



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 18-02245

Appearances

For Government: Tovah Minster, Esq., Department Counsel

For Applicant: Mark A. Myers, Esq.

10/04/2019

Decision

WESLEY, Roger C., Administrative Judge:

Based upon review of the pleadings and exhibits, I conclude that Applicant mitigated the security concerns regarding foreign influence. Eligibility for access to classified information is granted.

History of Case

On November 21, 2018, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) detailing reasons why DOD adjudicators could not make the affirmative determination of eligibility for a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or) 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and Security Executive Agent, Directive 4, *National Security Adjudicative Guidelines* (SEAD) 4), effective June 8, 2017.

Applicant responded to the SOR on December 27, 2018, and requested a hearing. The case was assigned to me on May 2, 2019, and was scheduled for hearing on August 22, 2019. A hearing was convened as scheduled, for the purpose of considering whether it would be clearly consistent with the national interest to grant, continue, deny, or revoke Applicant's security clearance. At hearing, the Government's case consisted of three exhibits; Applicant relied on one witness (herself) and 17 exhibits. The transcript (Tr.) was received on September 4, 2019.

Besides its three exhibits, the Government requested administrative notice of detailed facts taken from nine U.S. Government official publications. Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292 (App. Bd. April 12, 2007). Administrative notice is appropriate for noticing facts or government reports that are well known. See *Stein*, Administrative Law, Sec. 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports containing the identified facts in Department Counsel's Request for Administration Notice regarding the Republic of Bangladesh (Bangladesh) that address the geopolitical situation in Bangladesh. Administrative Notice was extended to the documents themselves, consistent with the provisions of Rule 201 of Fed. R. Evid. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing Bangladesh's current state. Department Counsel's Administrative Notice Request was received as HE 1.

In addition to the source documents covered by Department Counsel's Administrative Notice Request, I took official notice of *Background Note: Bangladesh*, U.S. Department of State (December 2007). This document was received as HE 2.

Procedural Rulings

Before the close of the hearing, Applicant requested to open the record to take additional testimony and supplement the record with additional documentation. For good cause shown, Applicant was granted seven days to supplement the record, but her request to reopen the record to take additional testimony was denied. Within the time permitted, Applicant supplemented the record with additional documents that were marked and admitted without objection as Appellant's exhibits (AEs) R-II.

Summary of Pleadings

Under Guideline B, Applicant is alleged to have (a) a father-in-law who is a citizen and resident of Bangladesh, who formerly served as a high-ranking official in the government of Bangladesh, and who since 2006, provided Applicant and her husband with approximately \$80,000 of financial support; (b) a step-son who is a citizen and resident of Bangladesh; (c) a step-daughter who is a citizen of Bangladesh who currently resides in Canada to attend a university; (d) a sister who is a citizen of Australia currently residing in Bangladesh; (e) an aunt who is a citizen and resident of Bangladesh; (f) five uncles who are citizens and residents of Bangladesh; (g) a grandmother who is a citizen

and resident of Bangladesh; and (h) cousins who are citizens and residents of Bangladesh.

In her response to the SOR, Applicant, admitted each of the allegations with explanations. She claimed that many of her relatives are U.S. citizens and residents: her son, husband, mother (with her father deceased), two sisters, brother, two brothers-in-law, five nephews and nieces, and two cousins. She claimed she immigrated to the United States in 1991 to live with her-then husband and son who was born in the United States. She claimed she made numerous real estate purchases in the United States and became a successful small business owner. She further claimed that she has since closed her real estate business to focus on her career as a U.S. contractor and pursue her advanced education that she was denied by her parents in Bangladesh.

Findings of Fact

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

Applicant's background

Applicant was born and raised in Bangladesh to parents of Bangladesh descent. (GEs 1-3 and AE B) She immigrated to the United States in February 1991 to live with her previous husband (her sponsor at the time), and son who was born in the United States. (GEs 1-3; Tr. 108) She became a naturalized U.S. citizen in September 2001, and received her U.S. passport in January 2007. (GE 1 and AE U) Applicant retains no dual citizenship with Bangladesh and never renewed her Bangladesh passport that expired in April 2001. (GEs 1-2; Tr. 109)

Applicant married her first husband in Bangladesh in June 1990 and divorced in February 2003. (GE 1) She has one adult son (age 28) from this marriage. (GE 1) Her son is a U.S. citizen by birth and lives with his girlfriend in a neighboring state. (GEs 1-3) Applicant remarried in December 2006 and has two stepchildren (ages 19 and 20) from this marriage. (GE 1) from this marriage. (GEs 1-2) Both her stepdaughter and stepson are citizens and residents of Bangladesh. (GEs 1-2 and AE A) Her current husband was born and raised in Bangladesh and became a naturalized U.S. citizen in May 2010. (GE 1 and AE AA)

Applicant earned a high school diploma in Bangladesh in January 1986 and an associates degree from a college in Bangladesh in May 1988. (GEs1-2) She attended classes in the United States community colleges between January 2008 and June 2010, and between January 2009 and July 2010. Although, she made the Dean's list at these colleges, she did not earn a degree or diploma. (GEs 1-2)

Applicant earned a bachelors degree in information technology (IT) with honors in June 2010 and a masters degree in cyber-security in May 2015. (GEs 1-2 and AE I; Tr. 34) Applicant reported no military service in either Bangladesh, or since her immigration to the United States in 1991. (GEs 1-2) Like herself, her current husband earned bachelor's and master's degrees from accredited U.S. education institutions. (AEs Z and CC)

Since October 2014, Applicant has worked for her current employer. (GEs 1-2 and AE A; Tr. 42-43, 46-48, 73-74, 106-106) Contemporaneously with her current employment, she and her former husband established a private telecommunications company in July 2000 in limited liability form (LLC). (GE 3 and AE FF; Tr. 110-111) Applicant and her present husband operate this business out of their home. She reports three principals: herself, her husband, and a third person. (GE 3) She estimates the company earns about \$26,000 a year on average, which the company retains for business development purposes. (Tr. 112-113)

The major sales focus of Applicant's LLC enterprise has centered on network engineering services, with minimal reported income to date. (GE 3) Applicant's responsibilities entail general supervision of the entity and advice on various matters. (GE 3 an AE FF) But she is not an employee of the company, draws no salary, is not self-employed, and has no supervisor. (GE 3 and AE FF) Neither she nor her husband draw any salaries from their company. (AE FF)

Between January 2012 and October 2014, Applicant worked full-time jobs for other defense contractors in positions that ranged from test engineer to program manager. (GEs 1-2; Tr. 43-46) Previously, she held positions with non-defense contractors in the real estate field, and earlier with gambling casinos. in June 2004. (GEs 1-3) She currently holds domestic real estate licenses (Tr. 47-48, 107), and in the past has held a public trust clearance while supporting federal contracts. (GEs 1-3) she has never been counseled nor cautioned about security violations. (Tr. 107-108)

Applicant's immediate family members include her mother, two stepchildren, one son, three sisters, one brother, and a grandmother. (GEs 12) Only her mother, two oldest sisters (ages 40 and 35) and son are U.S. citizens, her son by birth and her mother and sisters by U.S. naturalization. (GEs 1-3; Tr. 33-34) Her youngest sister (age 30) is a dual citizen of Australia and Bangladesh, who previously resided in Australia before returning to Bangladesh over four years ago. (GEs 1-3; Tr. 85-89) Currently, she is a vice principal and teacher of a private Bangladesh school and lives alone in a Bangladesh apartment without a husband or children. (GEs 1-3; Tr. 84-90) She last saw her youngest sister on her trip to Dhaka in 2016 and has made no contact of any kind with her sister since her return from her 2016 trip. (Tr. 90-92) She is a vice-principal of a local Methodist English school in Bangladesh where she also teaches economics. (GEs 1-2; Tr. 89)

Applicant has a grandmother who is a citizen and resident of Bangladesh. (GEs 1-3) She has a permanent resident card that permits her to travel to and from the United States without a visa. (AE X) Her grandmother is nearing 78 years of age and has always

been a homemaker. (GEs 1-2; Tr. 92) Two of her six uncles are also citizens and residents of Bangladesh and reside with her grandmother in a group family compound, along with her younger sister. (GEs 1-2); Tr. 94-99) Applicant last spoke with her grandmother and other immediate family members (inclusive of the two uncles who reside with her) in Bangladesh when she last visited them in 2016. (Tr. 91-93, 98)

Appellant has a second sister who was born in Bangladesh and is a citizen of Australia who currently resides in Bangladesh. (GEs 1-2 ; Tr. 88-89) In the past, she has sent her sister several thousand dollars over time to help her out, but otherwise has not provided her any financial support. (Tr. 88)

Applicant has a stepson from her first marriage who is a citizen and resident of Bangladesh and resides with his mother. (Tr. 82) Applicant currently maintains infrequent contact with her stepson and last saw him in 2016 on her visit to the country. (Tr. 83) Applicant has a stepdaughter from her first marriage who is a citizen of Bangladesh and current resident of Canada, where she is taking college classes. (GEs 1-2 and AE BB; Tr. 79-81) Applicant's father who was a citizen and resident of Bangladesh is deceased. (GE 1-2) Applicant has infrequent contact with her stepdaughter and last spoke with her several years ago. (Tr. 80-81) Applicant provides no financial support to her stepdaughter; although Applicant's current husband provides some support when he can. (Tr. 81) Applicant last saw her stepdaughter on her visit to Bangladesh in 2016. (Tr. 84)

Besides her immediate family members, Applicant has numerous extended family members. She has six uncles, two of whom are citizens and residents of Bangladesh. (GEs 1-3; Tr. 95-96) Three of her uncles live in Great Britain; while one is a resident of the United States. (Tr. 94) Applicant also has an aunt and several cousins who are citizens and residents of Bangladesh, most of whom she has had no contact with in recent years. (Tr. 93, 98) She confirmed that she last spoke with her aunt (a homemaker) on her last family visit to Bangladesh in 2016. Applicant has no friends or high school classmates from her early years in Bangladesh who she maintains contact with. (Tr. 101)

Applicant has not seen or spoken with her aunt or any of her uncles residing in Bangladesh since 2016 and previously maintained only infrequent contact. (Tr. 97-98) She acknowledged providing approximately \$2,000 to one of her uncles on one occasion to help defray one of her cousin's educational expenses. (GE 3; Tr. 97-98) She also acknowledged providing \$1,000 on two occasions (dates not recalled) to her aunt to help her aunt pay for her breast cancer treatment. *Compare* Applicant's response in GE 2 with her response in GE 3.

Among Applicant's husband's family members who are citizens and residents of Bangladesh is her father-in-law. (GEs 1-3; and AE R; Tr. 31) He is 84 years of age and is a former high-ranking official of the Bangladesh government. Although, her father-in-law never served in Bangladesh military or intelligence agencies. (GEs 1-3) While, he has been retired for over 30 years, he still stays in touch with Applicant and her husband. (Tr. 68-74) Beginning in 2006, Applicant's father-in-law provided her current husband between \$80,000 and \$90,000 in cash gifts for financial support of her children's education and

more recently (in 2013), to cover medical expenses and some of the down payment (around \$20,000) on Applicant's home that Applicant and her husband purchased in the United States in 2013 for around \$200,000. (GEs 1-3 and AEs R-Y; Tr. 72-75, 118-119, 127) Applicant estimates the home is currently worth around \$300,000. (Tr. 127) Professional estimates place an appraised value of \$349,645 on the residence. (AE EE) Neither she nor her husband have any expectations of repaying her father-in-law's gifts. (Tr. 75)

All but \$15,000 of Applicant's father-in-law's furnished financial assistance was earmarked for the educational costs of her husband and children. Applicant understands that when her father-in-law expires, he will devise two properties to Applicant's husband worth collectively about \$200,000. (GE 1 and AE FF; Tr. 102, 126-127) Applicant has no plans to return to Bangladesh in the foreseeable future. (Tr. 103) Were she to schedule a trip to the country, she has no reporting requirements with her employer. (Tr. 105)

Applicant maintains infrequent contact as well with all of her extended family members residing in Bangladesh. (Tr. 87- 93) She last visited Bangladesh in 2016 to see her family members (both immediate and extended). (Tr. 87-95) Since she returned from her family visit to Bangladesh in 2016, she has reduced her contacts with her father-in-law from weekly communications to less than three a year. (Tr. 70) She attributed her more frequent pre-2017 contacts with her father-in-law to her assumed intermediary role with him while her husband was away for a year and a half (2016-2017) in connection with a legal issue. (GE 3; Tr. 71-72). Since returning home, Applicant's husband has had more contact with her father-in-law. (Tr. 70-71) Applicant's contacts with both her immediate and extended family members residing in Bangladesh have also been minimal since she returned from her 2016 family visit to Bangladesh. (Tr. 35) And, most importantly, her contacts with family members in Bangladesh are "vastly outweighed by [her] deep and longstanding relationships and loyalties in the United States." (GE 2)

Applicant has never served in a foreign military; nor is she willing to do so. (GEs 1-3) She has had no contact with any foreign government representatives or organizations since residing in the United States. Neither she nor her husband have any property or other financial interests, or obligations in Bangladesh. (GEs 3-4; Tr. 101-102) She has no property ownership, no foreign bank accounts, no retirement, medical, or education benefits in Bangladesh, and no social security or any other received government benefit from Bangladesh or any other foreign country. (GEs 1-3) By contrast, Applicant maintains U.S. investment accounts and has a 401(k) and other retirement account as well as a checking and savings accounts with U.S. financial institutions. (AEs O-Q; Tr. 51-54, 114, 121-122) She currently grosses \$125,000 from her work and estimates her current net worth to be around \$250,000. (Tr. 113,121) She maintains excellent credit and reported a credit score of 750. (GE N)

Applicant has never had any foreign property confiscated, and she has never sponsored any foreign nationals to the United States. (GEs 1-3). Nor has she ever voted or sought political office in Bangladesh or any foreign country. Further, she has not

performed or attempted to perform duties that could serve the interests of Bangladesh or any foreign government.

By contrast, Applicant has held jobs in the United States for over ten years and owns property in the United States. She considers herself a fully assimilated U.S. citizen (GEs 1-3) and professes no allegiance, preference, sympathies or alliances with any person or entity or government in Bangladesh or anywhere else. (GEs 1-3) She fully understands the importance of reporting any and all foreign travel to her employer's security officials.

Character references

Applicant is highly regarded by her colleagues and friends. They find her to be honest, reliable, and trustworthy. (AE M)

Bangladesh's country status

Bangladesh is a country located on the northern edge of the Bay of Bengal. See *Background Note: Bangladesh* at 1, U.S. Department of State (August 2008) It is bordered on three sides by India and shares a small border with Burma. It has a population of approximately 160 million and a land area of 55,813 square miles, which approximates the size of the state of Wisconsin. (*Id.*) Bangladesh has a literacy rate of over 60% and about 98% of the population are ethnic Bengali and speak Banla. Non-Urdu-speaking non-Bengalis of Indian origin, and various tribal groups comprise the remaining 10.5 % of the population. (*Id.*)

Historical background

Originally part of British India, Bangladesh became known initially as East Bengal following the partition of British India along religious lines in 1947. (*Id.*, at 2) The predominantly Muslim eastern half of the region (comprised of Bangladeshis) was designated East Pakistan (or East); while the predominately Hindu western part became the Indian state of West Bengal. (*Id.*) Frictions developed soon after the partition between East and West Pakistan. East Pakistanis felt exploited by the West Pakistan-dominated central government. Linguistic, cultural, and ethnic differences contributed to the estrangement of East from West Pakistan. Following failed political talks in 1971. Pakistani president Yahya Khan postponed indefinitely the pending national assembly session, precipitating massive civil disobedience in East Pakistan.

The crisis in East Pakistan created new strains in Pakistan's relations with India that produced warring relations in 1965 between the two countries, mainly in the west. (*Id.*) The new tensions prompted India to intervene on the side of the Bangladeshis in November 1971, and in December 1971 Pakistani forces surrendered, paving the way for the birth of a new Bengal country. In April 1971, Bangladesh became an independent country, recognized by the United States, and formed as a parliamentary democracy under a 1972 constitution. See *A Guide to the United States' History of Recognition*,

Diplomatic, and Consular Relations, by Country, since 1776: Bangladesh, U.S. Dept. of State (Feb. 2019)

Despite military coups following its independence in 1971, Bangladesh has made considerable progress toward a more prosperous and pluralistic society. The country was returned to democratic rule in December 2008 and is now a parliamentary republic. See *CIA World Factbook: Bangladesh* (Jan. 2019).

Raised security concerns over terrorist threats in Bangladesh

The U.S. State Department has assessed Dhaka, Bangladesh's capital, as being a high-threat location for terrorist activity directed at or affecting official U.S. interests. See *Bangladesh 2018 Crime & Safety Report*, U.S. Dept. of State, Bureau of Diplomatic Security (March 2018). Multiple transnational terrorist groups (al-Qa'ida in the Indian Subcontinent (AQIS) and ISIS) have claimed credit for a series of assaults against various targets. Some elements within Bangladesh groups have also associated themselves with transnational terrorist groups. (*Id.*)

In a November 2015 issue of *Dabiq*, ISIS formally announced its foothold in Bangladesh with magazine features illustrating Bangladesh as a projected strategic operations base for establishing a caliphate facilitating attacks inside India. (*Id.*) India was considered to be a symbolic and important ISIS target.

Since 2015, ISIS-affiliated terrorists have conducted over 30 attacks targeting foreigners, religious minorities, and local police/security interests. See *Country Information: Bangladesh International Travel Information*, U.S. Dept. of State, Bureau of Consular Affairs (Oct. 2018) ISIS claimed responsibility for 18 attacks in Bangladesh in 2016, with the most significant being the attack on July 1, 2016 on the Holy Artisan Bakery, an upscale restaurant in the diplomatic enclave frequented by the expatriate community. (*Id.*) The five Bangladeshi attackers involved in this incident killed 20 hostages (mostly foreigners) and two police officers using guns. Reportedly, only those hostages who could demonstrate that they were Muslim by reciting verses from the Koran were spared. See *Country Reports on Terrorism 2016: South and Central Asia: Bangladesh*, U.S. Dept. of State, Bureau of Counter-terrorism and Countering Violent Extremism (July 2017)

In March 2017, ISIS claimed responsibility for at least three bombings in multiple locations in Bangladesh, including suicide attacks that targeted security forces near Dhaka's Hazrat Shahjalal Int'l Airport. The third bombing occurred during a police raid against suspected terrorists, killing seven onlookers and injuring 40. See *Crime & Safety Report, supra*. Because of the ongoing attacks and threats by terrorist groups operating in Bangladesh, the State Department issued a travel warning in July 2018, cautioning U.S. citizens to reconsider travel to Dhaka and Southeast Bangladesh. See *Bangladesh Travel Advisory*, U.S. Dept. of State, Bureau of Consular Affairs (July 2018).

In February 2018, the Office of the Director of National Intelligence (ODNI) issued its Worldwide Threat Assessment of the U.S. Intelligence Community. In his statement for the record, the DNI (Daniel Coats) cautioned that the crisis resulting from the exodus of more than 600,000 Rohingyas from Burma to Bangladesh will threaten Burma's fledgling democracy, increase the risk of violent extremism, and provide openings for Beijing to expand its influence in the region. See *Worldwide Threat Assessment of the U.S. Intelligence Community (Statement of Daniel R. Coats DNI)* (March 2018)

Human Rights assessment

Bangladesh's legal system has its roots in common law, and its principal source of laws are reposed in Bangladesh's Parliament. Despite the reserved protections of human rights in the country's constitution, government and security forces have been known to disregard these protections and have been accused of human rights abuses. See *Bangladesh 2017 Human Rights Report*, U.S. Dept. of State, Bureau of Human Rights, Democracy, and Labor (April 2018).

The most significant human rights abuses cited in the report included: extrajudicial killings, torture, arbitrary or unlawful detentions, and forced disappearances by government security forces; restrictions on civil liberties (including freedom of speech, press, and the activities of non-governmental organizations (NGOs)); a lack of freedom to participate in the political process; corruption; violence and discrimination based on gender, religious affiliation, caste, tribe, including indigenous persons, and sexual orientation and gender identity; trafficking in persons; and restrictions on worker's rights and the worst forms of child labor. See *Bangladesh 2017 Human Rights Report, supra*.

United States-Bangladesh relations

U.S. relations with Bangladesh continue to be positive and strong. See *U.S. Relations with Bangladesh*, U.S. Dept. of State, Bureau of South and Central Asia Affairs (August 2018). Both countries cooperate closely on security issues, ranging from counter-terrorism to peacekeeping. (*Id.*) U.S. ties to Bangladesh extend beyond government-to-government relations to people-to-people and commercial relationships. The United States has invested billions of dollars in Bangladesh, and Bangladesh is the largest recipient of U.S. assistance in Asia outside of Afghanistan and Pakistan. (*Id.*)

Today, the United States is committed to providing assistance to help the country grow more food, build more roads, and train more skilled teachers, health care providers, and soldiers. See *U.S. Relations with Bangladesh, supra*. U.S. long-term goals for Bangladesh are designed to reduce poverty, enhance food security, improve health and education, and mitigate the impact of climate change and natural disasters, counter violent extremism, and achieve better governance to promote equitable and sustainable growth. (*Id.*) Noteworthy, too, Bangladesh and the United States belong to a number of the same international organizations, including the United Nations, ASEAN Regional Forum, International Monetary Fund, and the World Trade Organization. See (*Id.*)

Bilateral economic relations between the United States and Bangladesh remain close and stable as well. In 2017, Bangladesh exported \$5.7 billion worth of products, primarily apparel and textiles, which makes the United States the single largest market for Bangladeshi goods in the world. See *U.S. Relations with Bangladesh, supra*. The United States is also currently the largest source of direct foreign investment in Bangladesh. Chevron is reported to be the single largest foreign investor in the country, producing close to 55 per cent of Bangladesh's domestic natural gas. (*Id.*) To promote sustaining trade relations, the two countries conduct annual talks under a Trade and Investment Cooperation Framework Agreement (TICFA) that was concluded in 2013. (*Id.*)

Policies

The revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information (effective September 2006) list Guidelines to be considered by administrative judges in the decision-making process covering DOHA cases. These Guidelines require the administrative judge to consider all of the "Conditions that could raise a security concern and may be disqualifying" (Disqualifying Conditions), if any, and all of the "Mitigating Conditions," if any, before deciding whether or not a security clearance should be granted, continued or denied.

The Guidelines do not require the administrative judge to assess these factors exclusively in arriving at a decision. In addition to the relevant Adjudicative Guidelines, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in E.2.2 of the Adjudicative Process of Enclosure 2 of the Directive, which are intended to assist the administrative judges in reaching a fair and impartial common sense decision.

Viewing the issues raised and evidence as a whole, the following adjudication policy factors are pertinent herein:

Foreign Influence

The Concern: Foreign contacts and interests, 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, 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. See Adjudicative Guidelines (AG), ¶ 6.

Burden of Proof

By virtue of the precepts framed by the Directive, a decision to grant or continue Applicant's request for security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a common sense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. As with all adversary proceedings, the Judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the Judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: It must prove any controverted fact[s] alleged in the Statement of Reasons, and it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required showing of material bearing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, consideration must take account of cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the burden of proof shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation or mitigation of the Government's case.

Analysis

Applicant was born in Bangladesh to parents of Bangladeshi descent and traces her heritage through her parents' ancestral links to Bangladesh. She immigrated to the United States in 1991 to reside with her former husband and son (soon to be born) and later pursued higher education credits.

Applicant earned associates, bachelors, and master degrees with honors in the United States in information technology with a concentration in cyber security in her masters program. She became a naturalized U.S. citizen in 2001, retains no Bangladesh citizenship or passport and is employed as a cyber security engineer for a U.S. defense contractor.

Security issues of concern to the Government focus on the citizenship and residence status of her immediate family members who reside in Bangladesh. (*viz.*, a sister, grandmother, and two stepchildren) and extended family members (*viz.*, her stepfather (a former high ranking Bangladesh official), stepchildren, aunt, and several uncles and cousins) who reside in Bangladesh, a country known for its terrorist attacks

and poor human rights record, albeit a country that enjoys a close and stable state-to-state relationship with the United States.

Foreign influence concerns

The Government urges security concerns over risks that Applicant's immediate and extended family members who are citizens and residents of Bangladesh might be subject to undue foreign influence by Bangladeshi authorities and terrorists to access classified information in Applicant's possession or control. Because Applicant and her family members who have Bangladesh citizenship and residency, they present potential heightened security risks covered by Disqualifying Condition (DC) ¶ 7(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," of the Adjudication Guidelines for foreign influence.

The citizenship/residence status of Applicant's immediate and extended family members in Bangladesh poses some potential concerns for Applicant because of the risks of undue foreign influence that could compromise classified information under Applicant's possession and/or control. 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 classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information," has possible application due to the presence of Applicant's immediate and extended family members in Bangladesh. While Applicant has not visited any of her family residing in Bangladesh since 2016, and has no financial interests or property in Bangladesh that could create potential conflicts of interest, she does maintain frequent telephone contact with her immediate family member.

From what is known from the presented evidence, none of Applicant's immediate or extended family members residing in Bangladesh have any current political or military affiliations with Bangladesh government and military officials. Nor do any of her family members residing in Bangladesh have any history to date of being subjected to any coercion or influence, or appear to be vulnerable to the same.

The citizenship status and presence of Applicant's immediate and extended family members in Bangladesh pose some risk because of Bangladesh's growing presence of terrorist groups and poor human rights record despite its status as a country with a parliamentary system of government committed to upholding the rule of law. These risks are minimal, though, and are reconcilable with U.S. security interests. Applicant's contacts with her family members are more than neutralized by the former's demonstrated strong loyalties to the United States and manifest commitments to protect this country's security interests and resist any family pressures that could weaken her fiducial duties to protecting classified information. And, while her father-in-law's financial gifts to her husband and herself have been considerable since she and her husband immigrated to the United

States, he has not provided any financial support in recent years (since helping Applicant and her husband with medical expenses and the down payment on their home purchase in 2013).

The Adjudicative Guidelines governing security clearances do not dictate *per se* results or mandate particular outcomes for applicants with relatives who are citizens/residents of foreign countries in general. What is considered to be an acceptable risk in one foreign country may not be in another. While foreign influence cases must by practical necessity be weighed on a case-by-case basis, guidelines are available for referencing in the supplied materials and country information about Bangladesh.

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

Applicant, accordingly, may take advantage of one important mitigating condition: MC ¶ 8(a), "the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign a foreign individual, group, organization, or government and the interests of the United States."

Bangladesh, with its strong bilateral relationship with the United States and parliamentary system of government committed to adherence to the rule of law, remains a free and open society, despite threats of terrorist attacks by al Qa-ida and other notorious terrorist groups operating inside of country. And, in the hypothetical situation were Applicant's family members, or any of them, residing in Bangladesh to be pressured, Applicant's strong loyalties and security commitments to the United States make it very unlikely that she would permit herself to be pressured into compromising classified information.

Of full benefit to Applicant is MC 8(b), "there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest." Applicant's demonstrated loyalty, patriotism, and professional commitments to the United States are well demonstrated and enough under these circumstances to neutralize all potential conflicts that are implicit in her relationships with her parents and extended family members.

Whole-person assessment

Whole person assessment also serves to minimize Applicant's exposure to potential conflicts of interests with her immediate and extended family members residing in

Bangladesh. Not only has Applicant become a naturalized U.S. citizen and received her advanced degrees in the United States, but she has made every effort to work, save, and pursue her financial interests exclusively in the United States. Applicant is highly regarded and trusted by her colleagues and friends who know her well.

In Applicant's case, any likelihood of coercion, pressure, or influence being brought to bear on her family members would appear to be minimal. By all reasonable accounts of the presented record, Applicant has no visible conflicts of interest with Bangladesh and or property interests in the country that could be put to risk to exploitation or compromise by th Bangladesh government authorities, military, or intelligence officials.

Overall, any potential security concerns attributable to Applicant's immediate and extended family members residing in Bangladesh are sufficiently mitigated to permit safe predictive judgments about her ability to withstand risks of undue influence attributable to her familial relationships in Bangladesh. Her demonstrated loyalties and commitments to protecting U.S. security interests, make it highly unlikely she would succumb to any foreign influence brought to bear on herself or her family members by Bangladesh government or military officials. Favorable conclusions warrant with respect to the allegations covered by Guideline B.

Formal Findings

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

GUIDELINE B: (FOREIGN INFLUENCE):	FOR APPLICANT
Subparagraphs 1.a-1.h:	For Applicant

Conclusions

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

Roger C. Wesley
Administrative Judge

