



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



In the matter of:)	
)	
)	ISCR Case No. 12-09336
)	
Applicant for Security Clearance)	

Appearances

For Government: Braden M. Murphy, Esquire, Department Counsel

For Applicant: Christopher Graham, Esquire

02/27/2013

Decision

ANTHONY, Joan Caton, Administrative Judge:

After a thorough review of the pleadings, testimony, and exhibits, I conclude that Applicant mitigated the Government’s security concerns under Guideline B, Foreign Influence. His eligibility for a security clearance is granted.

Statement of the Case

On June 30, 2010, Applicant signed and certified an Electronic Questionnaire for Investigations Processing (e-QIP). On August 21, 2012, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline B, Foreign Influence. DOD acted under Executive Order 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 the adjudicative guidelines (AG) effective within DOD for SORs issued after September 1, 2006.

On September 16, 2012, Applicant answered the SOR and requested a decision without a hearing. The Government then requested a hearing in the matter under

Paragraph E3.1.7. of Enclosure 3 of the Directive.¹ The case was assigned to me on December 3, 2012. I convened a hearing on January 15, 2013, to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The Government called no witnesses, introduced six exhibits (Ex. 1 through Ex. 6), and offered a summary of facts found in ten official U.S. Government source documents for administrative notice. The summary of facts and the ten source documents were identified as HE II. HE II was admitted for administrative notice without objection.

Applicant testified and offered six exhibits, which I marked and identified as Exs. A through F and admitted without objection. Applicant also provided two sets of documents for administrative notice. These documents were marked as HE III and HE IV; they were admitted for administrative notice without objection. DOHA received the transcript (Tr.) of the hearing on January 22, 2013.

Findings of Fact

The SOR contains five allegations of security concerns under AG B, Foreign Influence (SOR ¶¶ 1.a. through 1.e.). In his Answer to the SOR, Applicant admitted all five allegations. Applicant's admissions are entered as findings of fact.

After a thorough review of the record in the case, including witness testimony, exhibits, relevant policies, and the applicable adjudicative guideline, I make the following additional findings of fact:

Applicant is 44 years old. He was born and raised in Pakistan. He earned a university degree in statistics and economics in Pakistan, and, as a young man, he worked in his family's auto parts import business in Pakistan. (Ex. 1; Tr. 35-38.)

Applicant came to the United States in 1999 on a tourist and business visa. His visa expired in October 1999, and he was undocumented and in the United States illegally until 2002. He married a U.S. citizen in 2002, and applied for permanent residency. His application was not acted upon. Applicant and his first wife divorced in 2004; no children were born to the marriage. In 2004, he married for a second time, and applied for, and was granted, permanent resident status. His second wife, a U.S. citizen, supported his application for U.S. citizenship. Applicant became a naturalized U.S. citizen in 2009. (Ex. 1; Ex. 2; Tr. 63-67.)

Applicant adopted his second wife's child from a former relationship. He and his wife are also the parents of three children born during their marriage. Applicant and his wife have owned and resided in a home in a U.S. city for eight years. (Ex. 1; 39-40, 55.)

¹ Department Counsel provided the written communications between him and Applicant regarding the Government's request for a hearing and the procedures for preparing for a hearing. These documents are provided for the record as Hearing Exhibit (HE) I.

When Applicant first immigrated to the United States, he worked as a taxi driver. In 2007, he established a company that sold automobiles to people in Afghanistan and Dubai. He continued the company, in partnership with his second wife, until 2010. He stopped working in the company because it was not bringing in enough business. (Ex. 1; Ex. 2.)

In 2010, Applicant, who speaks six Middle Eastern languages and dialects, accepted employment as a linguist with a government contractor. He seeks a security clearance for the first time. As a government contractor linguist, he has been deployed in a war zone for approximately two and one-half years. He trains other linguists, and he accompanies U.S. military to remote villages and outposts. He carries out his work in a dangerous environment. He has been fired upon twice, and his base has been frequently attacked with rockets and mortar. (Tr. 40-46, 73.)

Before becoming a U.S. citizen, Applicant held passports from the government of Pakistan. He acquired his most recent Pakistani passport in March 2007. The passport expired in March 2012. In April 2011, Applicant relinquished his Pakistani passport to his employer's facility security officer. At that time, he also provided an affidavit, dated April 5, 2011, in which he stated he had tried to renounce his Pakistani citizenship by filing a Form X with the Consulate General of Pakistan. However, his renunciation was not accepted. In his affidavit, Applicant affirmatively renounced his Pakistani citizenship. (Ex. D.)

Applicant's mother, who is approximately 72 years old and in poor health, is a citizen and resident of Pakistan. She travels to the United States to visit Applicant and his family. She also travels to the United Arab Emirates (UAE)² to visit two of Applicant's brothers. When he is not deployed, Applicant contacts his mother by telephone daily or several times a week to inquire about her health. He also on occasion provides his mother with financial support. When he is deployed, he is unable to contact his mother for two or three months. The citizenship and residency of Applicant's mother is alleged at SOR ¶ 1.a. (Ex. 1; Ex. 3; Tr. 47-48, 53, 56.)

Applicant has four brothers and one sister. The SOR alleges at ¶ 1.b. that Applicant has three brothers and one sister who are citizens and residents of Pakistan. The SOR also alleges at ¶ 1.c. that Applicant has one brother who is a citizen of Pakistan and a resident of the UAE. At his hearing, Applicant explained that two of his brothers who are citizens of Pakistan now reside in the UAE. His other two brothers and his sister, who are citizens of Pakistan, reside in Pakistan. Applicant's four brothers work in a family auto parts business carried out in Pakistan and the UAE. His sister, who is married to a physician, does not work outside the home. (Ex. 1; Ex. 3; Tr. 48-50.)

Before he was deployed, Applicant spoke with three of his brothers by telephone about once a month. He spoke with his fourth brother about every three months.

² Neither party provided facts for administrative notice on the UAE.

Because his sister is their mother's caregiver when she is in Pakistan, he spoke with her frequently before he was deployed. (Ex. 3; Tr. 50, 78-79.)

Applicant has one brother-in-law and three sisters-in-law who are citizens and residents of Pakistan. Applicant's brother-in-law is a physician who practices medicine in a clinic he owns. Applicant's three sisters-in-law are housewives and do not work outside their homes. The citizenship and residency of Applicant's brother-in-law and sisters-in-law are alleged at SOR ¶ 1.d. (Ex. 3; Tr. 50-51, 79-80.)

Applicant has a family friend who is a citizen and resident of Pakistan. The friend owns large farms which produce fruit and vegetable crops for sale within Pakistan. In the past, Applicant communicated with his friend two or three times every six months. Since taking his job as a government contractor in September 2010, Applicant has spoken with his friend about twice. (Ex. 3; Tr. 51-53.)

Between 2005 and 2010, Applicant traveled to Pakistan six times. Two of the visits were for business, and the other four were to visit his family in Pakistan. Applicant's last trip to Pakistan occurred in March 2010, when he escorted his mother back to the United States to stay with his family. Since his deployment, he has not traveled to Pakistan. (Ex. 4; Tr. 56-57.)

Since his deployment, Applicant traveled on authorized leave in 2011 to the UAE to meet his mother, who was visiting his brothers in business there. His mother then accompanied him to the United States. In 2012, when Applicant again took authorized leave from his deployment, his wife, children, mother, and sister-in-law³ met him in the UAE. His mother had planned to accompany him and his family to the United States, but, instead, she returned to Pakistan to attend to her brother, who was ill. (Ex. 6; Tr. 73-75.)

Applicant has 22 immediate family members who are citizens of Pakistan.⁴ At his hearing, he stated that he intends eventually to sponsor all of them for U.S. permanent residency. The first person he intends to sponsor is his mother, who each year spends six months in the United States, two months in the UAE, and four months in Pakistan. (Tr. 60-61, 73-74, 84-87.)

Applicant provided letters of character reference from individuals with whom he had worked. During his deployment, Applicant served as a translator for a military officer, who called Applicant a leader and "an unparalleled professional" who was "respectful to others, levelheaded, wise, and genuine." The officer also stated: "Due to operational hazards, [Applicant's] superior performance has come with significant personal risk. Such dangers, however, have never slowed his ambition or performance.

³ Applicant explained that the sister-in-law in the travel group was his wife's sister, a U.S. citizen. (Tr. 78.)

⁴ The SOR alleges 11 close relationships with citizens of Pakistan. When Applicant spoke of 22 family members, he included nieces and nephews who are the children of his five siblings. (Tr. 84-87.)

He has, on numerous occasions, left the [security] wire to meet with district governors, [omitted] national security force personnel, and local nationals in one of the most volatile districts [in the war zone].” The officer went on to describe how Applicant, without hesitation, joined U.S. military in foot patrols through streets, markets, and neighborhoods that had been identified as targets for enemy attacks and suicide bombings. (Ex. A.)

A social scientist who is assigned to assist the combat operation praised Applicant’s linguistic abilities and his resilience in carrying out his duties in harsh and difficult circumstances. In these circumstances, the social scientist stated, Applicant was often the linguist that commanders in the field turned to when other interpreters provided limited or inferior assistance. She noted that Applicant’s linguistic abilities, knowledge of local religious practices and customs, and strong analytic skills made him a valued member of the combat operation group. (Ex. B.)

A retired lieutenant colonel who leads Applicant’s team provided the following observations:

I have spent over thirty-two years in the armed forces of the United States. . . . [Applicant] is one of those rare individuals that I have encountered [who] is not satisfied with the status quo. His high degree of enthusiasm and energy has allowed for the facilitation of many of our key leader and tribal engagements. Many of [the team’s] research projects would not have resulted in success if we had not had [Applicant] as a member of the team. He is truly a pleasure to have around and a valued member of the . . . team. I would gladly and willingly seek out this individual to continue to provide linguistic services for the . . . team. He is a true patriot and a credit to our country. (Ex. C.)

In November 2011, the commanding officer of the regimental combat team awarded Applicant a certificate of commendation, which noted, in part, that

[Applicant] assisted in the execution of six major research plans, 300 local national interviews, and 50 key leader engagements, producing critically important, previously unavailable information that became instrumental in providing a more complete picture of the regimental battlespace. His knowledge of the . . . people, culture and customs was critical in the day-to-day effectiveness of his team and the regimental combat team . . . staff. [Applicant’s] outstanding motivation and dedication to duty reflected credit upon him and were in keeping with the highest standards of [the U.S. military]. (Ex. E.)

In October 2012, Applicant’s government contractor employer awarded him a certificate of merit and appreciation in which it recognized his “selfless service” and “exceptional performance and dedication . . . for the past two years.” The award identified Applicant as an exceptional employee and praised his “can-do attitude,

eagerness to participate, contributions to the team as well as [his] willingness to accept greater responsibility.” (Ex. F.)

I take administrative notice of facts about Pakistan. The facts in the following summary were provided by Department Counsel to Applicant and to me.

Pakistan is a parliamentary republic in South Asia with a population of over 170 million people. Pakistan is a low-income country, with a population that is 97% Muslim. Pakistan has extreme poverty and is underdeveloped. Its economy remains vulnerable to internal security concerns.

After September 11, 2001, Pakistan pledged its alliance with the U.S. in counterterrorism efforts and made a commitment to eliminate terrorist camps on its territory. Despite these efforts, members of the Taliban are known to be in the Federally Administered Tribal Areas (FATA) of Pakistan, the Khyber Pakhtunkhwa (Kpk) (formerly known as the Northwest Frontier Province (NWFP)), and in the Balochistan Province, which borders Iran and Afghanistan. The Pakistani Taliban (Tehrik-i-Taliban “TTP”), al-Qa’ida extremists, foreign insurgents, and Pakistani militants have re-exerted their hold over areas in the FATA and NWFP, and the Pakistani Taliban also used the FATA to plan attacks against civilian and military targets across Pakistan. Al-Qa’ida leadership in Pakistan supported militants in conducting attacks in Afghanistan and provided funding, training, and personnel to facilitate terrorist and insurgent operations.

In addition to the Taliban, the FATA in Pakistan continues to be a vital sanctuary to al-Qa’ida and a number of foreign and Pakistan-based extremist groups. Al-Qa’ida and other Afghan extremist groups exploit that operating environment to plan operations, direct propaganda, recruit and train operatives, and raise funds with relative impunity.

Overall, Pakistan has intensified counterinsurgency efforts, but its record with dealing with militants has been mixed. Pakistan has demonstrated determination and persistence in combating militants it perceives to be dangerous to Pakistan’s interests, particularly those involved in attacks in settled areas, but it maintains its historical support to the Taliban, has not consistently pursued militants focused on Afghanistan, and still considers militant groups to be important to its efforts to counter India’s military and economic advantages.

The U.S. Department of State has defined terrorist safe havens as ungoverned, under-governed, or ill-governed areas of a country and non-physical areas where terrorist groups that constitute a threat to U.S. national security interests are able to organize, plan, raise funds,

communicate, recruit, train, and operate in relative security because of inadequate governance capacity, political will, or both. The U.S. Department of State has concluded that, despite increased efforts by Pakistani security forces, al-Qa'ida terrorists, Afghan militants, foreign insurgents, and Pakistani militants continue to find safe haven in portions of Pakistan's FATA, NWFP, and Baluchistan, and have operated in those areas to organize, train, and plan attacks against the United States and its allies in Afghanistan, India, and Europe.

On May 1, 2011, U.S. special forces personnel raided a large al-Qa'ida compound located in a residential neighborhood in Pakistan and shot and killed al Qa'ida leader Osama bin Laden.

The Department of State warns U.S. citizens of the risks of traveling to Pakistan in light of the threat of terrorist activity, specifically the presence of al-Qa'ida, Taliban elements, and indigenous militant sectarian groups that pose a danger to American citizens. Terrorists and their sympathizers have demonstrated their willingness and capability to attack targets where Americans are known to congregate or visit. Suicide bombings and attacks occur throughout Pakistan on a regular basis. Also, since 2007, several American citizens throughout Pakistan have been kidnapped.

The human rights situation in Pakistan remains poor. Major problems include extrajudicial killings, torture and disappearances. Additional problems include poor prison conditions, arbitrary arrest, widespread government corruption, rape, honor crimes, and widespread trafficking in persons. The military operations in the FATA and NWFP resulted in the deaths of approximately 1,150 civilians, and militant attacks in the FATA and NWFP killed 825 more civilians. The Pakistani government also maintains several domestic intelligence services that monitor politicians, political activists, suspected terrorists, the media, and suspected foreign intelligence agents. Credible reports indicated that authorities routinely used wiretaps and intercepted and opened mail without the requisite court approval, as well as monitoring mobile phones and electronic messages.

In addition to al-Qa'ida, the Taliban, and other insurgents and militants, the foreign terrorist organization Lashkar e-Tayyiba (LT) also operates out of Pakistan. The LT is the prime suspect for the November 2008 Mumbai attacks and is one of the largest and most proficient of the traditionally Kashmiri-focused militant groups. The Haqqani Network, an extremist organization operating as a strategic arm of Pakistan's Inter-Services Intelligence Agency, is also operating from Pakistan with impunity. On September 7, 2012, the United States formally declared the Haqqani Network a Foreign Terrorist Organization.

Policies

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

When evaluating an applicant’s suitability for a security clearance, an administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, the administrative judge applies these guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion in obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of

the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that 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.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Under Guideline B, Foreign Influence, “[f]oreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest.” AG ¶ 6.

Additionally, adjudications under Guideline B “can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target U.S. citizens to obtain protected information and/or is associated with the risk of terrorism.” AG ¶ 6.

A Guideline B decision assessing the security worthiness of a U.S. citizen with Pakistani contacts must take into consideration Pakistan’s continuing human rights problems and the country’s unstable political situation in which terrorist groups target U.S. interests with impunity. Under these circumstances, American citizens with immediate family members who are citizens or residents of Pakistan could be vulnerable to coercion, exploitation, or pressure.

I have considered all of the disqualifying conditions under the foreign influence guideline. The facts of Applicant’s case raise potential security concerns under disqualifying conditions AG ¶¶ 7(a) and 7(b). AG ¶ 7(a) reads: “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.” AG ¶ 7(b) reads: “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.”

AG ¶ 7(a) requires substantial evidence of a “heightened risk.” The “heightened risk” required to raise this disqualifying condition is a relatively low standard. However, the facts must demonstrate a risk higher than normally occurs when a family member lives under a foreign government. The activities of al-Qa’ida, Taliban, and other militant

groups in Pakistan, Pakistan's mixed record of dealing with these groups, and recent tensions between the United States and Pakistan are sufficient to establish the "heightened risk" required in AG ¶ 7(a).

Applicant's mother, sister, four brothers, three sisters-in-law, one brother-in-law, and one of his close friends are citizens of Pakistan. Applicant's mother resides in Pakistan and also resides part-time in the United States and the UAE. Two of Applicant's brothers reside in the UAE and conduct business there. With the exception of Applicant's mother and two brothers in the UAE, all other family members who are citizens of Pakistan reside full-time in Pakistan. Applicant's friend who is a citizen of Pakistan also resides in Pakistan. When family ties to a foreign country are alleged, the totality of an applicant's family ties as well as each individual family connection must be considered. ISCR Case No. 01-22693 at 7 (App. Bd. Sep. 22, 2003). Applicant's close relationships and contacts with his family members and a friend who are citizens of Pakistan, a country with a poor human rights record and a high risk of terrorism, are sufficient to establish AG ¶¶ 7(a) and 7(b).

Several mitigating conditions under AG ¶ 8 might be applicable to Applicant's case. If "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.," then AG ¶ 8(a) might apply. If "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," then AG ¶ 8(b) might apply. If "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," then AG ¶ 8(c) might apply.

AG ¶ 8(a) does not apply in mitigation to the facts of this case. Applicant has ten immediate family members and a long-time friend who are citizens of Pakistan. Eight of those individuals are residents of Pakistan. Two of Applicant's brothers are citizens of Pakistan who reside in the UAE. His elderly mother, with whom he has a close and solicitous relationship, resides in Pakistan for about four months each year.

AG ¶ 8(b), on the other hand, does apply in mitigation to the facts of this case. While Applicant's loyalty and sense of obligation to his family members is not minimal, he has also shown by his actions as a contract linguist in a combat zone that his fidelity to the United States is deep and enduring. Applicant renounced his Pakistani citizenship. His spouse and children are U.S. citizens, and he owns and has resided in a home in the United States for eight years. I am satisfied that he would resolve any conflict of interest in favor of the United States.

When Applicant was deployed to a war zone, he complied with requirements that he minimize or cease contacts with his family members and friends in Pakistan. Since assuming his current responsibilities as a linguist, he has not traveled to Pakistan. As a linguist, he provided invaluable assistance to commanders in the field for two and one-half years, and he distinguished himself by undertaking numerous dangerous assignments and risks to support the mission.⁵

The Appeal Board has recognized that individuals who serve in combat zones should be evaluated in the context of the high-risk environment in which they work. The Appeal Board has stated:

As a general rule, an applicant's prior history of complying with security procedures and regulations is considered to be of relatively low probative value for the purposes of refuting, mitigating, or extenuating the security concerns raised by that applicant's more immediate disqualifying conduct or circumstances. However, the Board has recognized an exception to that general rule in Guideline B cases, where the applicant has established by credible, independent evidence that his compliance with security procedures and regulations occurred in the context of high-risk circumstances in which the applicant had made a significant contribution to the national security. The presence of such circumstances can give credibility to an applicant's assertion that he can be relied upon to recognize, resist, and report a foreign power's attempts at coercion or exploitation.

ISCR Case No. 06-25928 at 4 (App. Bd. Apr. 9, 2008) (internal citations omitted).

During his two and one-half years of service in a war zone, Applicant has not held a security clearance. Nevertheless, he has occupied a sensitive position and dealt with information of security significance. He has assisted military commanders in the execution of six major research plans, 300 local national interviews, and 50 key leader engagements. His translations and interpretations elicited critically important information that enabled commanders to better assess battlefield conditions. As letters of character reference in the record establish, Applicant has a long track record of reliability under stressful conditions, and he is valued for his outstanding leadership and performance.

Applicant is also a concerned and involved family member. His commitments to his family members are admirable. His relationships with his family members, especially his mother, are filial and consistent. He failed to overcome the rebuttable presumption that his contacts with his family members and his friend in Pakistan are not casual. Accordingly AG ¶ 8(c) is not applicable.

⁵ The Appeal Board has also recognized the merit of demonstrated service when an applicant "has a previous track record of complying with security regulations and procedures in the context of dangerous, high-risk circumstances in which he made a significant contribution to the national security." ISCR Case No. 07-06030 at 3 (App. Bd. June 19, 2008.)

Nothing in Applicant's answers to the Guideline B allegations in the SOR suggested he was not a loyal U.S. citizen. Section 7 of Executive Order 10865 specifically provides that 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."

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

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

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of the whole-person concept and all the facts and circumstances surrounding this case. Applicant is a talented and valued employee of a U.S. government contractor. His colleagues and managers speak highly of his character, his professional skills as a linguist, and his bravery in dangerous war-zone situations. He became a U.S. citizen in 2009. He seeks a security clearance for the first time.

A retired lieutenant colonel with 32 years of military experience led the team to which Applicant was assigned. He stated that Applicant's strong linguistic skills and personal abilities enhanced the work of the team. The officer concluded that Applicant "is a true patriot and a credit to our country."

After weighing the disqualifying and mitigating conditions under Guideline B, evaluating all the evidence in the context of the whole person, and mindful of my obligation to decide close cases in favor of national security, I conclude Applicant has mitigated the security concerns based on foreign influence. Accordingly, I conclude he has carried his burden of showing that it is clearly consistent with the national interest to grant him eligibility 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

Subparagraphs 1.a. - 1.e.: For Applicant

Conclusion

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

Joan Caton Anthony
Administrative Judge