

KEYWORD: Foreign Influence

DIGEST: Applicant is a computer software engineer for a defense contractor. He was born in Taiwan, and came to the United States in 1981 to further his education. He and his wife became United States citizens in 1992, and they have two sons who are United States citizens. He owns property in the United States but not in Taiwan. His parents, five siblings, parents-in-law, and brothers-in-law are citizens and residents of Taiwan. He has a childhood friend that he sees on his visits to Taiwan. He has established that his relatives and friend in Taiwan are not in a position to cause him to be vulnerable to exploitation, pressure, or coercion. Clearance is granted.

CASENO: 06-25859.h1

DATE: 09/10/2007

DATE: September 10, 2007

In Re: ----- SSN: ----- Applicant for Security Clearance))))))))	ISCR Case No. 06-25859
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**DECISION OF ADMINISTRATIVE JUDGE
THOMAS M. CREAN**

APPEARANCES

FOR GOVERNMENT

Emilio Jaksetic, Esq., Department Counsel

FOR APPLICANT

Jeffrey Gutman, Esquire

SYNOPSIS

Applicant is a computer software engineer for a defense contractor. He was born in Taiwan, and came to the United States in 1981 to further his education. He and his wife became United States citizens in 1992, and they have two sons who are United States citizens. He owns property in the United States but not in Taiwan. His parents, five siblings, parents-in-law, and brothers-in-law are citizens and residents of Taiwan. He has a childhood friend that he sees on his visits to Taiwan. He has established that his relatives and friend in Taiwan are not in a position to cause him to be vulnerable to exploitation, pressure, or coercion. Clearance is granted.

STATEMENT OF THE CASE

On March 30, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the basis for its decision to deny a security clearance for Applicant. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive). The new adjudicative guidelines (AG), promulgated by the President on December 29, 2005, and effective in the Department of Defense on September 1, 2006, will be used to adjudicate this case. Applicant acknowledged receipt of the SOR on April 9, 2007. The SOR alleges security concerns under Guideline B (Foreign Influence) of the Directive.

Applicant answered the SOR in writing on April 16, 2007. He admitted all of the allegations under Guideline B with detailed explanations. He requested a hearing before an administrative judge, and the request was received by DOHA on April 17, 2007. Department Counsel was prepared to proceed with the case on May 9, 2007, and the case was assigned to another Administrative Judge on May 14, 2007. The case was reassigned to another Administrative Judge on June 12, 2007, and reassigned to me on August 3, 2007. A notice of hearing was issued on June 28, 2007, for a hearing on August 15, 2007. Applicant was unavailable for a hearing from July 10 to August 3, 2007. The hearing was convened as scheduled on August 15, 2007. Four government exhibits, marked Government Exhibits 1-4, were admitted without objection. Six Applicant exhibits, marked Applicant Exhibits A-F, were admitted without objection. The testimony of the Applicant and two Applicant witnesses were received during the hearing. The transcript (Tr.) was received by DOHA on August 28, 2007.

PROCEDURAL ISSUES

Applicant moved to supplement and amend his answer to the SOR¹. Applicant's supplemental answer does not make any substantial changes to the original answer to the SOR, but includes additional details and fact for the whole person analysis. Department Counsel did not object to consideration of the Supplemental Answer to the SOR except for any portion of the

¹Applicant Exhibit A (Motion to File Amended Response, dated July 25, 2007).; Applicant Exhibit B (Amended & Supplemental Response to Statement of Reasons, dated July 25, 2007).

supplemental information that is considered argument rather than facts. The motion to supplement and amend the answer to the SOR is granted, and is admitted.²

Department Counsel and Applicant requested that administrative notice be taken of facts pertaining to Taiwan.³ Department Counsel presented ten documents to support the facts requested to be accepted for administrative notice.⁴ Applicant requested different or additional facts to be considered by administrative notice,⁵ and presented 13 documents in support of the request.⁶ Administrative notice was taken of material and relevant facts concerning Taiwan as noted in the Findings of Facts section of this decision.⁷

FINDINGS OF FACT

Applicant admitted all of the allegations under Guideline B. After a thorough review of the pleadings, transcript, and exhibits, I make the following essential findings of fact.

Applicant is a 52-year-old computer software engineer. He has a bachelor's degree in economics from a university in Taiwan, and a master's degree in computer engineering from a university in the United States. He completed the course work for a doctorate in computer engineering from an United States university, but has not completed his dissertation. He is married with two sons. His wife was born in Taiwan but is a United States citizen. His two sons were born in the United States and are United States citizens.⁸

Applicant was born in Taiwan in 1955. He attended schools in Taiwan ending with the award of a bachelor's degree. He took the competitive examination and started working for a commercial bank in Taiwan in 1977. He worked at the bank until 1981, when he emigrated to the United States to pursue graduate work in computer software engineering. He received a master's degree from a United States university and started working for companies in the United States. Applicant became a United States citizen in 1992. After receiving his master's degree, he worked for various companies in the computer programming field, leaving each for better positions and advancement in other companies. In 2002, he commenced working for a defense contractor in positions not requiring a security clearance.⁹ He submitted his security clearance application in

²Tr. 9-14.

³Court Exhibit I.

⁴Court Exhibits II-XI.

⁵Court Exhibit XII.

⁶Court Exhibit XIII and XXV.

⁷Tr. 15-46.

⁸Tr. 118-119.

⁹Tr. 120-128.

2005.¹⁰

Applicant had a Taiwanese passport when he emigrated to the United States. He renewed his Taiwanese passport in 1996, after becoming a United States citizen. He went to a Taiwan interest office in the United States for a visa to enter Taiwan for a periodic visit. The Taiwan officials asked to see his Taiwanese passport to be able to spell his Chinese name using Chinese characters. Because the passport was about to expire, the official asked Applicant if he wished to renew the passport. Applicant renewed the passport. He never used it and it expired in 2002. He turned this passport over to his facilities security officer (FSO) who destroyed it. The only passport he has, and the only passport he has used since he became a United States citizen, is his United States passport. Applicant believes he is a dual citizen of both Taiwan and the United States because of Taiwan's citizenship laws. He is willing to take the necessary steps to renounce his Taiwanese citizenship. He requested instructions to do so but has not taken any steps to renounce the citizenship. He never voted in Taiwan or performed or undertaken any other citizenship activity. He did the two-year compulsory military service required of all healthy Taiwanese men. Applicant has no business or financial interests in Taiwan. All of his financial, property, and business interests are in the United States.¹¹

Applicant's parents are citizens and residents of Taiwan. Applicant's father is an 80-year-old retired civil engineer for the local town, and in poor health. He is partially paralyzed from a stroke, is totally unable to care for himself, and must relying on a live-in care giver to provide the essentials of daily living. His mother has always been a housewife working at home. His parents stay at home, and his mother assists with his father's care. His father received a lump sum pension payment when he retired. As is the practice in Taiwan, the lump sum payment went to a bank and draws a high interest. His parents are able to live within the interest resources except for the funding required for his father's medical care. His father receives no other payments from the government. Applicant and his other siblings assist his parents in paying the live-in health care provider. Applicant's sends his parents about \$4,500 annually to help defray the cost. When his father dies and no longer needs the health care, Applicant will not be required to send money to his parents.¹² He feels a sense of filial piety or sacred duty to assist with the care of his parents. Since he is not the oldest son, he does not have primary responsibility for their care but he does have a duty to assist with their care. He does not discuss his work with his parents. They only know he is involved in computer work.¹³

Applicant has two older and two younger brothers and a younger sister who are citizens and residents of Taiwan. One of his younger brothers received a masters degree in architecture from a United States university and returned to Taiwan to open his own architecture firm. His other younger brother has visited the United States on a tour. All of his other siblings have never been to

¹⁰Government Exhibit 1 (Electronic Questionnaire for Investigative Processing, (E-QIP), dated October 26, 2005).

¹¹Tr. 109-114; 175-17; Government Exhibit 2 (Response to Interrogatories, dated February 22, 2007), at 6-28. This exhibit included a copy of the Taiwan passport and the FSO's statement of destruction. *See*, Applicant Exhibit F (Applicant's Resume, undated).

¹²Tr. 127-136.

¹³Tr. 159-169.

the United States. They have no plans to move to the United States. His oldest brother works in construction as a civil engineer for a private company doing school construction. His second oldest brother is a retired teacher, who receives some form of pension from the government. His youngest brother runs an architectural firm, and his other younger brother works for him as his office manager. His sister is an administrative assistant for a business. None of his relatives work for the Taiwan government.¹⁴ Most of Appellant's contacts with his siblings are with his second oldest brother, the retired teacher. He talks to him about every two or three months discussing family matters and his sons and their education. His only other sibling communication is basically when he visits Taiwan. He usually visits his family in Taiwan every two or three years. Sometimes it is more frequent depending on the health of his parents. He goes with his family but sometimes he has to go by himself. His last visit to Taiwan was three weeks during the summer of 2007. His entire family, wife and sons, visited his parents, his siblings, and his wife's family. He does not discuss his work with his siblings, even the retired teacher that he communicates with the most.¹⁵ He has never been approached by any individual, family member, friend, or official on his trips to Taiwan to discuss his work. He has never been asked to provide any information on any projects he has or was working. No one has ever requested information from him about his work.

Applicant contacts and sees a childhood friend when he visits Taiwan. The friend is the lead accountant for a department of the central bank of Taiwan. He communicates with his friend by telephone only occasionally because they are both busy with their families and work. He does communicate with the friend by e-mail for special occasions like birthdays. He contacts the friend and other school acquaintances when he visits Taiwan, and they meet for dinner. They talk about current Taiwan events and their families. They do not talk about his job or occupation, except telling them he is in computers. He does not feel any loyalty or obligation to his friend. However, he feels the relationship is more than a casual because they have maintained a long friendship.¹⁶

Applicant met his wife when they were in college in Taiwan and they were married in 1984. She followed her husband to the United States in January 1985 to further her education. She became a United States citizen in 1992, and resides with Applicant and her family in the United States. Her Taiwan passport was renewed in 1996 after she became a United States citizen, but has expired and is not current. She does not remember why she applied for and received the new Taiwan passport. She never used her Taiwan passport since becoming a United States citizen. She only has a current United States passport. She has never voted in Taiwan or performed any other citizenship activity in Taiwan. However, she believes she is a dual citizen of Taiwan and the United States. She has not taken any steps to renounce her Taiwan citizenship. She is also a computer program engineer working as a business systems analyst for a major United States internet service provider. She held a security clearance for two years while working on a classified project for a defense contractor. She does not work on classified projects in her present position.¹⁷

Applicant's wife's parents and two brothers are citizens and residents of Taiwan. Her parents

¹⁴Tr. 136-142, 169-178.

¹⁵Tr. 168-171.

¹⁶Tr. 143-146, 163-165.

¹⁷Re, 83-89; Applicant Exhibit D (Taiwan Passport, dated June 12, 1996, expired June 19, 2002).

owned a small shop but are retired. Her brothers now run the shop. None of her relatives worked for the Taiwan government. She talks to her mother a few times a month by telephone. She will occasionally talk to her father if he is available when she calls. Applicant rarely talks to her family except on holidays or as a courtesy. She mainly talks about her parents' health and her children. They never discuss Applicant's work. She does not send money to her family except at New Year's as part of custom and tradition. She does not own any property in Taiwan or expect to inherit anything from her parents. Since becoming a United States citizen, she usually travels to Taiwan about every three years to visit family and friends. Since coming to the United States, she has returned to Taiwan about four or five times. Her last trip was in the summer of 2007. She and Applicant usually visit her family a few times when they are in Taiwan. They always stay with his family and not with her family.¹⁸ Applicant knows of no reasons for them to be subject to exploitation. His only obligation to them is to care for their daughter, his wife. As a son-in-law, he has no obligation to care for them. He never communicates with his brothers-in-law and only sees them when he visits his wife's family. They never discuss his work.¹⁹

Applicant is well regarded at work by his supervisors and co-workers. A group leader for Applicant's employer testified that he has known Applicant for over two years. He does not have direct supervision over Applicant, but does supervise Applicant on some of his work projects. He sees Applicant frequently, a few hours a week. He travels with him to present material to government clients. As a project lead, he does provide performance information on Applicant to Applicant's supervisor. His reports on Applicant are always very positive. The clients are also very positive about Applicant's work. He has never observed Applicant doing anything that would raise any security concerns.²⁰

Applicant presented a letter of recommendation from his employer's associate department head. The individual has known Applicant for over two years, and is responsible for monitoring his performance and development. Applicant is a dedicated, honest, and responsible individual. He is professional and highly ethical. He is convinced Applicant will clearly have the interest of national security if granted access to classified information.²¹

During World War II and after, a civil war was fought on the mainland of China between the Chinese Communist Party and the Nationalist Chinese. In 1949, the Chinese Communist Party was victorious and established a government on the mainland. The Nationalist Chinese fled to Taiwan and established a government. Taiwan has developed steadily since then and is now the world's 17th largest economy. Taiwan became a member of the World Trade Organization in 2002, further expanding its trade opportunities and further strengthening its standing in the global economy. This prosperity established economic and social stability.

Until 1986, Taiwan's political system was effectively controlled by one party, the Kuomintang. Since ending martial law in 1987, Taiwan has taken dramatic steps to improve respect

¹⁸Tr. 90-103.

¹⁹Tr. 140-143.

²⁰Tr. 60-80.

²¹Applicant Exhibit C (Letter, dated August 8, 2007).

for human rights and create a democratic political system. The United States has been committed to maintaining cultural, commercial, and other nonofficial relations with Taiwan since January 1979, when it formally recognized the government of the People's Republic of China (PRC) as the sole legal government of China. By formal act of Congress (Taiwan Relations Act of 1979), the United States is committed to provide Taiwan with military defensive arms in support of Taiwan's security and stability in the region. The United States also stated it would maintain cultural, commercial, and other unofficial relations with the people of Taiwan. Despite the United States clear and consistent position that Taiwan and the mainland are part of one China, United States commercial ties have expanded with Taiwan and the United States is supportive of Taiwan's membership in international organizations, such as the World Trade Organization and the Asian Development Bank.²² While still pursuing a closer relationship with Taiwan, the official United States position on Taiwan and mainland China seems to be a criticism of mainland China's buildup opposite Taiwan with periodic cautions and warnings to the effect that United States support for Taiwan is not unconditional, but has limits. Smooth United States and PRC relations are an important tool in cooperating against terrorism and maintaining stability in Pacific region. Faced with competing pressures and the continuing transformation on both the PRC and Taiwan systems, the United States government may be facing new and more difficult policy choices concerning Taiwan in the next few years.²³

The parties disagree on the character of Taiwan. The government claims Taiwan poses a threat to national security because, in the past, it was one of the countries most actively engaged in industrial espionage and the collection of foreign economic information.²⁴ It presented information concerning individual's in the United States convicted of engaging in espionage practices with Taiwan companies or officials. It also notes Taiwan's proximity to mainland China and the national security threat from PRC. On the other hand, Applicant established that Taiwan has a democratic political system, has made dramatic steps toward improving its respect for human rights, has ended restrictions on freedom of the press and the formation of new political parties, and has relaxed restrictions on personal freedoms.²⁵ The relationship between the United States and Taiwan is defined in the Taiwan Relations Act which was a recognition of Taiwan by the United States.²⁶ Taiwan has a long history of friendly relations with the United States, including substantial levels of foreign trade. The claims of the parties are not irreconcilable. Taiwan can still be an ally and friend but pose a security threat because of efforts to obtain national security information.

²²See, United States, Department of State's Background Note: Taiwan, dated April 2007.

²³See, Congressional Research Service Report to Congress: Taiwan: Recent Developments and U.S. Policy Choices, dated October 9, 2006.

²⁴See, Annual Report to Congress on Foreign Economic Collection and Industrial Espionage. While the report is undated, the government's request for administrative notice refers to the document as a 2000 report. There are a number of examples in this report of espionage on U.S. economic and industrial activities by Taiwanese officials or companies. Also of note is a Private Industry Survey by officials of the National Counterintelligence Center listing Taiwan as one of the most active collectors of economic and industrial espionage. The list of most active collectors was developed by contacting nearly a dozen selected Fortune 500 companies for their view of the problem of foreign economic collection and industrial espionage. Only a small sampling, 12 of 500, of companies were contacted. The companies and individuals contacted are not identified. The report was given minimal weight.

²⁵See, United States State Department Background Notes, Taiwan, dated April 2007; United States Department of State, Country Report on Human Rights Practices-2006, China (Taiwan Only) dated March 6, 2007).

²⁶Public Law 96-8.

The government contends that the PRC must be considered when discussing security threats from Taiwan because of its proximity to Taiwan. It is noted that China is hostile to the United States and has interests inimical to those of the U.S. China is ruled by a totalitarian government that depends on the suppression of its people for continuation in power. The PRC government has a poor record of human rights that features, among other things, repression of political and religious dissenters. China is known to engage in espionage against the United States, both economically, militarily, and technically. Chinese security personnel place foreign visitors under surveillance and subject them to search without their knowledge or consent.²⁷

POLICIES

The President has “the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information.”²⁸ Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive.²⁹

The Directive sets out the adjudicative guidelines for making decisions on security clearances. Enclosure 2, amended by the new Administrative Guidelines, of the Directive sets forth the standards for determining eligibility for access to classified information, listing the disqualifying conditions and mitigating conditions to be considered for each guideline. Each clearance decision must be fair, impartial, and a commonsense decision based on the relevant and material facts and circumstances, the whole person concept.

The adjudicative process is an examination of a sufficient period of a person’s life to make an affirmative determination that the person is eligible for a security clearance. An administrative judge must apply the “whole person concept,” and consider and carefully weigh the available, reliable information about the person. An administrative judge should consider: (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 of recurrence.³⁰

A person granted access to classified information enters into a special relationship with the government. The government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. The decision to deny an individual a

²⁷See, Consular Information Sheet-China, dated March 19, 2007; United States Department of State, Country Report on Human Rights Practices-2006: China (including Tibet, Hong Kong, and Macau), dated March 6, 2007.

²⁸*Department of the Navy v. Egan*, 484 U.S. 518 (1988).

²⁹Directive ¶ E2.2.1.

³⁰AG 2(a).

security clearance is not necessarily a determination as to the loyalty of the applicant.³¹ It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must present evidence to establish controverted facts in the SOR that disqualify or may disqualify the Applicant from being eligible for access to classified information.³² Thereafter, Applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate facts.³³ An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.”³⁴ The government is under no duty to present evidence to disprove any Adjudicative Guideline mitigating condition, and an Administrative Judge cannot assume or infer that any particular mitigating condition is applicable merely because the government does not present evidence to disprove that particular mitigating condition.³⁵ “[T]he Directive presumes there is a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability.”³⁶ “Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security.”³⁷

CONCLUSIONS

I carefully considered all of the factors in evidence and the legal standards discussed above. I reach the following conclusions regarding the allegations in the SOR.

Under Guideline B, 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 United States interest, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign county 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 State citizens to obtain protected information and/or is associate with a risk of terrorism.

Applicant admits his parents and siblings are citizens and residents of Taiwan. He admits he has a close friend since childhood who is a citizen and resident of Taiwan. He admits his parents-in-law and two brothers-in-law are citizens and residents of Taiwan. Appellant’s admitted relatives and friends who are citizens and residents of Taiwan raise Foreign Influence Disqualifying Condition (FI

³¹See Exec. Or. 10865 § 7.

³²Directive ¶ E3.1.14.

³³ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002); see Directive ¶ E3.1.15.

³⁴ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

³⁵ISCR Case No. 99-0597 (App. Bd. Dec 13, 2000).

³⁶ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996) (quoting DISCR Case No. 92-1106 (App. Bd. Oct. 7, 1993))

³⁷*Egan*, 484 U.S. at 531; see Directive ¶ E2.2.2.

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). Each individual contact by itself may not create a heightened risk of foreign influence, but the totality of the contacts does indicate there may be a heightened risk of foreign influence.

In determining if Applicant's family and friend in Taiwan cause security concerns, I considered that Taiwan is an ally of the United States, has a defense agreement with the United States, and is one of the United States' substantial trading partners. I considered that Taiwan improved its human rights position and its people enjoy basic freedoms. While the United States has a one-China policy, the United States does maintain cultural, commercial, and other ties with Taiwan. I considered that Taiwan does engage in economic and other types of espionage, and there are instances of Taiwan officials and companies engaging in such espionage with individuals in the United States. There are no indications that in these instances Taiwan was targeting United States citizens to provide economic or other sensitive information. I also considered that faced with new and competing national interest, the United States policy toward Taiwan could change. While Taiwan is a country that is friendly to the United States, even as a friendly country, it could engage in espionage against United States interests. Friendly countries may have profound disagreements with the United States or have engaged in espionage against United States economic, scientific, or technical interest. A friendly relationship is not determinative, but it makes it less likely that a foreign government would attempt to exploit a United States citizen through relatives or associates in that country. Taiwan is not a hostile country, nor are its interests inimical to the United States. The United States and Taiwan are large democracies, enjoy good relations, and are trading partners. It is reasonable to consider that Taiwan would not take any action to jeopardize their friendly position with the United States because of their need for trade and defense assistance from the United States. It would be consider an act unfriendly to the interest of the United States to coerce its citizens with relatives in the United States to pressure their United States relatives to provide economic or other espionage information against the interest of the United States. While none of the considerations by themselves dispose of the issue, they are all factors to be considered in determining Applicant's vulnerability to pressure or coercion from his family members in Taiwan.

I considered the proximity of PRC to Taiwan and that the PRC is very actively engaged in economic and other espionage against the United States. I considered that PRC's interests are against United States interests. However, I also note that none of Applicant's relatives are in PRC and there is no connection of his family with PRC. So, the consideration of PRC is not a significant factor in considering Applicant's vulnerability to pressure or coercion.

While Applicant and his wife share living quarters, his wife is a United States citizen residing in the United States, and does not create by herself a security concern for Applicant. The security concern raised by Applicant's wife's family are a direct security concern for Applicant, so FIDC ¶ 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) need not be considered as a separate disqualifying condition.

Department counsel argues that FIDC ¶ 7(h) (indications that representatives or nationals from a foreign country are acting to increase the vulnerability of the individual to possible future exploitation, inducement, manipulation, pressure or coercion) is raised by the information presented.

The only information presented concerned general indications of past actions of Taiwanese officials engaging in espionage activities. The disqualifying condition specifically pertains to indication that representatives of the country are increasing the vulnerability of the individual (Applicant) for possible future exploitation. There are no indications of any targeting of Applicant for future exploitation. The disqualifying condition has not been raised.

Applicant has raised Foreign Influence Mitigating Conditions (FIMC) ¶ 8(a) (the nature of the relationship 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 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 interest of the United States). Applicant presented information that his father is a retired civil engineer from a local government. He received a lump-sum payment as a pension and uses the interest for living expenses. As such, he is not dependent on any government entity for his pension. His father is also very ill requiring continuous medical care. His mother was a housewife who appears to be healthy, and the interest from the father's retirement fund will sustain her in her remaining years. Applicant's siblings are professional working for private businesses in Taiwan. They are engineers, architects, retired teachers, and office managers. His wife's parents are retired shop keepers. His brothers-in-law have taken over their parents' shop. His friend works for the central bank in Taiwan but he is not a high officer or official in the bank. He is a lead accountant for one of the department within the bank. He sees the friend for dinner on his trips to Taiwan. Applicant's information concerning his family members' living conditions, life style, and professions, and the nature and extent of his relationship with his friend show it is unlikely Applicant will be placed in a position to choose between the interests of his family and friend and the interests of the United States. Applicant has established that his family and friend in Taiwan do not present a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. They are ordinary citizens leading normal lives which also does not indicating a heightened risk of exploitation, pressure, or coercion. The positions and activities of his family and friend and the fact they are in Taiwan show that it is unlikely that Applicant will be placed in a position of being coerced or pressured to choose between these people and his interests in protecting the national security of the United States. FIMC ¶ 8(a) applies.

Applicant has raised FIMC ¶ 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 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 vulnerability to duress is also important. Applicant and his wife have been in the United States for over 23 years, and have been citizens of the United States for over 15 years. They have two sons, born and educated in the United States and are citizens of the United States. Applicant and his wife have substantial financial interest in the United States and have no financial interest in Taiwan. The couple are gainfully employed by businesses in the United States. The wife at one time was granted a security clearance when performing defense contracting work. Applicant is considered a highly valuable employee. While Applicant and his family have made numerous and repeated trips to Taiwan, they were solely for the purpose of visiting family. Applicant has demonstrated that he is not unusually vulnerable to duress. Applicant has a sense of loyalty or obligation to his family and friend in Taiwan. But he also has long standing relationship and connections in the United States. He has demonstrated that these relationships will lead him to resolve any conflict of interest in favor of the United States. FIMC ¶ 8(b) applies.

Applicant has raised FIMC ¶ 8(c) (contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation). The vulnerability to duress of Applicant's relatives and friend in Taiwan is important. Applicant has the burden of presenting information to refute, extenuate, or mitigate the security concerns raised by the government. Applicant's contacts with his relatives and friend in Taiwan are not casual. Applicant is in contact with his mother every few months. His father is ill so his contacts with him are minimal. He has minimal contacts with his siblings, except for a brother who he talks to every few months. He rarely talks to his friend, but occasionally exchanges e-mails and sees him on every visit to Taiwan. He does not consider his friendship as casual since it has continued since childhood. He rarely if ever talks to his in-laws, but his wife talks to her mother a few times a month. While these contacts are infrequent, they are with family members and a friend, so they are not casual. They are maintained because the relationships are deeply held. When considering the contacts either individually or collectively, they are not casual. Accordingly, FIMC 8(c) does not apply.

As noted above, FIDC 7(h) has not been raised. However, if it was raised, Applicant has presented information to refute and mitigate the security concern. Applicant has never been approached or questioned about his work by any family member, friend, or Taiwan official. When in Taiwan, no one asked about his employer or his work projects. No one has indicated to him that his family or friends are under pressure or duress by the Taiwan government because of him. He has shown that there are no indications that representative or individuals in Taiwan are acting to increase his vulnerability to exploitation, inducement, manipulation, pressure or coercion.

I carefully considered all of the circumstances discussed above in regard to disqualifying and mitigating conditions as well as the following factors in light of the "whole person" concept. The "whole person" concept requires consideration of all available information about Applicant, not a single item in isolation, to reach a common sense determination concerning Applicant's security worthiness. Applicant's family and friends in Taiwan both individually and collectively are in positions and circumstances that make it unlikely Applicant will be placed in a position to choose between the interests of his family and friend and the interest of the United States, or can be exploited, pressured, or coerced because of them.³⁸ Applicant has been in the United States for over 23 years and a citizen of the United States for over 15 years.³⁹ His wife and sons are with him in the United States and they are United States citizens. He has accumulated significant assets in the United States. His co-worker and his supervisor consider him to be security conscious. He does not discuss his work with his family, friends, or in-laws in Taiwan. He does travel to Taiwan periodically for the purpose of visiting family. Applicant and his wife have no property or income in Taiwan. Their assets are solely in the United States. Applicant's life story is an example of the success of many immigrants to the United States. He came to the United States early in his life to better himself through education. He remained here and has been a citizen for over 15 years. His wife came to the United States for the same reason and is a successful professional. Their children were born in the United States and are citizens. The family enjoys a typical United States life style with small vestiges of their Chinese culture. Applicant is a trusted employee. As a good son, he takes care of his parents and visits them periodically. All of his visits to Taiwan were for family purposes rather than any connection to the

³⁸AG ¶ 2 (8).

³⁹AG ¶ 2 (4).

Taiwanese government.⁴⁰ He has established that his motivation for his contacts and activities with his family and friend in Taiwan do not indicate a security risk. He has presented sufficient information to mitigate any security concerns under the “whole person” concept. I conclude Applicant is eligible for access to classified information.

FORMAL FINDINGS

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

Paragraph 1, Guideline B:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	For Applicant

DECISION

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national security to grant a security clearance for Applicant. Clearance is granted.

Thomas M. Crean
Administrative Judge

⁴⁰AG ¶ 2 (7).