

KEYWORD: Foreign Influence

DIGEST: Applicant is a 50-year-old interpreter employed by a defense contractor. One sister, an uncle, and his wife's parents are citizens and residents of Afghanistan. Except for the one sister, he has had no contact with his wife's family for over five years, and no contact with his own family since he immigrated to the U.S. in 1986. Having worked in the past as an interpreter for the military, he understands the discretion that is required for such a position. His ties to the United States outweigh the risks to his family living in Afghanistan. He successfully mitigated the security concerns about foreign influence. Clearance is granted.

CASENO: 06-24401.h1

DATE: 09/28/2007

DATE: September 28, 2007

In re:)	
)	
)	
-----)	ISCR Case No. 06-24401
SSN: -----)	
)	
Applicant for Security Clearance)	

**DECISION OF ADMINISTRATIVE JUDGE
CHRISTOPHER GRAHAM**

APPEARANCES

FOR GOVERNMENT

Eric H. Borgstrom, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is a 50-year-old interpreter employed by a defense contractor. One sister, an uncle, and his wife's parents are citizens and residents of Afghanistan. Except for the one sister, he has had no contact with his wife's family for over five years, and no contact with his own family since he immigrated to the U.S. in 1986. Having worked in the past as an interpreter for the military, he understands the discretion that is required for such a position. His ties to the United States outweigh the risks to his family living in Afghanistan. He successfully mitigated the security concerns about foreign influence. Clearance is granted.

STATEMENT OF THE CASE

On June 23, 2004, Applicant submitted a Security Clearance Application (SF 86).¹ The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. As required by Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended, DOHA issued a Statement of Reasons (SOR) on May 29, 2007, detailing the basis for its decision – security concerns raised under Guideline B (Foreign Influence) of the Directive. The President issued revised adjudicative guidelines (Guidelines) on December 30, 2005. DoD implemented them on September 1, 2006. Pending official amendment/reissue of DoD Directive 5220.6, the Guidelines are to be used in all cases when the SOR is dated on or after September 1, 2006. Because the SOR was issued after September 1, 2006, DoD policy requires that this case proceed under the revised guidelines.

Applicant answered the SOR in writing on July 12, 2007, and elected to have a hearing before an administrative judge. DOHA assigned the case to me on August 3, 2007, and issued a Notice of Hearing on August 8, 2007. I convened a hearing on August 27, 2007, to consider whether it is clearly consistent with the national interest to grant or continue Applicant's security clearance. Applicant made a knowing and voluntary waiver of the rule requiring 15 days notice of the hearing, because he had actual notice more than 15 days prior to the hearing.² The government offered five exhibits, marked as Exhibits 1-5. Applicant offered no exhibits. All exhibits were admitted without objection. DOHA received the transcript (Tr.) on September 5, 2007.

PROCEDURAL RULINGS

Administrative Notice

Department Counsel requested administrative notice of the facts in Government Exhibits A1 through A8. Applicant stated he had no objection to administrative notice of the exhibits.

Administrative or official notice is the appropriate type of notice used for administrative proceedings.³ The most common basis for administrative notice at ISCR proceedings, is to notice facts that are either well known or from government reports.⁴ I took administrative notice of various facts derived from Government Exhibits A1 through A8, as indicated under subheading “Afghanistan” of this decision.

¹Government Exhibit 1 (Security Clearance Application (SF 86), dated June 23, 2004).

²Tr. at 6.

³See ISCR Case No. 05-11292 at 4 n.1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004)); *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986)).

⁴See Stein, ADMINISTRATIVE LAW, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice).

FINDINGS OF FACT

Applicant admitted the allegations contained in the SOR. The admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 50-year-old interpreter employed by a defense contractor.⁵ He is married and has four children. His wife has kidney problems and takes as much as 16 different medications. In 2005, a fifth child died, after being beaten and robbed while on a trip to Mexico. After graduating from high school, Applicant attended an Afghan police academy. He then worked for a municipal police force for about 10 years, working narcotics, and attained the rank of captain.⁶ In 1986, he immigrated to the United States. He worked odd jobs in such places as gas stations and convenience stores until 2004, when he commenced working for a defense contractor.⁷ He has worked overseas assignments for the military. All of his time was spent on various military bases, and he was not permitted off base, nor was he permitted to have any interaction with foreign nationals off the base. He had no adverse contact with any foreign authorities, and maintains no contact with any other foreign national he may have met on those trips. Since he left home in 1986, he has not seen any of his family living in Afghanistan except one sister in 2005. She contacted him about his son's accident. He has no family contact because of his job, and because if he saw them, they would inquire about his job and ask him for money.⁸

Applicant's wife's parents are citizens and residents of Afghanistan. It has been five years since he has seen his mother-in-law. His father-in-law is in the retail business, selling groceries, carpets, and other items. His wife has no contact with her father since he took another wife, as permitted under Muslim law. She calls her mother every three or four months.⁹

Applicant's spouse is a citizen of Afghanistan, and resides in the United States. His wife applied for citizenship but did not pass the writing test. One son has passed the test but forgot the court date when he was to have been sworn-in.¹⁰ At least two of his children are citizens of Afghanistan. Two other children are citizens and residents of the United States. A sister is a citizen and resident of Afghanistan. He has visited her twice since emigrating to the United States. He has contact with her by phone about six times a year. He's never been contacted or approached by any representative from a foreign government regarding his sister and does not feel he can be put under duress or blackmail due to his relationship with his sister. He is aware of his responsibility to report

⁵Tr. at 10, 17.

⁶*Id.* at 19-20.

⁷*Id.* at 20-21.

⁸*Id.* at 21-25.

⁹*Id.* at 26-29.

¹⁰*Id.* at 11-12.

any such incident to his security officer if he was ever approached. He has never been approached by a representative from a foreign government.

Applicant has another sister who is a citizen and resident of the US. One brother is a resident and citizen of the United States, and has worked as a translator for the same company that Applicant worked for. Another brother, born in Afghanistan, is now a resident and citizen of Germany. An uncle, who he has little or no contact with, is a citizen and resident of Afghanistan.¹¹ Applicant has not had any business contacts or developed any new personal relationships in a foreign country. He has no business or financial interest in a foreign country. He does not engage in any activity that he fears disclosure of that activity could lead to blackmail or coercion. He is not engaged in any illegal activities. There have been no request or threats by any foreign national that Applicant should have reported.

Applicant traveled to Afghanistan on at least two occasions to visit his sister who lives there. He provided financial support to various family members living in Afghanistan when the Taliban was still in control, but hasn't done so since 2002, and would not now because of his job.¹²

Afghanistan

Afghanistan has been an independent nation since August 19, 1919, after the British relinquished control. A monarchy ruled from 1919 until a military coup in 1973. Following a Soviet-supported coup in 1978, a Marxist government emerged. Relations between Afghanistan and the Soviet Union became tense after the Soviet Union moved to take advantage of the 1978 coup. In December 1979, Soviet forces invaded and occupied Afghanistan. Afghan freedom fighters, known as mujaheddin, opposed the communist regime. The resistance movement eventually led to an agreement known as the Geneva Accords, signed by Pakistan, Afghanistan, the United States, and the Soviet Union, which ensured Soviet forces withdrew by February 1989. The mujaheddin were no party to the negotiations for the accords and refused to accept them. As a result, a civil war continued after the Soviet withdrawal. Fighting continued among militias with ethnic, clan, religious, and personality differences. To resolve these differences, leaders of Peshawar-based mujaheddin groups established an interim Islamic Jihad Council in mid-April 1992 to assume power in Kabul. Rival factions created a great deal of political turmoil. The country sank into anarchy. In the mid-1990s, the Taliban rose to power, largely due to the anarchy and warlordism that arose after the Soviet withdrawal. By the end of 1998, the Taliban expanded its control until it occupied about 90% of the country. The Taliban sought to impose an extreme interpretation of Islam on the entire country and committed massive human rights violations, particularly against females. The Taliban also committed serious atrocities against minority populations and provided sanctuary to Osama bin Laden, Al Qaeda, and other terrorist organizations. After the September 11, 2001 terrorist attacks, demands to expel bin Laden and his followers were rejected by the Taliban. U.S. and coalition forces commenced military operations in October 2001 that forced the Taliban out of power. A new democratic government took power in 2004.¹³

¹¹ Government Exhibit 4 (Applicant's Interview, dated December 29, 2005) at 1-4.

¹²*Id.* at 29-31.

¹³Administrative Exhibit 1 (*US Department Of State, Background Note: Afghanistan*, dated May 2007) at 1-6.

Despite the new democratic government, Afghanistan's human rights record has remained poor. The causes for this include the continuing deadly insurgency, the weakness of central governmental institutions, and ongoing recovery efforts from two decades of war. Abuses include extra-judicial killings, torture, official impunity, restrictions on freedoms of press, religion, movement, and association, violence and societal discrimination against women and minorities. In addition, numerous people including civilians were killed by security and factional forces, as well as by terrorists and insurgents, including the Taliban and Al Qaeda.¹⁴

Despite progress made since the Taliban was deposed, Afghanistan still faces many daunting challenges, among these are: defeating an active insurgency; recovering from more than 20 years of civil strife; dealing with many years of drought; and rebuilding a shattered infrastructure. Additionally, Afghanistan faces the challenge of developing a rule of law within its borders.¹⁵ Many of the challenges are significantly exacerbated by terrorism.¹⁶

The director of national intelligence reports that Afghanistan has been unable to provide good governance and sustain the rule of law within its borders. He further states that this inability enables non-state actors and hostile states to assault the fundamental building blocks of international order, helping to create terrorist safe havens, and ungoverned regions that endanger the international community and its citizens, thereby threatening the national security of the United States and support for freedom and democracy.¹⁷

Taliban and Al Qaeda forces, in addition to other insurgents, continue to operate in Afghanistan, and have killed numerous civilians during the attacks.¹⁸ Although programs and military operations designed to combat terrorism and lawlessness have been continuing, there was an increase in activity by terrorist groups in Afghanistan during 2005 and 2006.¹⁹ Several non-state actors, including international terrorist groups, conduct intelligence activities as effectively as capable state intelligence services.²⁰ While progress has been made, the Taliban-led insurgency remains strong and resilient, particularly in the Pashtun south and east, and they have been able to

¹⁴Administrative Exhibit 4 (*US Department Of State, Country Reports on Human Rights Practices 2006-Afghanistan*, dated March 6, 2007) at 1-2.

¹⁵Administrative Exhibit 2 (*US Department Of State, Consular Information Sheet-Afghanistan*, dated September 15, 2006) at 1.

¹⁶Administrative Exhibit 6 (*Annual Threat Assessment of the Director of National Intelligence*, dated January 11, 2007) at 3.

¹⁷*Id.* at 1-3.

¹⁸Administrative Exhibit 4, *supra*, note 14, at 2; Administrative Exhibit 3, (*US Department Of State, Travel Warning-Afghanistan*, dated April 4, 2007) at 1; Administrative Exhibit 6, *supra*, note 16, at 3.

¹⁹Administrative Exhibit 5 (*US Department Of State, Country Reports on Terrorism-2006*, Chapter 2, Country Reports: 2005, South and Central Asia Overview, dated April 30, 2007) at 1-3; Administrative Exhibit 8 (*US Department Of State, Country Reports on Terrorism-2005*, Chapter 5, Country Reports: South and Central Asia Overview, dated April 28, 2006) at 2.

²⁰Administrative Exhibit 6, *supra*, note 16, at 1.

continue recruiting foot-soldiers from its core base of rural Pashtuns.²¹ Terrorists and anti-coalition militants targeted international non-governmental organization and United Nations workers, as well as recipients of non-governmental assistance.²²

The State Department, in a recent travel warning, warns against travel to Afghanistan by US citizens due to ongoing threats to kidnap or assassinate U.S. citizens and non-governmental workers and the inability of Afghan authorities to maintain order or ensure security. The warning notes activity of terrorist groups and other groups hostile to the U.S. within Afghanistan. Terrorist actions may include, but are not limited to, suicide operations, bombings, assassinations, carjackings, rocket attacks, assaults, or kidnappings.. No part of Afghanistan is safe or immune from violence.²³

POLICIES

In an evaluation of an applicant's security suitability, an administrative judge must consider the "Adjudicative Guidelines for Determining Eligibility For Access to Classified Information" (Guidelines). In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into Disqualifying Conditions (DC) and Mitigating Conditions (MC), which are used to determine an applicant's eligibility for access to classified information.

These guidelines are not inflexible ironclad rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. Guideline ¶ 2. An administrative judge's over-arching adjudicative goal is a fair, impartial and common sense decision. Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," an administrative judge considers all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision. Guideline ¶ 2(c).

Specifically, an administrative judge should consider the nine adjudicative process factors listed at Guideline ¶ 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) 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."

Since the protection of the national security is the paramount consideration, the final decision in each case is arrived at by applying the standard that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." Guideline ¶ 2(b). In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

²¹Administrative Exhibit 5, *supra*, note 19, at 1-2.

²²Administrative Exhibit 8, *supra*, note 19, at 2.

²³Administrative Exhibit 3, *supra*, note 18, at 1-3.

In the decision-making process, facts must be established by “substantial evidence.”²⁴ The Government initially has the burden of producing evidence to establish a case which demonstrates, in accordance with the Directive, that it is not clearly consistent with the national interest to grant or continue an applicant’s access to classified information. Once the Government has produced substantial evidence of a disqualifying condition, the burden shifts to Applicant to present “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and [applicant] has the ultimate burden of persuasion as to obtaining a favorable clearance decision.” Directive ¶ E3.1.15. The burden of disproving a mitigating condition never shifts to the Government. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).²⁵

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 under this Directive include, by necessity, consideration of the possible risk an 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.

The scope of an administrative judge’s decision is limited. Nothing in this Decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism.²⁶

CONCLUSIONS

Guideline ¶ 6. The Concern. Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline 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 United States citizens to obtain protected information and/or is associated with a risk of terrorism.

²⁴“Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). “This is something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “Substantial evidence” is “more than a scintilla but less than a preponderance.” *See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

²⁵“The Administrative Judge considers the record evidence as a whole, both favorable and unfavorable, evaluates Applicant’s past and current circumstances in light of the provisions of the Directive, and decide[s] whether Applicant has met his burden of persuasion under Directive ¶ E3.1.15.” ISCR Case No. 04-10340 at 2 (App. Bd. July 6, 2006).

²⁶Executive Order 10865, § 7.

Guideline ¶ 7. Conditions that could raise a security concern and may be disqualifying include:

- (a) contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and
- (d) sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion.

The Government produced substantial evidence of these two disqualifying conditions, and the burden shifted to Applicant to produce evidence and prove a mitigating condition. As previously indicated, the burden of disproving a mitigating condition never shifts to the Government.

Three Foreign Influence Mitigating Conditions under Guideline ¶ 8 are potentially applicable to these disqualifying conditions:

- (a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the U.S.;
- (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;
- (c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

Guideline ¶ 7 does not, by its express terms, exclude from consideration applicants with relatives or associates in countries where terrorism has occurred, any more than it excludes persons from countries where there are foreign governments, foreign political organizations, or foreign non-governmental organizations. Rather, it focuses on a very specific type of threat—the risk of a foreign power exploiting an applicant’s foreign relatives in such a way as to cause an applicant to act adversely to the interests of the United States. The mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country, and an applicant has contacts with that relative, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information.²⁷ Applicant has no frequent contacts or a close relationship with his family. He has seen one sister in the last five years. He has no telephone contact with them. He owns no property in Afghanistan.

The nature of a nation’s government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant’s family members are

²⁷See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the United States. The hostility of the Taliban, Al Qu'aida, and other terrorist organizations in Afghanistan to the United States places a "very heavy burden of persuasion" on Applicant to demonstrate that his immediate family members in Afghanistan do not pose security risks and he is not in a position to be forced to choose between loyalty to the United States and his family members.²⁸ With its adversarial stance and its dismal human rights record, it is conceivable that these forces in Afghanistan would target any citizen in an attempt to gather information from the United States. The government of Afghanistan is, on the other hand, friendly to the U.S. and has been a partner in over-throwing the Taliban and Al Qu'aida in Afghanistan.

There is no evidence that Applicant's family are or have been political activists or journalists, challenging the policies of the Afghan government. Likewise, there is no evidence that these relatives work for the Afghan government or military or any news media. There is no evidence that the Afghan government has approached any of his Afghan family for any reason, and in particular, has not approached them since his work for the military there in 2004 and 2005. There is no evidence that his family living in Afghanistan engages in activities which would bring attention to themselves or that they are even aware of his work. As such, there is a reduced possibility that they would be targets for coercion or exploitation by the Afghan government.

Guideline ¶ 8 (c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation applies because he has little or no contact with his family.

Applicant's statement about his loyalty to the United States is credible, and there is no reason to believe that he would take any action which could cause potential harm to his U.S. family or to this country. If the Afghan government should threaten harm to his family members living in Afghanistan to obtain classified information from him or otherwise contact him, I am persuaded that he would report this activity to the U.S. authorities. There is no evidence that he has failed to follow the rules or failed to require those around him to do the same on projects requiring security clearances. There is no evidence that he lacks the respect and trust of his employer, his friends, and family or that he lacks honesty and integrity. There is no evidence that he has revealed to his family in Afghanistan the nature of his work or about applying for a security clearance.

Whole Person Concept

In addition to the enumerated disqualifying and mitigating conditions as discussed previously, I have considered the general adjudicative guidelines related to the whole person concept under Directive ¶ E2.2.1. The directive lists nine adjudicative process factors which are used for "whole person" analysis. Foreign influence and foreign preference do not involve misconduct, voluntariness of participation, rehabilitation and behavior changes, etc. Accordingly, the eighth adjudicative process factor is probably the most relevant. Directive ¶ E2.2.1.8. The eighth factor

²⁸See ISCR Case No. 02-13595 at 3 (App. Bd. May 10, 2005) (stating an applicant has "a very heavy burden of persuasion to overcome the security concerns" when parents and siblings live in Iran). See also ISCR Case No. 04-11463 at 4 (App. Bd. Aug. 4, 2006) (articulating "very heavy burden" standard when an applicant has family members living in Iran).

provides, “the potential for pressure, coercion, exploitation, or duress.”²⁹ Afghanistan’s government is not hostile to the United States but does not conform to widely accepted norms of human rights. Applicant has multiple family members who live in Afghanistan, but he has almost no contact with them. Under the circumstances, it is unlikely there would be significant possibility of pressure, coercion, exploitation or duress.

As indicated in the statement of facts, there are many other countervailing, positive attributes to Applicant’s life as a U.S. citizen that weigh towards granting a clearance. He is patriotic, loves the United States, and would not permit Afghanistan to exploit him. He has close ties to the United States. His closest family members are his wife and four children. They are U.S citizens and live with him. Because his wife and children live in the United States, they are not vulnerable to coercion or exploitation by a foreign power, except possibly indirectly through relatives, who still live or visit Afghanistan. He has lived in the United States 21 years. He owns property in the United States. The “whole person” analysis in a Guideline B case should include “the totality of an applicant’s conduct and circumstances (including the realistic potential for exploitation)” as well as the eighth factor discussed in the previous paragraph.³⁰ In this case, Applicant’s potential for exploitation is low. I base this finding on his credible and sincere testimony, and I do not believe he would compromise national security, or otherwise comply with any Afghan threats. After weighing the disqualifying and mitigating conditions, all the facts and circumstances, in the context of the whole person, I conclude Applicant has mitigated the security concerns pertaining to foreign influence.

Based on the Appeal Board’s Guideline B jurisprudence pertaining to cases involving Afghan-Americans, who have frequent contacts with family members living in Afghanistan, Applicant’s security eligibility and suitability can be approved. I take this position based on the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), my “careful consideration of the whole person factors”³¹ and supporting evidence, my application of the pertinent factors under the Adjudicative Process, and my interpretation of my responsibilities under Enclosure 2 of the Directive. I conclude Applicant is eligible for access to classified information.

FORMAL FINDINGS

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

Paragraph 1. Guideline :	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant

²⁹See ISCR Case No. 02-24566 at 3 (App. Bd. July 17, 2006) (stating that an analysis under the eighth whole person factor apparently without discussion of the other factors was sustainable); ISCR Case No. 03-10954 at 5 (App. Bd. Mar. 8, 2006) (sole whole person factor mentioned is eighth factor in discussion of Judge’s whole person analysis for Iranian-American’s case).

³⁰Compare ISCR Case No. 03-23259 at 2 (App. Bd. May 10, 2006) (noting Judge did not assess “the realistic potential for exploitation” but affirming denial of clearance based on contacts with Iranian family members); with ISCR Case No. 03-17620 at 4 (App. Bd. Apr. 17, 2006) (remanding grant of clearance because Judge did not assess “the realistic potential for exploitation”).

³¹See ISCR Case No. 04-06242 at 2 (App. Bd. June 28, 2006).

Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	For Applicant

DECISION

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

Christopher Graham
Administrative Judge