



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



In the matter of:

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ISCR Case No. 24-00117

Applicant for Security Clearance)

Appearances

For Government: Mark D. Lawton, Esq., Department Counsel

For Applicant: *Pro se*

04/17/2025

Decision

HARVEY, Mark, Administrative Judge:

Security concerns arising under Guidelines B (foreign influence) and E (personal conduct) are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On May 25, 2023, and November 19, 2018, Applicant completed and signed Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance applications (SCA). (Government Exhibit (GE) 1; GE 2) On August 23, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to

determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guidelines B and E. (HE 2) On August 31, 2024, Applicant provided a response to the SOR and requested a hearing. (HE 3) On December 5, 2024, Department Counsel was ready to proceed.

On December 11, 2024, the case was assigned to me. On December 17, 2024, the Defense Office of Hearings and Appeals (DOHA) issued a notice, scheduling the hearing for February 12, 2025. (HE 1) The hearing was held as scheduled.

Department Counsel offered three exhibits into evidence; Applicant offered four exhibits into evidence; there were no objections; and I admitted all exhibits into evidence. (Transcript (Tr.) 22-26; GE 1-GE 3; Applicant Exhibits (AEs) A-AE D) On February 16, 2025, DOHA received a transcript (Tr.) of the hearing. Applicant provided two exhibits after his hearing, which were admitted into evidence without objection. (AE E; AE F) The record closed on February 13, 2025, when the last exhibit was received. (Tr. 57)

Legal Issue

Department Counsel requested administrative notice concerning The Federal Democratic Republic of Ethiopia (Ethiopia). (Tr. 23; HE 5) Applicant did not object, and I granted Department Counsel's motion. (Tr. 23) Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 16-02522 at 2-3 (App. Bd. July 12, 2017); ISCR Case No. 05-11292 at 4 n. 1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004) and *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n. 4 (3d Cir. 1986)). Usually, administrative notice at ISCR proceedings is accorded to facts that are either well known or from government reports. See Stein, *Administrative Law*, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice). The government's administrative notice document is substantially quoted in the Ethiopia section with minor changes and deletion of the substantial list of human rights issues, *infra*. Footnotes and references have been omitted.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admitted or partially admitted the SOR allegations in ¶¶ 1.a, 1.d, and 1.g. (HE 3) He denied the SOR allegations in ¶¶ 1.b, 1.c, 1.e, 1.f, 2.a, and 2.b. His admissions are accepted as findings of fact. Additional findings follow.

Applicant is 44 years old, and he has applied for a position as an interpreter. (Tr. 6, 8) In 2000, he graduated from high school in Ethiopia. (Tr. 6; AE C) In 2002, he received a diploma in print journalism. (AE B) In 2007, he received a bachelor's degree in Ethiopia. (Tr. 7; AE D) In 2008, he married, and his five children are ages 6, 8, 12, 14, and 16. (Tr. 7) He has not served in the military of Ethiopia or the United States. (Tr. 8) He is currently

employed as a social worker or case counselor. (Tr. 29) He has never held a security clearance. (Tr. 29)

Foreign Influence

In 2010, Applicant immigrated to the United States, and in 2015, he was naturalized as a citizen of the United States. (Tr. 28) He has a U.S. passport and not an Ethiopian passport. (Tr. 30) Since 2010, he had been to Ethiopia three times. (Tr. 31) He stayed in Ethiopia from February 2020 to April 2021, from December 2021 to February 2022, and from November 2022 to March 2023. (GE 3 at 4) The lengthy stay in Ethiopia from 2020 to 2021 was due to his mother's illness and the COVID 19 pandemic. When he goes to Ethiopia, he stays with family. (Tr. 31) He does not own property, vote, or exercise any rights in Ethiopia. (Tr. 31) Two of his children were born in Ethiopia. (Tr. 32)

SOR ¶ 1.a alleges Applicant's mother, two brothers (B1 and B2), sister, and mother-in-law are citizens and residents of Ethiopia. I granted the motion to amend SOR ¶ 1.a to remove Applicant's mother from the list of relatives because she passed away in December 2023. (Tr. 13) His two brothers, sister, and mother-in-law are citizens and residents of Ethiopia. (Tr. 32-33) Applicant communicates with his B1 and sister about once a month, and he provides financial support to B1 because he is unemployed. (Tr. 36, 38) In December 2022, he visited B1 and his sister. (Tr. 37) B1 and Applicant's sister live together. (Tr. 37) Since 2011, Applicant sent \$100 every two months to his mother-in-law. (Counterintelligence Interview (CI) at 16; GE 3)

SOR ¶ 1.b alleges Applicant's brother (B2) is a citizen of Ethiopia and serves in an important position in the Ethiopian government. B2 has held this position for nine years; however, he is not an economic advisor to a high-level official in the Ethiopia government. (Tr. 33) Applicant visited B2 in 2023, and he communicated with him a week before his hearing. (Tr. 35) He communicates with B2 about four times a month. (Tr. 35)

SOR ¶¶ 1.c and 1.d allege Applicant has two friends, who are citizens and residents of Ethiopia, and who serve in important positions in the Ethiopian government. Actually, the two friends work for a regional government in Ethiopia and not the national government. (Tr. 39, 42) He communicates with them about once or twice a year. (Tr. 39, 43)

SOR ¶¶ 1.e and 1.f allege Applicant served in important positions in the Ethiopian national government from about 2007 to about 2009. Applicant denied that he had held an important position in the Ethiopia national government during his CI interview and at his hearing. (Tr. 45-47; CI at 8)

Applicant's June 22, 2023 Office of Personnel Management (OPM) personal subject interview (PSI) states Applicant said he was in important positions in the national government as indicated in SOR ¶¶ 1.e and 1.f. (Tr. 45-49; GE 3 at 3) He said when he affirmed the accuracy of the OPM PSI that he was not feeling well and did not carefully read the document. (Tr. 47) Alternatively, he said he thought he corrected the OPM PSI. (Tr. 49; CI at 8)

SOR ¶ 1.g alleges Applicant served in a position in the Ethiopian regional government from about 2007 to about 2009. Applicant admitted this was correct. (Tr. 50)

Personal Conduct

SOR ¶ 2.a alleges Applicant falsified material facts during a Counterintelligence Focused Security Screening Questionnaire conducted on September 7, 2023, with an authorized agent from the Fort Meade Screening Detachment, when he denied working in the important position in the Ethiopian government as indicated in SOR ¶ 1.e.

SOR ¶ 2.b alleges Applicant falsified facts in his November 19, 2018 SCA when he said he was unemployed from January 2007 to September 2010 and explained he "was in school between est 2007 until 2010. Then traveled to the US and looked for employment until 9/2010." SOR ¶ 2.b also states he was employed with the Ethiopian government as indicated in SOR ¶¶ 1.e, 1.f, and 1.g.

Applicant said the information in his 2018 SCA was a misunderstanding. (Tr. 52) He admitted that he worked from 2007 to 2010 as indicated in SOR ¶ 1.g. (Tr. 53)

Applicant's June 22, 2023 OPM PSI states Applicant said he did not provide the employment information in his 2018 SCA because he did not believe his life in Ethiopia was pertinent to his employment in the United States. (Tr. 48; GE 2; GE 3)

The Federal Democratic Republic of Ethiopia (Ethiopia)

The Ethiopian People's Revolutionary Democratic Front (EPRDF), an ethno-federalist political coalition, ruled Ethiopia from 1991 until its dissolution in 2019. Ethiopia adopted its constitution in 1994 and held its first multiparty elections in 1995. In 2019, Ethiopia's nearly 30-year ethnic-based ruling coalition, the EPRDF, merged into a single unity party called the Prosperity Party; however, the lead coalition party, the Tigray People's Liberation Front (TPLF), declined to join. In 2020, a military conflict erupted between forces aligned with the TPLF and the Ethiopian military. The conflict, which was marked by atrocities committed by all parties, ended in 2022 with a cessation of hostilities agreement between the TPLF and the Ethiopian government. However, Ethiopia continues to experience ethnic-based violence as other groups, including the Oromo Liberation Army (OLA) and Amhara militia Fano, seek concessions from the Ethiopian government.

In November 2023, the Secretary of State stated that, while TPLF forces have disarmed their heavy weapons and begun to demobilize, more actions are needed to bring lasting peace and stability to Tigray. Eritrean forces must fully withdraw. Both Ethiopia and Eritrea must refrain from provocation and respect the independence, sovereignty, and territorial integrity of all countries in the region. The U.S. also remains concerned about ongoing conflicts, in Amhara, Oromia, and elsewhere, that threaten Ethiopia's fragile peace. Continued human rights violations and abuses by multiple actors and the circulation of toxic rhetoric further erode a social fabric worn thin by war.

Ethiopia has made strides towards peace, despite internal conflicts that continue to threaten the country's stability. The November 2, 2022 "Agreement for Lasting Peace through a Permanent Cessation of Hostilities" (COHA – also known as the "Pretoria Agreement"), ended the conflict between the government of Ethiopia (GOE) and the Tigray People's Liberation Front. While COHA implementation is ongoing, provisions covering transitional justice, disarmament, demobilization, and reintegration and resettlement of internally displaced persons (IDPs) remain critical for future sustainable peace.

Ethiopia's internal conflicts have complicated the pursuit of peace and stability and created an environment where human rights abuses can proliferate. The COHA corresponded with improvements in the human rights situation, but all parties to the conflict in northern Ethiopia had committed war crimes.

The U.S. Department of State travel advisory for Ethiopia is at Level 3: Reconsider Travel due to sporadic violent conflict, civil unrest, crime, communications disruptions, terrorism and kidnapping in border areas. The U.S. Department of State advises not to travel to: (1) Tigray Region and border with Eritrea due to sporadic violent conflict, civil unrest, and crime; (2) Afar-Tigray border areas due to sporadic violent conflict, civil unrest, and crime; (3) Amhara Region due to sporadic violent conflict and civil unrest; (4) Gambella and Benishangul Gumuz Regions due to crime, kidnapping, ethnically motivated violence, and sporadic violent conflict; (5) Oromia Region due to sporadic violent conflict, civil unrest, and ethnically motivated violence; (6) Southern Nations and National People (SNNP) Region due to sporadic violent conflict, civil unrest, and ethnically motivated violence; (7) Border area with Somalia due to terrorism, kidnapping, and landmines; (8) Border areas with Sudan, and South Sudan due to crime, kidnapping, civil unrest, and sporadic violent conflict; and (9) Border areas with Kenya due to the potential for terrorism and ethnically motivated violence.

Al-Qaida and its regional affiliate, Somalia-based al-Shabaab, maintain a presence throughout East Africa. In late 2020, Ethiopian security officials announced the arrest of al-Shabaab and ISIS members who were accused of planning attacks in Addis Ababa and other parts of Ethiopia. Terrorist organizations continue to plan terrorist attacks against U.S. citizens and Western targets and interests in East Africa, as well as against high-profile targets within those countries that contribute troops to the African Union Mission in Somalia, including Ethiopia. Terrorist groups and those inspired by such organizations are intent on attacking U.S. citizens abroad.

The GOE continued to partner with the United States on counterterrorism issues in 2022, though in a diminished capacity because of assistance restrictions brought on by concerns about human rights abuses. Al-Shabaab and ISIS terrorist threats emanating from Somalia remained a high priority for the National Intelligence and Security Service (NISS). Armed groups espousing ethno-nationalist causes were the greatest and most persistent domestic violent extremist threats.

In August 2023, the U.S. Embassy in Addis Ababa warned that due to reports of conflict and civil unrest in Amhara, including in and around Lalibela, U.S. citizens are

advised to shelter in place until it is safe to leave. As the security environment remains fluid in Amhara, the U.S. Embassy urges U.S. citizens to avoid travel to the region. U.S. citizens should only seek to leave conflict areas when the security situation improves.

In its most recent annual Human Rights Report, the U.S. Department of State reported numerous significant human rights issues. At the Group of Seven (G7) Conference in Italy in April 2024, the combined countries provided a statement on addressing global challenges. With respect to Ethiopia, they noted that “while we welcome developments in the implementation of the cessation of hostilities agreement between the Government of Ethiopia and the Tigray People’s Liberation Front, we express concern for the persistent and violent tensions in many areas of the country, as well as reports of human rights violations and abuses, the severe economic crisis and widening food insecurity.”

The concerns at the G7 were reiterated by the U.S. Ethiopian Ambassador at a press conference held at Addis Ababa on May 15, 2024, where he said “when we see reports that civilians across this country have been subject to extrajudicial killings, arbitrary detention, enforced disappearance, conflict-related sexual violence, and other abuses at the hands of a range of actors, we are deeply distressed and those issues must be addressed with urgency and accountability, such as through a genuine, transparent transitional justice process.”

Policies

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

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk 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. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Foreign Influence

AG ¶ 6 explains the security concern about “foreign contacts and interests” stating:

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 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.

AG ¶ 7 lists conditions that could raise a foreign influence security concern and may be disqualifying in this case:

- (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; and
- (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.

AG ¶¶ 7(a) and 7(b) are established. Additional discussion is in the foreign influence mitigation section, *infra*.

AG ¶ 8 lists conditions that could mitigate foreign influence security concerns including:

- (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;
- (b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the 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;
- (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;
- (d) the foreign contacts and activities are on U.S. Government business or are approved by the agency head or designee;
- (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; and
- (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.

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2, [App. A] ¶ 2(b).

Applicant's two brothers (B1 and B2), sister, and mother-in-law are citizens and residents of Ethiopia. He frequently communicates with B1 and his sister (about once a month), and he provides financial support to B1 because he is unemployed. Since 2011, Applicant sent \$100 every two months to his mother-in-law. B2 serves in an important position in the Ethiopian government. B2 has held this position for nine years. He visited B2 in 2023, and he communicated with him a week before his hearing. He communicates with B2 about four times a month.

Applicant has two friends, who are citizens and residents of Ethiopia, and who serve in important positions in the Ethiopian regional government. He infrequently communicates with them about once or twice a year. His relationships with the two friends is not sufficiently close to cause a security concern. Security concerns pertaining to his two friends in SOR ¶¶ 1.c and 1.d are mitigated.

Applicant never held a position in the Ethiopian national government. SOR ¶¶ 1.e and 1.f are refuted. He left the position he held in the regional government in 2010, and it is not of sufficient importance to cause a security concern 15 years later in 2025. SOR ¶ 1.g is mitigated.

The Appeal Board has concluded that contact every two months or three months constitutes "frequent contact" under AG ¶¶ 7 and 8. ISCR Case No. 14-05986 at 3-4 (App. Bd. Oct. 14, 2016). See also ISCR Case No. 04-09541 at 2-3 (App. Bd. Sept. 26, 2006) (finding contacts with applicant's siblings once every four or five months not casual and infrequent and stating "The frequency with which Applicant speaks to his family members in Iran does not diminish the strength of his family ties."). Frequency of contact is not the sole determinant of foreign interest security concerns.

The mere possession of close family ties with people living in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if an applicant, his or her spouse, or someone sharing living quarters with them, has such a relationship with even one person living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified

information. See ISCR Case No. 08-02864 at 4-5 (App. Bd. Dec. 29, 2009) (discussing problematic visits of that applicant's father to Iran).

In ISCR Case No. 17-01979 at 5 (App. Bd. July 31, 2019) the Appeal Board reversed the grant of a security clearance and noted, "Application of the guidelines is not a comment on an applicant's patriotism but merely an acknowledgment that people may act in unpredictable ways when faced with choices that could be important to a loved-one, such as a family member."

Not every foreign contact or tie presents the heightened risk under AG ¶ 7(a). 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 ties 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 coercion. "[T]he nature of the foreign government involved, and the intelligence-gathering history of that government are among the important considerations that provide context for the other record evidence and must be brought to bear on the Judge's ultimate conclusions in the case. The country's human rights record is another important consideration." ISCR Case No. 16-02435 at 3 (App. Bd. May 15, 2018) (citing ISCR Case No. 15-00528 at 3 (App. Bd. Mar. 13, 2017)). Another important consideration is the nature of a nation's government's relationship with the United States. These factors are relevant in assessing the likelihood that an applicant's family members or friends living in that country are vulnerable to government coercion or inducement.

The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, the government ignores the rule of law including widely accepted civil liberties, a family member is associated with or dependent upon the government, the government is engaged in a counterinsurgency, terrorism causes a substantial amount of death or property damage, or the country is known to conduct intelligence collection operations against the United States. The situation in Ethiopia involving terrorists, insurgents, and criminals in that country places a significant burden of persuasion on Applicant to demonstrate that his relationships with anyone living in that country does not pose a security risk. Applicant should not be placed into a position where he might be forced to choose between the protection of classified information and concerns about assisting someone living in Ethiopia.

The issue under Guideline B is whether Applicant has ties or contacts with friends, family, or associates in Ethiopia, which raise security concerns because those ties and contacts create a potential vulnerability that criminals, or terrorists could seek to exploit in an effort to get unauthorized access to U.S. classified information that he has by virtue of a security clearance. Applicant may be vulnerable to influence or pressure exerted on, or through, his family living in Ethiopia.

International terrorist groups and insurgents are known to conduct intelligence activities as effectively as capable state intelligence services, and Ethiopia has a significant problem with terrorism and crime. Applicant's family living in Ethiopia "could be a means through which Applicant comes to the attention of those who seek U.S.

information or technology and who would attempt to exert coercion upon him.” ADP Case No. 14-01655 at 3 (App. Bd. Dec. 9, 2015) (citing ISCR Case No. 14-02950 at 3 (App. Bd. May 14, 2015)).

Applicant’s relationships with family living in Ethiopia create a potential conflict of interest because terrorists, insurgents, or criminals could place pressure on them to attempt to cause Applicant to compromise classified information. Those relationships create “a heightened risk of foreign inducement, manipulation, pressure, or coercion” under AG ¶ 7. Department Counsel produced substantial evidence of Applicant’s relationships with family living in Ethiopia and of violence and criminal activity in Ethiopia.

Applicant’s SOR does not allege: (1) he visited Ethiopia three times in the last five years for substantial periods of time; (2) he was not truthful when he told an OPM investigator on June 22, 2023, that he held important positions in the Ethiopian national government; and (3) he was not truthful at his hearing when he denied that he told the OPM investigator about the important positions he held in the Ethiopian national government. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered, stating:

- (a) to assess an applicant’s credibility; (b) to evaluate an applicant’s evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole person analysis under Directive Section 6.3.

Id. (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See also ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006))). The non-SOR information discussed above will not be considered except for the five purposes listed above.

A key factor in the AG ¶ 8(b) analysis is Applicant’s “deep and longstanding relationships and loyalties in the U.S.” His relationship with the United States must be weighed against the potential conflict of interest created by his connections to Ethiopia. Applicant was born in Ethiopia, and he moved to the United States in 2010. In 2015, he was naturalized as a citizen of the United States. He has a U.S. passport and no Ethiopian passport. His spouse and children are U.S. citizens.

These factors are balanced against the security concerns outlined in the SOR. Applicant’s access to classified information could add risk to his family in Ethiopia. There is no allegation that he would choose to help the terrorists or criminals against the interests of the United States. A Guideline B adjudication is not a judgment on an applicant’s character or loyalty to the United States. It is a determination as to whether an applicant’s circumstances foreseeably present a security risk. See ISCR Case No. 19-00831 at 5 (App. Bd. July 29, 2020). The concern here pertains to the risk to his family

living in Ethiopia and how that risk could be used to coerce Applicant. It does not relate to his loyalty or patriotism to the United States.

Applicant has not rebutted the concern arising from his relationships with family in Ethiopia. His travels to Ethiopia are also a factor indicating his care and concern for citizens and residents of Ethiopia and his affection for them. His connections to the United States, taken together, are insufficient to overcome the foreign influence security concerns under Guideline B.

Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern stating:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. . . .

AG ¶ 16 provides one personal conduct condition that could raise a security concern and may be disqualifying in relation to her provision of inaccurate information on her SCA, "(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire . . . used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities."

SOR ¶ 2.a alleges Applicant falsified material facts during a Counterintelligence Focused Security Screening Questionnaire conducted on September 7, 2023, with an authorized agent from the Fort Meade Screening Detachment, when he denied working in the important position in the Ethiopian government as indicated in SOR ¶ 1.e. He refuted the allegation because he did not hold an important position working for the Ethiopian national government. He did not lie to the CI agent.

SOR ¶ 2.b alleges and the record established that Applicant falsified facts in his November 19, 2018 SCA when he said he was unemployed from January 2007 to September 2010 and explained he "was in school between est 2007 until 2010." He was employed as indicated in SOR ¶ 1.g working for a regional government entity.

The questions about employment are straight forward and easy to understand. He knew his answer was false at the time he provided it. He admitted that he gave the false answer because he did not believe the information was relevant.

Applicant elected not to disclose accurate information on his 2018 SCA. The record evidence establishes AG ¶ 16(a) in relation to SOR ¶ 2.b.

AG ¶ 17 provides conditions that could mitigate security concerns in this case:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress; and
- (f) the information was unsubstantiated or from a source of questionable reliability.

None of the mitigating conditions fully apply. Applicant was not truthful when he told an OPM investigator on June 22, 2023, that he held important positions in the Ethiopian national government, and he was not truthful at his hearing when he denied that he told the OPM investigator about the important positions he held in the Ethiopian national government. His false statements to the OPM investigator and at his hearing show lack of rehabilitation. His false statement on his 2018 SCA continues to cast doubt on his reliability, trustworthiness, and good judgment. Personal conduct security concerns are not mitigated.

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 the Applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable

participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall commonsense judgment based upon careful consideration of the guidelines” and the whole-person concept. My comments under Guidelines B and E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is 44 years old, and he has applied for a position as an interpreter. In 2007, he received a bachelor's degree in Ethiopia. In 2008, he married, and his spouse and five children are U.S. citizens. He has resided in the United States for 15 years. He has important connections to the United States as discussed under Guideline B and in the statement of facts.

The reasons for denying Applicant's security clearance are more persuasive. A Guideline B decision concerning Ethiopia must take into consideration the geopolitical situation and dangers in that country. See ISCR Case No. 04-02630 at 3 (App. Bd. May 23, 2007) (remanding because of insufficient discussion of geopolitical situation and suggesting expansion of whole-person discussion); ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing grant of security clearance because of terrorist activity in the West Bank). Ethiopia is a dangerous place because of violence from terrorists, insurgents, and criminals. Terrorists continue to threaten the interests of the United States, and those who cooperate and assist the United States.

Aside from his contacts with close relatives (his siblings and mother-in-law), the other contacts with friends in Ethiopia are mitigated because they are relatively infrequent and unlikely to result in a risk of coercion from nefarious entities in Ethiopia.

Applicant visited Ethiopia three times in the last five years. He has frequent contacts with his siblings and he provides financial support for his mother-in-law. They are citizens and residents of Ethiopia. Concern for and loyalty to family living in Ethiopia is a positive character trait. However, Applicant did not meet his burden of showing that he was unlikely to come to the attention of those interested in acquiring U.S. classified information. “Application of the guidelines is not a comment on an applicant's patriotism but merely an acknowledgment that people may act in unpredictable ways when faced with choices that could be important” to a family member. See *Generally* ISCR Case No. 17-01979 at 5 (App. Bd. July 31, 2019).

Applicant was not truthful: on his 2018 SCA when he said he was unemployed in Ethiopia from about 2007 to 2010; when he told an OPM investigator on June 22, 2023, that he held important positions in the Ethiopian national government; and when he denied at his hearing that he told the OPM investigator about the important positions he

held in the Ethiopian national government. His false statements cast doubt on his reliability, trustworthiness, and good judgment.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont*, 913 F. 2d at 1401. I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant failed to mitigate foreign influence and personal conduct security concerns.

Formal Findings

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

Paragraph 1, Guideline B:	AGAINST APPLICANT
Subparagraphs 1.a and 1.b:	Against Applicant
Subparagraphs 1.c through 1.g:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	Against Applicant

Conclusion

Considering all the circumstances in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge