *The Iranian Regime: A Challenge to the World*, U.S. Department of State (May 2006); *Making America Safer by Defeating Extremists in the Middle East, Statement by President of the United States* (August 2007); *President Bush Delivers State of the Union Address* (January 2008); *President Bush's Message to the Congress of the United States* (March 2008); *Annual Threat Assessment for the Senate Select Committee on Intelligence* (February 2008)).

State Department country reports cite significant restrictions on the right of citizens to change their government, summary executions (minors included), disappearances, torture and severe punishments (such as amputations and flogging), violence by vigilante groups with ties to the government, poor prison conditions, arbitrary arrest and detention (including prolonged solitary confinement), lack of judicial independence and fair public trials, political prisoners and detainees, excessive government violence in Kurdish areas and unknown groups in Arab regions of the country, severe restrictions on civil liberties and freedom of religion, official corruption, government transparency deficiencies, legal and societal discrimination against women, ethnic and religious minorities, trafficking in persons, incitement of anti-Semitism, severe restriction of workers' rights, and child labor (see *Country Reports on Human Rights Practices-2007, Iran, supra*).

Addressing reports of human rights violations in Iran, the UN General Assembly adopted a human rights resolution on Iran in December 2005 that expressed serious concern at the continuing use of torture in Iran and cruel, trafficking in persons, inhuman and degrading treatment or punishment, such as floggings and amputations, as well as public executions (see *Country Reports on Human Rights Practices-2007, Iran, id.*, at 3-24).

Even though Iran's constitution prohibits arbitrary arrest and detention, these practices remain common. Its regular and paramilitary security forces that share responsibility with Iranian police for law enforcement and maintaining order are reported to have committed numerous, serious human rights abuses in recent years (see *Country*

*Reports on Human Rights Practices-2007, Iran, id.*). Security forces responsible for arrest and detention often do not inform family members of a prisoner's welfare and locations, and often deny visits by family members and counsel.

State Department travel warnings urge U.S. citizens to carefully consider the risks of travel to Iran (see *U.S. State Department Travel Warning, Iran, 2008, supra*), a country with which the U.S. does not currently have diplomatic or consular relations. Citing Iran's non-recognition of dual citizenship and general declination to permit the Swiss to provide protective services for U.S. citizens who are also Iranian nationals, Americans who travel to Iran are strongly encouraged to register through the State Department's travel registration website (see *U.S. State Department Travel Warning, Iran, 2008, id.*).

Dual citizens residing or visiting in Iran are subject to all Iranian laws affecting U.S. citizens, as well as laws applicable to persons of Iranian nationality that impose special obligations on citizens of that country (see *U.S. State Department Travel Warning, Iran, 2008, id.*; *Country Specific Information, Iran, 2007, supra*). Dual nationals remain subject to Iran's military service requirements and can be conscripted into service while on Iranian soil. While such conscripted service seems unlikely to confront Applicant, given his age and longstanding U.S. citizenship, it remains a possibility. Reports indicate, too, that Iranian security personnel may at times place foreign visitors under surveillance, and even arrest or detain Iranian-Americans suspected of "acting against national security" (see *Country Reports on Human Rights Practices-2007, Iran, supra*, at 5-6; *Country Specific Information, Iran, 2007, id.*, at 2-3).

Because the Iranian government does not recognize dual nationality and will treat U.S.-Iranian dual nationals as Iranian citizens, regardless of their U.S. naturalization status, dual nationals who enter Iran only on a U.S. passport risk detention absent persuasive proof of their formal renunciation or loss of Iranian citizenship (see *Country Specific Information, Iran, 2007, id.* at 1). Because Applicant himself does not know how the Iranian authorities might consider his Iranian citizen status, he cannot be absolved of detention risk should he choose to travel to Iran on his U.S. passport.

### **Character assessments**

Applicant has received excellent endorsements from program managers and other colleagues who have worked with him closely and attest to his good character. Their assessments of Applicant reflect positively on his judgment, reliability and trustworthiness (see ex. A).

### **Policies**

The revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information (effective September 2006) list Guidelines to be considered by administrative judges in the decision making process covering DOHA cases. These Guidelines require the administrative judge to consider all of the "Conditions that could

raise a security concern and may be disqualifying” (Disqualifying Conditions), if any, and all of the "Mitigating Conditions," if any, before deciding whether or not a security clearance should be granted, continued or denied. The Guidelines do not require the administrative judge to assess these factors exclusively in arriving at a decision. In addition to the relevant Adjudicative Guidelines, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in E.2.2 of the Adjudicative Process of Enclosure 2 of the Directive, which are intended to assist the administrative judges in reaching a fair and impartial common sense decision.

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 considered 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 Adjudicative Guidelines, ¶ 6).

### **Burden of Proof**

By virtue of the precepts framed by the Directive, a decision to grant or continue an Applicant's request for 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 common sense 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. As with all adversary 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 any controverted fact[s] alleged in the Statement of Reasons, 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 showing of material bearing, 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, consideration must take account of 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 burden of proof shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation or mitigation of the Government's case.

### **Analysis**

Born and raised in Iran, Applicant became a naturalized U.S. citizen in 1996. He met his wife (a dual citizen with Iran) in 1996, and married her in 1999. Security concerns principally focus on Applicant's immediate and extended family members who are Iranian citizens residing in Iran. Applicant and his wife and family have deep roots in Iran, a country historically known to practice terrorism, and to exercise repression and human rights abuses against its own citizens, as well as dual citizens who visit the country.

The Government urges security concerns over risks that Applicant's mother and siblings on his side of the family who are citizens of Iran and reside there, as well as his wife's family members who are citizens and residents of Iran, might be subject to undue foreign influence by Iranian government authorities to access classified information in Applicant's possession or control.

By virtue of the Iranian citizenship and residency of the family members of both Applicant and his wife, 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 Adjudication Guidelines for foreign influence. The citizenship/residence status of these family members in Iran pose potential concerns for Applicant because of the risks of undue foreign influence that could compromise sensitive or classified information under Applicant's possession and/or control.

Because none of Applicant's family or W's family have any identified Iranian prior military or government service, 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," is warranted. To be sure, from what is known from the presented evidence, none of W's immediate family residing in Iran have any political affiliations with the Iranian government or military, have any history to date of being subjected to any coercion or influence, or appear to be vulnerable to the same.

Still, upon fully considering Applicant's explanations about his immediate and extended family members residing in Iran, and his wife's dual Iranian citizenship and deep family roots in Iran (which include all of her siblings who still reside there), risks of undue foreign influence on Applicant, his own siblings, his wife and her family members residing in Iran, cannot be safely discounted. Applicant/W's contacts with their family members appear to be substantial and ongoing, and clearly of the magnitude that could make them subject to a heightened security risk of pressure or compromise under Guideline B.

The Adjudicative Guidelines governing security clearances do not dictate *per se* results or mandate particular outcomes for any chosen set of guidelines covering risks of foreign influence. What is considered to be an acceptable risk in one foreign country may not be in another. While foreign influence cases must by practical necessity be weighed on a case-by-case basis, guidelines are available for referencing. Personnel security assessments continue to be governed by the same Change 4 requirements of the Directive for appraising the security risks associated with the individual's having family abroad, which include both common sense assessments of country risks and information available from public sources.

Unlike the old Adjudicative Guidelines, though, the new ones do take into account the country's demonstrated relations with the U.S. as an important consideration in gauging whether the particular relatives with citizenship and residency elsewhere create a heightened security risk. The geopolitical aims and policies of the particular foreign regime involved do matter.

As demonstrated, Iran has long been known to be a repressive country, who has committed numerous, serious human rights abuses in recent years, and shown little respect for the rule of law. The U.S. has no diplomatic relations with Iran. Iran remains a country on the State Department's state terrorist list, and one with a known history of hostage taking and human rights abuses of wide magnitude and scope. Iran is consistently characterized as a country historically hostile to American political and security interests since the 1979 fall of the Shah of Iran and ensuing establishment of an Islamic republic with close ties and support to non-state terrorist groups. Based on reported terrorist activities in the country and in other countries in the region with support links to Iran, Iran cannot be deemed to provide an acceptable political and security environment for managing hostage risks. Without such assurances, no reasonable conclusions can be reached that Applicant's immediate and extended family members are not in a position to be exploited by Iranian authorities.

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 U.S." is not available to Applicant. Neither Applicant nor his wife and their respective

family members residing in Iran can be characterized as sufficiently insulated from potential pressures and influence from the Iranian government and military officials to warrant application of this mitigating condition. Of some benefit 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 U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest.”

Applicant’s demonstrated loyalty, patriotism, and professional commitments to the U.S., while considerable, are not enough to neutralize all potential conflicts that are implicit in his relationships with his spouse, his siblings, and his wife’s family members. 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 own infrequent contacts with his wife’s family members residing in Iran. Application of MC 8(c) is necessarily limited, though, because of the frequent exchanges applicant and W maintain with their family members residing in Iran.

Two other mitigating conditions have mixed application to Applicant’s situation. MC 8(e), “the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country,” has some prospective value based on Applicant’s assurances of reporting his travel plans to Sudan, and his long absence from the country (no visits since 1996). But there is really no documented record of Applicant’s prior reporting of his contacts with members of his family and his wife’s family, respectively, to warrant any more than minimal consideration at this time. The same holds true with respect to MC 8(f), “the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.” The extent of Applicant’s and W’s financial interests and expectancies (e.g., inheritance) in Iran is not fully known at this time.

Given that Iran remains a hostile country with no diplomatic relations with the U.S., and one that lacks a secure infrastructure and track record for respecting human rights and the rule of law, the risk of a pressure or influence situation involving an immediate or extended family member of Applicant’s cannot be safely discounted. Iran’s strategic location and political character, when coupled with Applicant’s own demonstrated preference for the country, conduce to create security concerns over risks of direct or indirect pressure or influence of an immediate or extended family member of Applicant’s by Iranian authorities. These concerns are not sufficiently mitigated to permit safe predictive judgments about Applicant’s ability to withstand risks of exploitation and pressure attributable to his familial relationships and contacts with his immediate and extended family members domiciled in Iran.

Whole person assessment is not available either to minimize Applicant's exposure to conflict of interests with his Iranian family members. While Applicant is not aware of any risks of coercion, pressure, or influence that any of his, or his wife's, family members might be exposed to, the potential risk of coercion, pressure, or influence being brought to bear on him, his wife, or any of their respective family members remains uncertain, and therefore potentially considerable.

Overall, any potential security concerns attributable to Applicant's relations with his wife and their respective family members residing in Iran are insufficiently mitigated to permit safe predictive judgments about Applicant's ability to withstand risks of undue influence attributable to his familial relationships in the Sudan. Unfavorable conclusions warrant with respect to the allegations covered by sub-paragraphs 1.a through 1.f of Guideline B. Favorable conclusions warrant with respect to sub-paragraph 2.g due to the relative lack of any hostile threat posed by Applicant's travels to the UAE to visit his family.

In reaching my recommended decision, I have considered the evidence as a whole, including each of the factors and conditions enumerated in E2.2.2 of the Adjudicative Process of Enclosure 2 of the Directive.

### **Formal Findings**

In reviewing the allegations of the SOR in the context of the findings of fact, conclusions, and the factors and conditions listed above, I make the following separate formal findings with respect to Applicant's eligibility for a security clearance.

GUIDELINE B: (FOREIGN INFLUENCE):	AGAINST APPLICANT
Sub-paras. 1.a through 1.f:	AGAINST APPLICANT
Sub-para. 1.g:	FOR APPLICANT

### **Conclusions**

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's security clearance. Clearance is denied.

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Roger C. Wesley  
Administrative Judge