

KEYWORD: Foreign Influence, Personal Conduct, Criminal Conduct

DIGEST: Applicant was born and raised in Afghanistan. In 1985, at the age of 18, he left Afghanistan with his mother and one brother. They immigrated to the United States in 1986. All three are now citizens of the United States, as are his two children. Two brothers are citizens of and reside in Afghanistan. His sister is a citizen of and resides in Canada. Applicant's relationship with his brothers in Afghanistan does not create a heightened risk for exploitation, inducement manipulation, pressure, or coercion. He did not intentionally falsify his security clearance application, and he has demonstrated rehabilitation of his criminal conduct. He has mitigated the government's concerns regarding foreign influence, and his past criminal conduct. The government did not establish its case under Guideline E, personal conduct. Clearance is granted.

CASENO: 07-00034.h1

DATE: 09/06/2007

DATE: September 6, 2007

In re:)	
)	
)	
-----)	ISCR Case No. 07-00034
SSN: -----)	
)	
Applicant for Security Clearance)	
)	

**DECISION OF ADMINISTRATIVE JUDGE
MARY E. HENRY**

APPEARANCES

FOR GOVERNMENT

Julie R. Edmunds, Esq., Department Counsel

FOR APPLICANT

SYNOPSIS

Applicant was born and raised in Afghanistan. In 1985, at the age of 18, he left Afghanistan with his mother and one brother. They immigrated to the United States in 1986. All three are now citizens of the United States, as are his two children. Two brothers are citizens of and reside in Afghanistan. His sister is a citizen of and resides in Canada. Applicant's relationship with his brothers in Afghanistan does not create a heightened risk for exploitation, inducement manipulation, pressure, or coercion. He did not intentionally falsify his security clearance application, and he has demonstrated rehabilitation of his criminal conduct. He has mitigated the government's concerns regarding foreign influence, and his past criminal conduct. The government did not establish its case under Guideline E, personal conduct. Clearance is granted.

STATEMENT OF THE CASE

On January 8, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified. The SOR 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. Specifically, the SOR sets forth security concerns arising under Guideline B (Foreign Influence), Guideline J (Criminal Conduct) and Guideline E (Personal Conduct) of the revised Adjudicative Guidelines (AG) issued on December 29, 2005 and implemented by the Department of Defense, effective September 1, 2006. DOHA recommended the case be referred to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. On March 19, 2007, Applicant submitted a notarized response to the allegations. He elected to have his case decided on the written record in lieu of a hearing.

Department Counsel prepared a File of Relevant Material (FORM) and provided Applicant with a complete copy on June 20, 2007. Applicant had 30 days from receipt of the FORM to file objections and submit material in refutation, extenuation, or mitigation. He did submit a brief response, updating information on the people who know him well. DOHA assigned the case to me on August 13, 2007.

PROCEDURAL ISSUES

In its submission of relevant material, the government included a Motion to Amend the Statement of Reasons (SOR) to add the following allegation:

- 2.b "That information as set forth in subparagraph 3.a. below, which is a felony violation of federal law 18 U.S.C. § 1001."

Applicant has not filed a response to the motion. The government's motion is granted and the SOR is amended to include the additional allegation.

The government has requested that I take administrative notice of certain facts concerning Afghanistan. In support of its request, it submitted Items I through VIII.

FINDINGS OF FACT

Applicant admitted the allegations under Guideline B, subparagraph 1.b and Guideline J, subparagraph 2.a of the SOR.¹ Those admissions are incorporated as findings of fact. He denied the remaining two allegations in the original SOR.² In his response to the FORM, he did not admit or deny allegation 2.b., which is deemed denied.³ After a complete review of the evidence in the record and upon due consideration, I make the following findings of fact.

Applicant was born in Afghanistan 40 years ago. In 1985, at age 18, he left Afghanistan with his mother and a brother to avoid military service. They emigrated to Pakistan. In 1986, the United States (U.S.) accepted him as a refugee.⁴ He became a U.S. citizen in 1992 and holds an active U.S. passport.⁵

Applicant has two children, ages 12 and 11, who were born in the U. S., are citizens of the U.S., and reside in the U.S. His father is deceased. His mother and one brother are citizens of and reside in the U.S. His sister is a citizen of and resides in Canada. Two brothers are citizens of and reside in Afghanistan, where they work in auto part sales. He speaks with them monthly and has stated that their lives are much better now. These two brothers do not work for the Afghanistan government. He married in 2001. He and his wife are legally separated, but not divorced.⁶

Since arriving in the U.S., Applicant has worked as a baker in the donut industry, except for approximately 14 months, when he worked as a linguist for Department of Defense contractors.⁷ A contractor hired him in 2003, then in September 2003, deployed him to Afghanistan to work as an interpreter for the U.S. Army. His Army colleagues and supervisors describe him as a person with exceptional courage and judgment, a team member and highly trusted interpreter. He not only interpreted the words spoken for two major Afghanistan dialects and other dialects, he also explained and assessed the cultural context of a conversation and the underlying meaning. He became the

¹Item 3, Applicant's response to the SOR, dated March 19, 2007, at 1.

²*Id.*

³Because he is not a lawyer and English is his second language, Applicant has not demonstrated a complete understanding of the full impact of the government's motion to amend the SOR. He failed to discern the legal impact of the motion, but did file a response. For purposes of my decision, I deem his response to be a denial of the allegation.

⁴Since his mother lives in the U.S. and is a U.S. citizen, I assume that the U.S. accepted her as a refugee.

⁵Item 4 (Applicant's Security Clearance Application, dated March 12, 2004); Item 7 (CI Screening Questionnaire-Middle East) at 11.

⁶Item 4, *supra* note 5, at 5, 6; Item 7, *supra* note 5, at 5.

⁷Item 5 (Applicant's Security Application (SF-86), dated January 18, 2007) at 3, 12. A contractor seeks to again deploy Applicant as an interpreter and cultural advisor.

cultural advisor for their unit and effectively screened out problems. He reported a complaint by an Afghan local against him, which in their opinion is a reflection of his integrity. He placed himself in a position of potential harm on at least one occasion and in another situation, provided highly valuable support to team members in a dangerous situation. His Army colleagues and supervisors give him high praise for the work he did, and uniformly comment that the mission and their tasks would have been much more difficult without him. Each and everyone would serve with him again. While at this outpost, Applicant, his two brothers, and a cousin recruited 110 locals to help with base security. He accepted this position because he wanted to help the U.S. and make Afghanistan safer.⁸

In the last seven years, he traveled to Romania through London, UK, to Germany through Amsterdam, and to Afghanistan for work in 2003. His only other travel has been to Canada to visit his sister. From the evidence of record, his trip to Afghanistan in 2003 was his first since leaving Afghanistan at age 18. The record contains no evidence as to the travels of his family members living in the U.S.⁹

In 2002, Applicant's wife alleged that he beat her during a domestic dispute, which he denies. The police arrested him and charged him with simple assault, a misdemeanor under state law. Based on the advice of counsel, he pled nolo contendere to the charge. The court sentenced him to 80 hours of community service; fined him \$200; directed him to attend a victim impact panel meeting and successfully complete a batterer's intervention prevention program; directed he stay away from his wife; and placed him on 18 months of probation. He complied with the conditions of his plea. The court set aside the guilty finding and dismissed his case on October 7, 2004.¹⁰

In January 2004, Applicant met with an investigator while in Afghanistan. As a result of this interview, the investigator completed a CI Screening Questionnaire. In his responses to the questionnaire, Applicant denied any political activity, terrorist involvement, or other assistance from the Afghanistan government or others in Afghanistan. He has no financial interests or property in Afghanistan. He provided other information to the investigator, which was reduced to a written statement dated February 14, 2004. In his signed and sworn statement, Applicant admitted to taking one puff of a marijuana cigarette when walking with his cousin in the spring of 2002. He stated it was a stupid thing to do. He denies any smoking or other use of marijuana since this time. He denies the use of any other illegal drugs and stated that he did not intend to smoke marijuana again or use any other illegal drug in the future.¹¹

⁸Response, *supra* note 1, at 5-11; Item 7, *supra* note 5, at 1.

⁹Item 7, *supra* note 5, at 13, 18.

¹⁰Item 8 (Arrest report, dated August 6, 2002); Item 9 (Court records on plea, dated February 7, 2003); Response, *supra* note 1, at 4.

¹¹Item 7, *supra* note 5, at 1-2, 6; Item 10 (Applicant's signed statement, dated February 16, 2004) at 1-2. The first page of Item 7 indicates a date of January 10, 2004 and the remaining pages show a January 10, 2005 date. Applicant states that he was interviewed in January 2004. He signed a statement on February 16, 2004 as a result of the interview. Given Applicant's statement, I find that a government investigator interviewed him in January 2004 and the questionnaire was electronically completed by the investigator on January 10, 2005.

When Applicant completed his security clearance application on March 12, 2004 and again on January 18, 2007, he answered “no” to the question about illegal use of a controlled substance. In his response, he denies any intent to falsify his answer. He stated he made a mistake when completing his application.¹²

I take administrative notice of the following adjudicative facts from the U.S. Department of State reports submitted by the government. Afghanistan is an Islamic Republic and emerging democracy. With the support of the U. S. and other nations, its new government endeavors to build a new system of government and to rebuild the country’s infrastructure. Its Army and police force are well trained. It continues to face significant challenges from the insurgency and terrorist organizations supported by the ousted Taliban and Al Qa’ida. The government is not complacent about the terrorist threat or the insurgency; rather it actively seeks to eliminate both with the assistance of the U.S. and NATO. The new government is working to reverse a long legacy of serious human rights abuses, but serious problems remain. Afghanistan is now an active member of the international community and has signed a “Good Neighbor” declaration with six nations bordering it and promotes regional cooperation. The U.S. supports the emergence of a broad-based government in Afghanistan. In May, the leaders of both countries concluded a strategic partnership agreement committing to a long-term relationship between both countries. Afghanistan continues to seek U.S. support as it moves forward towards democracy and stability. None of the documents offered in support of the request for administrative notice indicate whether Afghanistan is an active collector of intelligence information.¹³

POLICIES

The revised Adjudicative Guidelines (AG) set forth disqualifying conditions (DC) and mitigating conditions (MC) applicable to each specific guideline. An administrative judge need not view the revised adjudicative guidelines as inflexible ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines, are intended to assist the administrative judge in reaching fair and impartial common sense decisions. Although the presence or absence of a particular condition or factor for or against clearance is not outcome determinative, the revised AG should be followed whenever a case can be measured against this policy guidance. In addition, each security clearance decision must be based on the relevant and material facts and circumstances, the whole-person concept, and the factors listed in the Directive. Specifically, these are: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct; (3) the frequency and recency of the conduct; (4) the individual’s age and maturity at the time of the conduct; (5) the voluntariness of participation; (6) the presence or absence of rehabilitation and other

¹²Item 3, *supra* note 1, at 3.

¹³Item I (U.S. Department of State, Bureau of South and Central Asian Affairs, May 2007, Background Note: Afghanistan); Item II (U.S. Department of State, Bureau of Consular Affairs, Consular Information Sheet, Afghanistan, September 15, 2006); Item III (U.S. Department of State, Bureau of Consular Affairs, Afghanistan, June 18 2007); Item IV (U.S. Department of State, Afghanistan, Country Reports on Human Rights Practices, 2006, dated March 6, 2007); Item V (U.S. Department of State, Afghanistan, Country Reports on Terrorism, April 30, 2007, Chapter 2); Item VI (Annual Threat Assessment of the Director of National Intelligence, January 11, 2007); Item VII (U.S. Department of State, Country Reports on Terrorism, April 30, 2007, Chapter 5); (U.S. Department of State, Country Reports on Terrorism, April 30, 2007, Chapter 5 Southeast Asia Overview).

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.¹⁴

The sole purpose of a security clearance determination is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant.¹⁵ The government has the burden of proving controverted facts.¹⁶ The burden of proof is something less than a preponderance of the evidence.¹⁷ Once the government has met its burden, the burden shifts to the applicant to present evidence of refutation, extenuation, or mitigation to overcome the case against him.¹⁸ Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.¹⁹

No one has a right to a security clearance,²⁰ and “the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials.”²¹ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.²² Section 7 of Executive Order 10865 specifically provides industrial security clearance decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” The decision to deny an individual a security clearance is not necessarily a determination as to the allegiance, loyalty, and patriotism of an applicant.²³ 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.

CONCLUSIONS

Upon consideration of all the facts in evidence, and after application of all appropriate adjudicative factors, I conclude the following with respect to the allegations set forth in the SOR:

Foreign Influence

¹⁴Directive, revised Adjudicative Guidelines (AG) ¶ 2(a)(1)-(9).

¹⁵ISCR Case No. 96-0277 at 2 (App. Bd., July 11, 1997).

¹⁶ISCR Case No. 97-0016 at 3 (App. Bd., Dec. 31, 1997); Directive, Enclosure 3, ¶ E3.1.14.

¹⁷*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

¹⁸ISCR Case No. 94-1075 at 3-4 (App. Bd., Aug. 10, 1995); Directive, Enclosure 3, ¶ E3.1.15.

¹⁹ISCR Case No. 93-1390 at 7-8 (App. Bd. Decision and Reversal Order, Jan. 27, 1995); Directive, Enclosure 3, ¶ E3.1.15.

²⁰*Egan*, 484 U.S. at 531.

²¹*Id.*

²²*Id.*; Directive, revised AG ¶ 2(b).

²³Executive Order No. 10865 § 7.

Under Guideline B, foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, or 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. (AG ¶ 6.) 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*; DC ¶ 7(b) *connections 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*; and DC ¶ 7(d) *sharing living quarters with a person or persons, regardless of citizenship status, if the relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion* may apply. Applicant has regular contact with his two brothers who still live in Afghanistan. His mother lives with him. Although the record does not reflect whether his mother has contact with family members living in Afghanistan, commonsense dictates that if he contacts his brothers, most likely his mother has similar contacts. When he returned to Afghanistan as an interpreter, Applicant contacted his brothers, who also helped him recruit locals for work with the Army, not to support those who may have interests contrary to the U.S. or who seek to harm the U.S. The work provided much needed income and money for the locals and helped protect the interests of the U.S. Thus, DC 7 ¶ 7(b) is not applicable because no conflict of interest exists.

In deciding whether DC ¶ 7(a) and (d) may apply, I must determine if Applicant's contacts with his two brothers in Afghanistan create a heightened risk of foreign exploitation, inducement, manipulation, pressure or coercion. His brothers work in auto part sales, a type of job which would not bring them into regular contact with person's whose interests are adverse to the U.S. or with other governments. The U.S. and Afghanistan governments have a good and positive working relationship. They are vigorously working together to establish democratic principles and a stable government in this emerging democracy. Applicant does not provide financial support to his brothers. Outside of his trip to Afghanistan as part of his employment, he has not traveled to his homeland since leaving in 1985. His mother lives with him in the United States. Although the frequency and nature of her contacts with family members in Afghanistan is unknown, the above facts also apply to her.

His work as an interpreter supported the U.S. military mission in Afghanistan, not the work of those who seek to destroy the growing democracy in this country. The new Afghanistan government relies upon the U.S. for support, both financially and militarily, as it moves forward with its new form of government. While Afghanistan's human rights record under the Taliban was very dismal and serious problems continue, its human rights record is slowly improving under the new government. Since helping him recruit Afghan locals to work with the Army three years ago, neither Applicant nor his brothers have been pressured by any organization to provide any type of information, classified or otherwise, about the U.S.

In every case where a sibling lives overseas, there is a risk of pressure on this relative and through them upon the holder of a security clearance. Under the facts of this case, a heightened risk for exploitation, inducement, manipulation pressure, or coercion is not substantial. Applicant has significant ties to the U.S. and few ties to Afghanistan. While he still has two brothers living in Afghanistan, his mother and two other siblings no longer live there. Two are U.S. citizens and one

is a citizen of Canada. His two children are U.S. born and have resided in the U.S. at all times. He has no financial or property interests in Afghanistan. He wants to help the U.S. in its role in the redevelopment of Afghanistan. Applicant's ties with the U.S. are much stronger than his ties with Afghanistan. The Army holds his work as a translator in high regard. He provided more than language interpretation skills. He explained local cultural nuances and practices which greatly assisted the military in accomplishing its mission. During his time in Afghanistan, he worked very hard to help the Army. He developed a high level of trust with the Army and the Afghan locals.

If a heightened risk exists because he still has two brothers in Afghanistan, he has mitigated any government concern under MC ¶ 8(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 U.S.* and 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.* His brothers sell auto parts and are not involved with the government of Afghanistan or any non-governmental organization which seeks to harm the U.S. In fact, his brothers helped him to recruit Afghan locals to work for the U.S. military. They have not experienced any repercussions because of these actions from any source. There is little likelihood that Applicant will be placed in a position of having to choose between the interests of the U.S. and a foreign entity. Likewise, because of his close ties and his loyalties to the U.S., he would resolve any conflict of interest in favor of the U.S.

Personal Conduct

Under Guideline E, 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. (AG ¶ 15.) Applicant voluntarily admitted to one puff of marijuana in 2002 during an interview with a government investigator in January 2004, but he subsequently failed to disclose this drug use on his SF-86. Applicant's conduct raises the possible application of DC ¶ 16(a) *deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.* Applicant denies that he falsified his answer to the questions about his use of illegal drugs in the last seven years. When a falsification allegation is controverted, the government has the burden of proving it. Proof of an omission, standing alone, does not establish or prove an applicant's intent or state of mind when the omission occurred. An administrative judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning an applicant's intent or state of mind at the time the omission occurred.²⁴ For DC ¶ 16 (a) to apply, the government must establish that Applicant's omission, concealment or falsification in his answer was deliberate.

²⁴See ISCR Case No. 03-09483 at 4 (App. Bd. Nov.17, 2004)(explaining holding in ISCR Case No. 02-23133 at 5 (App. Bd. Jun. 9, 2004)).

Applicant voluntarily provided information about his one puff on a marijuana cigarette during an interview with a government investigator. At this point, the government knew about his one time use of marijuana. Because English is his second language, his full understanding as to the information sought by the drug question in his SF-86 is not known. Throughout the investigatory process, he has provided truthful answers to all information requested of him about his finances and his family overseas. The record contains no evidence which reflects an intent to hide information from the government about himself and his family. His failure to list his one time use of marijuana was nothing more than a mistake exacerbated by the fact that English is his second language. The government has failed to establish that he intentionally lied when completing his SF-86.

Criminal Conduct

Under Guideline J, criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations. (AG ¶ 30.) In 2002, the police arrested Applicant and charged him with simple assault, a misdemeanor criminal offense under state law, after his wife filed a complaint of domestic abuse. Even though he denies her allegation of abuse, on advice of counsel, he pled nolo contendere to the charge. The application of DC ¶ 31(c) *allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted* applies.

MC ¶ 32(d) *there is evidence of successful rehabilitation; including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive community involvement* applies. Applicant complied with the terms of his probation, in lieu of a sentence, which included staying away from his wife and attending a batterer's intervention prevention program and a victim impact program. Because he complied with the terms of his probation, the court then set aside the finding of guilty and dismissed his case. He has not been charged with any additional violence against his wife, and continues to stay away from her. He does not live with her, although they both live in the same large geographic area. This is his only arrest since arriving in the U.S. over 20 years ago. He regularly works as a baker in the donut industry. His Army colleagues praise his work skills and ethics while working as an interpreter and would work with him again. Because I find that he did not intentionally lie when he answered his SF-86, the government has not established its case under allegation 2.b. He has mitigated the government's concerns about his criminal conduct.

Whole Person Analysis

Protection of our national security is of paramount concern. Security clearance decisions are not intended to assign guilt or to impose further punishment for past transgressions. Rather, the objective of the adjudicative process is the fair-minded, commonsense assessment of a person's trustworthiness and fitness for access to classified information. Thus, in reaching this decision, I have considered the whole person concept in evaluating Appellant's risk and vulnerability in protecting our national interests.

In the more than 20 years since he left Afghanistan, Applicant returned once, to work as an interpreter for the U.S. Army. Because he guided the Army personal on local customs and nuances related to the spoken word and responded very well in highly dangerous situations, the Army views

him as a valuable resource in helping it achieve its mission in Afghanistan.²⁵ With his long absence from Afghanistan, he has few contacts in the country outside of his two brothers, who were also willing to help the Army in its mission.

While danger certainly exists for all who go to Afghanistan, Applicant and his brothers are in no greater danger than any other individual living and working in Afghanistan. The U.S. and Afghanistan governments have developed a close and positive working relationship. Afghanistan depends upon the U.S. and its NATO allies to help in its fight to combat the developing insurgency and terrorist forces on its border with Pakistan. The Afghanistan government is moving forward with democracy and developing a rule of law, with the assistance of the U.S.

Applicant has strong ties to the U.S. His children and mother are in the U.S. For most of his adult life, he has worked as a baker to support his family and himself. His one arrest resulted in finding of guilt by the court, which was later set aside after he complied with all the terms of his sentence and probation. He has not been involved in any further incidents with his wife. He lives away from her. He sees his children regularly despite the long distance between them. He has no ties to any organization which seeks to harm the U.S. or to overthrow the existing Afghanistan government. Because the government knew about his one-time use of marijuana, he did not falsify his SF-86.

I have carefully weighed the evidence in favor of Applicant against the government's concerns about Applicant's ability to protect classified information. I find that there is little potential for Applicant to be pressured, coerced, or exploited because two brothers live in Afghanistan and his past criminal conduct. Accordingly, I recommend that Applicant be granted a security clearance.

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:

SOR ¶ 1-Guideline B : Subparagraphs a-b:	FOR APPLICANT For Applicant
SOR ¶ 2-Guideline E: Subparagraph a:	FOR APPLICANT For Applicant
SOR ¶ 3-Guideline J: Subparagraph a-b:	FOR APPLICANT For Applicant

²⁵In ISCR Case No. 05-03846 at 6 (App. Bd. Nov. 14, 2006), the Appeal Board recognized an exception to the general rule in Guideline B cases when an applicant has established by credible, independent evidence that his compliance with security procedures and regulations occurs in the context of dangerous, high-risk circumstances in which the applicant had made a significant contribution to the national security and can be relied upon to recognize, resist and report a foreign power's attempts at coercion or exploitation.

DECISION

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

Mary E. Henry
Administrative Judge