

KEYWORD: Foreign Preference; Foreign Influence; Personal Conduct

DIGEST: Applicant mitigated foreign preference concerns after he returned his Bulgarian passport and took steps to renounce his citizenship and his pension. Under a whole person analysis he also mitigated foreign influence security concerns over bonds to his parents, brother, mother-in-law, brother-in-law, and friends who are citizens of Bulgaria and reside there. Applicant has strong ties to the U.S. as a resident here for nine years and a naturalized citizen for three. Applicant's assurances that he would contact appropriate U.S. officials if any pressure were attempted are credible and are bolstered by his supervisor's positive assessment of his exemplary work and of him as a very loyal and trustworthy person. He had no intent to willfully falsify by omissions on his security clearance application, so personal conduct concerns do not remain. Clearance is granted.

CASENO: 03-18233.h1

DATE: 11/08/2005

DATE: November 8, 2005

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-18233

DECISION OF ADMINISTRATIVE JUDGE

KATHRYN MOEN BRAEMAN

APPEARANCES

FOR GOVERNMENT

Eric H. Borgstrom, Esquire, Department Counsel

FOR APPLICANT

H. David Spirt, Esquire

SYNOPSIS

Applicant mitigated foreign preference concerns after he returned his Bulgarian passport and took steps to renounce his citizenship and his pension. Under a whole person analysis he also mitigated foreign influence security concerns over bonds to his parents, brother, mother-in-law, brother-in-law, and friends who are citizens of Bulgaria and reside there. Applicant has strong ties to the U.S. as a resident here for nine years and a naturalized citizen for three. Applicant's assurances that he would contact appropriate U.S. officials if any pressure were attempted are credible and are bolstered by his supervisor's positive assessment of his exemplary work and of him as a very loyal and trustworthy person. He had no intent to willfully falsify by omissions on his security clearance application, so personal conduct concerns do not remain. Clearance is granted.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) ⁽¹⁾ to the Applicant on November 19, 2004. The SOR detailed reasons why the Government could not find that it is clearly consistent with the national interest to grant her access to classified information. The SOR alleges specific concerns in paragraph 1 over foreign preference (Guideline C), in paragraph 2 over foreign influence (Guideline B), and in paragraph 3 over personal conduct (Guideline e). Applicant replied to the SOR allegations in an Answer notarized on December 9, 2004, where he requested a hearing.

After Department Counsel stated the case was ready to proceed on February 16, 2005, the case was assigned to me on February 17, 2005. On June 7, 2005, DOHA issued a Notice of Hearing and set this case to be heard on June 27, 2005, in a city near where Applicant lives and works. At the hearing the government presented three exhibits (Exhibits 1-3) which were admitted into evidence without objection. Department Counsel's request that administrative notice (AN) be taken of the information contained in Exhibits I - III was granted as Applicant's counsel did not object.

Applicant's counsel called two witness and offered five exhibits (Exhibits A-E). Department Counsel did not object to Exhibits A-E which were admitted into evidence. The transcript (TR) was received on July 14, 2005.

FINDINGS OF FACT

After a complete and thorough review of the evidence in the record, and upon due consideration of that evidence, I make the following additional Findings of Fact:

Applicant, 52 years old, has worked for a defense contractor (Employer #1) in State #1 since February 2000. On May 16, 2002 he completed a Security Clearance Application (Standard Form 86). (Answer; Exhibits 1, 2; TR 42)

Applicant studied at a U.S. university in a Ph.D. program in State #2 from 1998 to 2000. (Exhibit 1; TR 50) Earlier he had studied at a university in Bulgaria and received an undergraduate degree and the equivalent of a masters degree in physics in March 1980. (Exhibit 2) He married his first wife in 1978 and was divorced in 1990. He has a child born in 1980 in Bulgaria. He married his second wife in 1992; she became a naturalized U.S. citizen in April 2002. (Exhibit 1) Applicant's wife is in the U.S., but remains a dual citizen. She works at a university in State #1. She remains a dual citizen with a small property interest in Bulgaria. Applicant's daughter has resided in Canada since the early 1990's and is a dual citizen of the Bulgaria and Canada. She was granted a green card in April 2005 and plans to move to the U.S. (Exhibits 1, 2; Answer; TR 48-49; 75)

Foreign Preference and Foreign Influence

Born in Bulgaria, Applicant became a naturalized citizen of the U.S. in April 2002. (Exhibits 1, 2; TR 34) Before he came to the U.S. he spent two years from 1969 to 1971 in mandatory military service in the army of Bulgaria as a private. His subsequent employment was with the Bulgarian Academy of Science (BAS) from 1981 to 1996 where he did research which had no military applications. He earned a pension allowance for his 15 years of employment, but he did not know if he would still qualify for it when he renounces his Bulgarian citizenship. He plans not to collect this pension. (Exhibits, 1, 2, & 3; TR 36-37, 43-45; 71-74)

Applicant was not politically active in Bulgaria. During that period from 1981 to 1996 he resisted pressure to join the

Bulgarian Communist Party as he did not share those views. In 1994 during the democratic changes in Bulgaria he briefly joined one of the new parties in favor of democracy and a free market economy. After the changes in government in Bulgaria in the early 1990's, his organization the BAS was downsized as there was no longer government funding. He began his own successful business, but decided to try to move to the U.S. In 1996 both he and his wife were accepted as U.S. resident aliens. They moved to State #2 where Applicant had a friend. In 2000 he sought employment and moved to State #1. They own a home they purchased in February 2002. (Exhibit 2; TR 36-41)

At the time he became a U.S. citizen he understood that Bulgaria did recognize dual citizenship; so he was a dual citizen of the U.S. and Bulgaria. After he learned of security concerns at his security interview in September 2002, he wrote to the Bulgarian Embassy to learn the procedures on renouncing his Bulgarian citizenship. He delayed as he learned he could not legally own property in Bulgaria unless he was a citizen; he and his brother each hold a half interest in an apartment valued at \$10,000 where their parents reside. He stated in December 2003 that the property was then valued at \$25,000. Applicant intended to sell or transfer this property before he renounced his Bulgarian citizenship; however, his parents objected to any change, so he still maintains an interest in this property; his parents pay taxes on it. Under his parents' will he was also to inherit another apartment worth approximately \$6,000. His parents remain in the property so he is unable to sell it. He is prepared to renounce his interest in these properties. (Exhibits 2, 3; Answer; TR 45-47; 64-66, 73; 84-85)

At that time of the DSS interview in September 2002 he had a valid Bulgarian passport effective December 2000 to December 2005. However, he had not used his Bulgarian passport since becoming a U.S. citizen. He has acquired a U.S. passport for travel. He went to Bulgaria from November to December 2002 on his U.S. passport to visit his parents. He also attempted to renounce his Bulgarian citizen and surrender his passport. Immediately after his DSS interview in August 2002 he attempted to renounce his Bulgarian citizenship, but found several administrative barriers both here and in Bulgaria. In January 2003 the Special Certificate of Naturalization was sent to Bulgaria. Six months later he learned the forms had been lost, so he began the process again in August 2004. He has forwarded all the documents needed to renounce his Bulgarian citizenship. He was waiting to return his passport after he received a request from the Bulgarian government as part of his efforts to renounce his citizenship there. In December 2004 he initiated the action; and he and his wife returned their passports to the Bulgarian Consulate. (Exhibits 2, 3; Answer; Exhibits A, D; TR 27-30; 59-63)

Applicant's father, mother, and one brother are citizens of Bulgaria and live there. His parents visited in the U.S. in 1997. His father is 82 and retired from his work as an engineer that built engines for commercial use. His mother is 81 and was a homemaker who did work as an elementary school teacher. They never had any ties to the government. Applicant provided them from \$300 to \$1,000 per year depending on their needs. In 2004 he provided no money to them. His brother born in 1949 is a pilot for a private aviation company. He talks with his parents weekly and with his brother on a weekly to monthly basis. (Exhibits 1, 2; Answer; TR 35-37, 41-44; 87-68)

His mother-in-law is a Bulgarian national who is retired from a chemical laboratory at a sugar processing plant and lives on a pension. He is in touch on a yearly basis; she visited the U.S. in 2000, 2002 and 2005. In the past he and his wife sent her about \$1,000 per year. Recently, they have sent \$700 per year. His wife's brother serves in the Bulgarian army. Applicant's wife attended his wedding in Bulgaria in 2001; Applicant occasionally speaks to him. (Exhibit 2; Answer; TR 69-71, 76, 81)

He maintains a friendship with a professor in Belgium who is a former high school classmate; he visited Applicant in 2000 while he was in the U.S. for a conference. He also maintains a friendship with a chemist who is at the BAS and is a Bulgarian national. He also remains a friend of a person he met in the military who studied engineering and was at one time a member of the Bulgarian Communist Party to advance his career. However, he has only talked with him twice in three years, saw him in 2002 when he visited Bulgaria, and has not spoken to him in three years. (Exhibits 1, 2; Answer; 77-78)

If he were ever pressured to act against the national security interests of the U.S. directly or through a family member, he would immediately report the situation to the appropriate security officials. (Exhibit 2)

Bulgaria is now a parliamentary democracy and adopted a constitution in 1991. It has a market-based economy. While the Government generally respects the human rights of citizens, there are problems in several areas according to the 2003 Country Reports on Human Rights Practices. The U.S. and Bulgaria have had bilateral relations for 100 years except for a period from 1950-60. After the fall of communism the relationship improved dramatically and the U.S. has encouraged a multi-party democracy and a market economy. The U.S. signed a Bilateral Investment Treaty in 1994 and gave Bulgaria most-favored-nation trade status in October 1996. The Government conceded that Bulgaria has assisted with forces in Iraq and is a U.S. ally on friendly terms. (AN I, II, III; TR 117-118)

Applicant credibly established that even if someone were pressuring his family, he would not surrender to that kind of pressure. As his immediate family has no ties to the government, it is less likely that there is any identified risk associated with his family in Bulgaria. While his wife's brother is in the Bulgarian Army, he has a technical position; and Applicant has limited contact with him. Also, Applicant and his supervisor established his trustworthiness and loyalty to the United States. Given Applicant's extensive ties to the U.S. with his immediate family in the U.S. and his substantial financial assets in the U.S., I conclude it is unlikely he would yield to pressure if any of these relatives were coerced by the government of Bulgaria. There is no indication in the record that Bulgaria engages in economic or other espionage against the U.S.

Personal Conduct

When he completed his SF-86 in 2002, Applicant established credibly that he had no intent to falsify the form and fully cooperated with DSS and provided answers to these questions in his interview. With respect to question 11 on his military history he established that he misunderstood the question. In 1996 he provided INS with a copy of his military record. He had no intent to falsify and was confused as other subparts of the question referred to service in the U.S. military. He disclosed this foreign military service in his DSS interview when he understood the question. Applicant established that he had no intent to falsify question 12 on foreign activities - property when he completed his SF-86.

Since his parents live in the property that was transferred to him and his brother to avoid inheritance tax, he still considered his parents the owner and had no intent to falsify. He fully disclosed his property interests in Bulgaria in his DSS interview. Applicant credibly established that he had no intent to falsify question 13 on foreign activities - employment when he completed his SF-86 as he fully disclosed his employment in Bulgaria under Question 4, employment activities, and did not understand he should list it again. He fully discussed his work in the DSS interview. (Exhibits 1, 2; Answer; Exhibit E; TR 22-27, 30-33, 50-58; 82-84)

References

Applicant's facility Security Officer (FSO) testified that she sees Applicant on a daily basis; he is a research scientist she has known since he joined the organization in 2000. She assessed Applicant as a very hard worker who is willing to get the job done. She explained that Exhibit E was a National Agency Check he completed to have access to government computers before he became a U.S. citizen. That was a favorable check. She cannot find the handwritten copy of his 2002 SF 86. (TR 86-105)

The president and chief scientist of the company who hired Applicant in 2000 affirmed that he was bright, diligent worker, honest, and straightforward. He has found Applicant accurate and truthful in his work and reliable. He assessed Applicant has having strong allegiance to the U.S. He recommended providing him with a security clearance. In October 2003 the president of his company recognized the value of Applicant's work to the company by offering him the chance to purchase shares in the company which Applicant accepted. (Exhibit C)

A friend who is an attorney and has known Applicant and his wife since 1996 praised him as being of the highest moral character. He offered his view that Applicant would never betray his loyal to the U.S. no matter what the consequences were for him or his family. He views applicant as truthful, honest and trustworthy. (Exhibit B)

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to consider in evaluating an individual's security eligibility. They are divided into conditions that could raise a security concern and may be disqualifying and conditions that could mitigate security concerns in deciding whether to grant or continue an individual's access to classified information. But the mere presence or absence of any given adjudication policy condition is not decisive. Based on a consideration of the evidence as a whole in evaluating this case, I weighed relevant adjudication guidelines as set forth below:

Guideline C - Foreign Preference

E2.A3.1.1. The concern: When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

Guideline B - Foreign Influence

E2.A2.1.1. The concern: A security risk may exist when an individual's immediate family, including cohabitants, and other persons to whom he or she may be bound by affection, influence, or obligation are: (1) not citizens of the United States or (2) may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure.

Guideline E - Personal Conduct

E2.A5.1.1. The Concern: Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information.

The responsibility for producing evidence initially falls on the Government to demonstrate that it is not clearly consistent with the national interest to grant or continue Applicant's access to classified information. Then the Applicant presents evidence to refute, explain, extenuate, or mitigate in order to overcome the doubts raised by the Government, and to demonstrate persuasively that it is clearly consistent with the national interest to grant or continue the clearance. Under the provisions of Executive Order 10865, as amended, and the Directive, a decision to grant or continue an applicant's security clearance may be made only after an affirmative finding that to do so is clearly consistent with the national interest. In reaching a fair and impartial overall common sense determination, the Administrative Judge may draw only those inferences and conclusions that have a reasonable and logical basis in the evidence of record.

CONCLUSIONS

Foreign Preference

Applicant has mitigated the Government's security concerns over his possible preference for a foreign country over the United States. While Applicant continued to possess his foreign passport after he became a naturalized U.S. citizen, he never used his foreign passport when he traveled to Bulgaria in 2002, but instead used his U.S. passport exclusively. Conditions that could raise a security concern and may be disqualifying include: E2.A3.1.2.2. Possession and/or use⁽²⁾ of a foreign passport and E2.A3.1.2.4. Accepting educational, medical, or other benefits, such as retirement and social welfare, from a foreign country. Under DC 2 & 4 this disqualifying conduct raises a security concern over his possible preference for Bulgaria over the U.S. The possession of a foreign passport could allow Applicant to travel without accountability and outside the ambit of U.S. immigration controls which raises concerns when someone has access to U.S. classified information. Further, he is eligible to receive a Bulgarian Government pension of approximately \$800 a year when he turns 63 years old.

Applicant has mitigated⁽³⁾ these security concerns. With respect to his dual citizenship, initially, Applicant did not understand and was unsure how to proceed to comply with the security requirements of the OASDC3I memorandum of August 16, 2000. Once Applicant understood the U.S. security concerns over his retaining his foreign citizenship, he immediately expressed his willingness to surrender his passport and renounce his citizenship. After several procedural missteps, he returned his passport to the Bulgarian Consulate in December 2004 and began the formal steps to renounce his citizenship. Also, he has credibly stated his intent to renounce his Bulgarian pension as well to sever any ongoing connections to Bulgaria.

As the Appeal Board established in ISCR Case No. 03-11765 (April 11, 2005) at 14, "Given the wording of Foreign Preference Mitigating Condition 4, the absence of evidence that Applicant's application for renunciation of . . . citizenship has been approved did not preclude the Administrative Judge from applying that mitigating condition." Thus, his actions in demonstrating his willingness to renounce his Bulgarian citizenship by filing the appropriate paperwork establishes he does not prefer the interests of another country over those of the U.S.

Having weighed the record evidence as a whole under the other factors outlined in Directive, I conclude Applicant's disqualifying conduct was not undertaken in such a way as to establish his preference for a foreign country over the U.S. Additionally, considering the totality of the evidence, I conclude that there is little, if any, probability Applicant will someday reacquire his Bulgarian passport and use it instead of his U.S. passport. Applicant has lived and worked in this country continuously since 1996. He became a naturalized U.S. citizen in 2002 and has demonstrated a strong preference for the U.S. over any other foreign nation by giving up his Bulgarian citizenship.

Therefore, I conclude Guideline C for Applicant. Thus, favorable findings are warranted with respect to subparagraphs 1.a. through 1.c. of the SOR.

Foreign Influence

Because of Applicant's family ties in Bulgaria the government raised foreign influence concerns under disqualifying conditions (DC): E2.A2.1.2. 1. An immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country; and E2.A2.1.2.6. Conduct which may make the individual vulnerable to coercion, exploitation, or pressure by a foreign government; and E2.A2.1.2.8. A substantial financial interest in a country, or in any foreign-owned or -operated business that could make the individual vulnerable to foreign influence. Applicant has parents, a brother, and a mother-in-law and brother-in-law who are citizens of Bulgaria and currently reside there. He also has limited contact with two friends who remain in Bulgaria. The Government established through the documents they submitted for administrative notice (AN I-III) the U.S. and Bulgaria have a strong bi-lateral relationship, though obviously they will not have identical interests over vital matters.

While I have seriously considered these security concerns and the documents submitted for administrative notice on Bulgaria, I conclude Applicant has presented sufficient evidence to meet the burden these circumstances present. Applicant mitigated⁽⁴⁾

the Government's security concerns over possible foreign influence. In evaluating the relevance of his conduct, I considered the following Adjudication Process factors:

E.2.21.1. The nature, extent, and seriousness of the conduct; E2.2.1.2. The circumstances surrounding the conduct, to include knowledgeable participation; E2.2.1.3. The frequency and recency of the conduct; E2.2.1.4. The individual's age and maturity at the time of the conduct; E2.2.1.5. The voluntariness of the participation; E2.2.1.6. The presence or absence of rehabilitation and other pertinent behavioral changes; E2.2.1.7. The motivation for the conduct; E2.2.1.8. The potential for pressure, coercion, exploitation, or duress; and E2.2.1.9. The likelihood of continuation or recurrence. (E.2.2. Adjudication Process)

Looking at all of these circumstances, I conclude Applicant has overcome foreign influence security concerns. Given his strong ties to the U.S. with his immediate family in the U.S. and a majority of his assets in the U.S., Applicant established that there is little likelihood that he would submit to any potential pressure on his family who remain in Bulgaria. One indication is that even when the Communist Party controlled Bulgaria and controlled and financed the organization where he worked for fifteen years, he resisted pressures and did not join the Communist Party even though others did so to advance their careers. That action indicates his independent character. Both the FSO and president of his company as well as a family friend vouch for his allegiance to the U.S. and his trustworthiness. Thus, I conclude there is limited potential for coercion, exploitation or duress. (E.2.2.1.8. The potential for pressure, coercion, exploitation, or

duress.)

While his and his wife's family members remain citizens and residents of Bulgaria, only his wife's brother has ties to the government; and he is in a technical role in the military. Applicant has been a naturalized U.S. citizen for three years and has been a resident of the U.S. for nine years where he pursued an advanced academic degree. He has had only one visit with his family in Bulgaria in 2002 when he traveled there to try to renounce his interest in his parent's property. While he was unsuccessful in divesting himself of that interest as his parents still live in the property, he will do so as soon as he is in a position to do so. His property interests there are minimal compared to his U.S. assets as he owns a house in the U.S. and is a shareholder in his company. While he has provided economic support to his and his wife's family members, the amount has been minimal. Indeed, he has stopped providing any support for his parents. He no longer has contact with his friends in Bulgaria since his last visit there in 2002.

In addition, he credibly established he would put his interests in the U.S. ahead of any loyalty to his birth family as he exclusively used his U.S. passport for the 2002 visit after he became a naturalized U.S. citizen, as discussed above under foreign preference. Further, it is unlikely that Bulgaria, a U.S. ally would risk threatening this relationship by threatening its private citizens for the purpose of forcing a U.S. citizen to betray the U.S.

As Applicant's supervisor and the FSO established, Applicant has a substantial history with his employer since 2000 and is viewed as trustworthy. His work is always excellent and led to him being offered stock in the company. The president of the company and a family friend who has known him since 1996 recommended him for access to classified information.

Thus, I conclude that it is unlikely that he could be exploited by coercive or non-coercive means by the government of Bulgaria in a way that could force Applicant to choose between loyalty to his family in Bulgaria and his loyalty to the United States. Should any such attempt be made Applicant testified credibly he would contact the appropriate officials. Thus, any risk of either coercive or non-coercive foreign duress or influence on Applicant and/or his immediate family would appear to be slight and clearly manageable. Contacts with citizens of other countries are relevant to security determinations only if they make an individual potentially vulnerable to coercion, exploitation, or pressure through threats against those foreign relatives. In reaching my conclusion, I have considered the totality of those ties and contacts, not just each one in isolation as the Appeal Board has mandated in the Appeal Board Decision and Reversal Order in ISCR Case No. 02-22461 (October 27, 2005) at 6.

After considering the Adjudicative Process factors and the Adjudicative Guidelines, I conclude Applicant's family ties are not of such a nature as to create any tangible risks of undue pressure on Applicant. Thus, foreign influence security concerns are mitigated under a whole person analysis. Thus, I resolve SOR paragraph 2 and subparagraphs 2.a. through 2.n. in Applicant's favor.

Personal Conduct

While the Government raised security concerns over Applicant's Personal Conduct over his omissions on his SF 86, Applicant's explanations for his omissions are credible and establish that he had no intent to falsify his form. Further, when he understood the questions, he made complete disclosures to the DSS agent.

Even if one were to view these omissions as falling within, Disqualifying Condition 2⁽⁵⁾, I conclude that Applicant met the mitigation⁽⁶⁾ guidelines under E2.A5.1.3.2. The falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily. Applicant provided all of the information in the interview once he understood what was requested. Also, looking at Applicant as a whole person⁽⁷⁾ and considering the circumstances surrounding his conduct (E2.2.1.2), I conclude Applicant provided a rational basis for his conduct and has refuted Personal Conduct security concerns. Thus, after considering the Adjudicative Process factors and the Adjudicative Guidelines, I rule for Applicant under SOR Paragraph 3 under subparagraphs 3.a. through 3.c.

FORMAL FINDINGS

After reviewing the allegations of the SOR in the context of the Adjudicative Guidelines in Enclosure 2 and the factors set forth under the Adjudicative Process section, I make the following formal findings:

Paragraph 1. Guideline C FOR APPLICANT

Subparagraph 1.a.: For Applicant

Subparagraph 1.b.: For Applicant

Subparagraph 1.c.: For Applicant

Paragraph 2. Guideline B FOR APPLICANT

Subparagraph 2.a.: For Applicant

Subparagraph 2.b.: For Applicant
Subparagraph 2.c.: For Applicant
Subparagraph 2.d.: For Applicant
Subparagraph 2.e.: For Applicant
Subparagraph 2.f.: For Applicant
Subparagraph 2.e.: For Applicant
Subparagraph 2.f.: For Applicant
Subparagraph 2.g.: For Applicant
Subparagraph 2.h.: For Applicant
Subparagraph 2.i.: For Applicant
Subparagraph 2.j.: For Applicant
Subparagraph 2.k.: For Applicant
Subparagraph 2.l.: For Applicant
Subparagraph 2.m.: For Applicant
Subparagraph 2.m.: For Applicant

Paragraph 3. Guideline E FOR APPLICANT

Subparagraph 3.a.: For Applicant
Subparagraph 3.b.: For Applicant
Subparagraph 3.c.: For Applicant

DECISION

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 a security clearance for the Applicant.

Kathryn Moen Braeman

Administrative Judge

1. This procedure is required by DoD Directive 5200.6, dated January 2, 1992 (Directive).
2. DoD policy clarification of Guideline C issued in August 2000 made clear that "any clearance [must] be denied or revoked unless the applicant surrenders the foreign passport" The DoD August 16, 2000, Policy Clarification Memorandum stated, in part: "The purpose of this memorandum is to clarify the application of Guideline C to cases involving an applicant's possession or use of a foreign passport. The Guideline specifically provides that "possession and/or use of a foreign passport" may be a disqualifying condition. It contains no mitigating factor related to the applicant's personal convenience, safety, requirements of foreign law, or the identity of the foreign country. The only applicable mitigation factor addresses the official approval of the United States Government for the possession or use. **** Therefore, consistent application of the guideline requires that any clearance be denied or revoked unless the applicant surrenders the foreign passport or obtains official approval for its use from the appropriate agency of the United State Government."
3. **E2.A3.1.3. Conditions that could mitigate security concerns include:** E2.A3.1.3.1. Dual citizenship is based solely on parents' citizenship or birth in a foreign country; E2.A3.1.3.2. Indicators of possible foreign preference (e.g., foreign military service) occurred before obtaining United States citizenship; E2.A3.1.3.3. Activity is sanctioned by the United States; E2.A3.1.4.4. Individual has expressed a willingness to renounce dual citizenship.
4. E2.A2.1.3 Conditions that could mitigate security concerns include: E2.A2.1.3.1. A determination that the immediate family member(s), (spouse, father, mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States; E2.A2.1.3.3. Contact and correspondence with foreign citizens are casual and infrequent.
5. E2.A5.1.2.2. The deliberate omission, concealment, or falsification of relevant and material 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.
6. **E2.A5.1.3. Conditions that could mitigate security concerns include:** E2.A5.1.3.1. The information was unsubstantiated or not pertinent to a determination of judgment, trustworthiness, or reliability; E2.A5.1.3.2. The falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily; E2.A5.1.3.3. The individual made prompt, good-faith efforts to correct the falsification before being confronted with the facts; E2.A5.1.3.4. Omission of material facts was caused or significantly contributed to by improper or inadequate advice of authorized personnel, and the previously omitted information was promptly and fully provided; E2.A5.1.3.5. The individual has taken positive steps to significantly reduce or eliminate vulnerability to coercion, exploitation, or duress; E2.A5.1.3.6. A refusal to cooperate was based on advice from legal counsel or other officials that the individual was not required to comply with security processing requirements and, upon being made aware of the requirement, fully and truthfully provided the requested information; E2.A5.1.3.7. Association with persons involved in criminal activities has ceased.
7. In evaluating the relevance of an individual's conduct, the adjudicator should consider the following factors: E.2.21.1. The nature, extent, and seriousness of the conduct; E2.2.1.2. The circumstances surrounding the conduct, to include knowledgeable participation; E2.2.1.3. The frequency and recency of the conduct; E2.2.1.4. The individual's age and

maturity at the time of the conduct; E2.2.1.5. The voluntariness of the participation; E2.2.1.6. The presence or absence of rehabilitation and other pertinent behavioral changes; E.2.2.1.7. The motivation for the conduct; E.2.2.1.8. The potential for pressure, coercion, exploitation, or duress; and E.2.2.1.9. The likelihood of continuation or recurrence. (E.2.2. Adjudication Process)