



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



In the matter of:	)	
	)	
	)	ISCR Case No. 10-03107
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Caroline H. Jeffreys, Esquire, Department Counsel  
For Applicant: *Pro se*

April 29, 2011

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**Decision**

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ANTHONY, Joan Caton, Administrative Judge:

After a thorough review of the case file, pleadings, and exhibits, I conclude that Applicant mitigated the Government’s security concerns under Guideline B, Foreign Influence, and the “whole-person” analysis. His eligibility for a security clearance is granted.

Applicant completed a security clearance application (SF 86) and a Counterintelligence and Security Screening Questionnaire (CI) on January 2, 2008. On November 5, 2010, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline B, Foreign Influence. DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant’s answer to the SOR was signed and notarized on November 30, 2010. He requested a decision on the record in lieu of a hearing. The Government compiled its File of Relevant Material (FORM) on January 6, 2011. The FORM contained documents identified as Items 1 through 7. Additionally, in the FORM, the Government

requested that I take administrative notice of certain facts about Afghanistan and the Islamic Republic of Pakistan (Pakistan) and provided, as reference materials, official U.S. documents.<sup>1</sup> I marked the Government's administrative notice documents as Exhibit (Ex.) A.

On January 31, 2011, DOHA forwarded a copy of the FORM to Applicant, with instructions to submit any additional information and objections within 30 days of receipt. Applicant received the file on February 26, 2011. His response was due on March 28, 2011. Applicant timely submitted seven exhibits related to the Guideline B allegations in the SOR. Department Counsel did not object to the admission of these exhibits, which I then marked as Ex. A through Ex. G and admitted to the record. On March 22, 2011, the case was assigned to me for a decision.

### **Findings of Fact**

The SOR contains two allegations that raise security concerns under Guideline B, Foreign Influence (SOR ¶¶ 1.a. and 1.b.). In his Answer to the SOR, Applicant admitted the two Guideline B allegations. Applicant's admissions are entered as findings of fact. (Item 1; Item 4.)

Applicant, who is 54 years old, never married, and employed by a defense contractor, seeks a security clearance for the first time. He was born in Afghanistan and fled to Pakistan in 1986. In his CI interview, he told the investigator that his father was killed during the Soviet occupation of Afghanistan because "they did not like businessmen." He immigrated to the United States in 1988, and he became a U.S. citizen in 2007. (Item 5; Item 6; Item 7 at 14.)

Applicant has been assigned as an Arab language linguist overseas since January 2008. Before becoming a linguist, Applicant owned a grocery store. He also worked as a salesperson, sales manager, and truck driver. (Item 7.)

During his CI interview in January 2008, Applicant appeared to have difficulty understanding and responding to the interviewer's questions. The interviewer found it necessary to repeat questions and concluded that Applicant had a poor command of English. (Item 7.)

Applicant has a brother who is a citizen and resident of Afghanistan. This relationship is alleged as a Guideline B security concern at SOR ¶ 1.a. Applicant's step-mother, brother, half-brother, and three half-sisters are citizens of Afghanistan who reside in Pakistan. Applicant reported that his contacts with these relatives were limited to one or two yearly attempts to contact them by telephone. These relationships are alleged as a Guideline B security concern at SOR ¶ 1.b. (Item 1; Item 6.)

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<sup>1</sup> The Government provided seven official U.S. documents and a six-page factual summary containing facts about Afghanistan and eight official U.S. documents and a six-page factual summary containing facts about Pakistan

During a four-week home leave in December 2008, Applicant was interviewed by an authorized investigator from the U.S. Office of Personnel Management (OPM). He told the investigator that during his deployments overseas, he has no contact with his foreign family members because such contacts were discouraged by U.S. authorities and could threaten his family members' safety. (Item 6 at 5.)

In March 2011, in response to the FORM, Applicant provided additional information about his family contacts and work as a linguist. In a notarized statement, he asserted that for the previous eight months he had had no contact with his family members who are citizens of Afghanistan and who reside in Afghanistan and Pakistan. He also stated: "I have been working as a Federal Contractor . . . for the past 3 years [and] I am loyal to my company, the military, and to the United States of America." (Ex. A.)

Applicant provided copies of awards and certificates of appreciation that he had received for his work as a linguist. He was recognized for outstanding service as a "mission essential personnel" from January 2008 until March 2010. In May 2009, he received a certificate of appreciation for his "professionalism and support" during in-processing and out-processing of hundreds of detainees. In April 2009, he received a commendation for his work as a translator on mental health issues. Additionally, a certificate of achievement that he was awarded on June 16, 2009 reads:

For outstanding service in the face of the enemy, let all who witness this certificate know that [Applicant] who served as an interpreter from 1 Sep 08 – 16 June 09 at [deleted] has performed his assigned duties selflessly and professionally. Without him and others of his caliber, the United States government and its allies would not be able to effectively prosecute the global war on terrorism.

(Ex. B; Ex. C; Ex. D; Ex. E.)

Applicant also provided copies of his performance evaluations for 2009 and 2010. In 2009, his supervisor evaluated the quality of his translations and interpretations as "excellent in all respects." Additionally, the supervisor concluded that Applicant exhibited a "thorough understanding and utilization of fundamentals of linguist excellence." Moreover, the supervisor noted that Applicant had an "excellent understanding of and willingness to execute assigned tasks and missions." The supervisor also noted that Applicant was dependable, conscientious, and exercised good judgment under pressure. (Ex. G.)

Applicant's 2010 performance evaluation reflected continued professional growth. His supervisor rated Applicant's translations and interpretations as "superior" and "exceptional." Moreover, the supervisor awarded Applicant the highest possible ratings for dependability, cooperation, quality of work, timeliness of work, judgment, initiative and creativity, mission readiness, and overall performance. (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. The facts were derived from official U.S. Government documents provided as attachments to the FORM and are identified in the record as Ex. A<sup>2</sup>:

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. Pakistan has a coalition government led by Prime Minister Yousef Gilani and president and head of state Asif Ali Zardari, widower of assassinated Pakistan People's Party leader Benazir Bhutto.

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 leader of the Taliban, Mullah Omar, is operating openly in Pakistan. 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.

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<sup>2</sup> The following official U.S. Government documents were used to provide the factual summary on Pakistan quoted in this decision: U.S. Department of State, *Background Note: Pakistan*, July 21, 2010 (16 pages); U.S. Department of State, *Country Specific Information: Pakistan*, July 13, 2010 (10 pages); U.S. Department of State, *2009 Human Rights Report: Pakistan*, March 11, 2010 (41 pages); Annual Threat Assessment of the U.S. Intelligence Community for the Senate Select Committee on Intelligence, Director of National Intelligence, February 2, 2010 (47 pages); Verbatim Interview: Chairman of the Joint Chiefs of Staff Admiral Mike Mullen, National Public Radio, March 27, 2009, as found at <http://www.jcs.mil/speech.aspx?id=1148>; U.S. Department of State, *Country Reports on Terrorism 2009, Chapter 5 – Terrorist Safe Havens and Tactics and Tools for Disrupting or Eliminating Safe Havens*, August 5, 2010 (15 pages); U.S. Department of State, *Country Reports on Terrorism 2009, Chapter 2 – Country Reports South and Central Asia Overview*, August 5, 2010 (9 pages); and U.S. Department of State, *Travel Warning Pakistan*, July 22, 2010 (4 pages). Footnotes in the quoted text were omitted.

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.

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. In the last three months of 2009, Pakistan-based extremists and al-Qa'ida conducted at least 40 suicide terrorist attacks in major cities in Pakistan, killing about 600 Pakistani civilians and security force personnel. 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 monitored 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, 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.

I also take administrative notice of the following facts about Afghanistan. The facts in the following summary were provided by Department Counsel to Applicant and to me. The facts were derived from official U.S. Government documents provided as attachments to the FORM and are identified in the record as Ex. A<sup>3</sup>:

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. 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 not a party to the negotiations for the Accords and refused to accept them. As a result, a civil war continued after the Soviet withdrawal. In the mid-1990s, the Taliban rose to power largely due to the anarchy and warlordism that arose after the Soviet withdrawal. The Taliban sought to impose an extreme interpretation of Islam on the entire country and committed massive human rights violations. The Taliban also provided sanctuary to Osama Bin-Laden, al-Qa'ida, 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. forces and a coalition partnership commenced military operations in October 2001 that forced the Taliban out of power by November 2001. A new democratic government took power in 2004. Despite progress made since the Taliban was deposed, Afghanistan still faces many daunting challenges. Among

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<sup>3</sup> The following official U.S. Government documents were used to provide the factual summary on Afghanistan quoted in this decision: U.S. Department of State, *Background Note: Afghanistan*, March 26, 2010 (12 pages); U.S. Department of State, *2009 Human Rights Report: Afghanistan*, March 11, 2010 (28 pages); U.S. Department of State, Bureau of Consular Affairs, *Country Specific Information: Afghanistan*, September 27, 2010 (7 pages); Annual Threat Assessment of the U.S. Intelligence Community for the Senate Select Committee on Intelligence, Director of National Intelligence, February 2, 2010 (47 pages); U.S. Department of State, *Country Reports on Terrorism 2009, Chapter 5 – Terrorist Safe Havens and Tactics and Tools for Disrupting or Eliminating Safe Havens*, August 5, 2010 (15 pages); U.S. Department of State, *Country Reports on Terrorism 2009, Chapter 2 – Country Reports South and Central Asia Overview*, August 5, 2010 (9 pages); and U.S. Department of State, Bureau of Consular Affairs, *Travel Warning: Afghanistan*, August 13, 2010 (2 pages). Footnotes in the quoted text were omitted.

these challenges are: defeating terrorists and insurgents; recovering from over three decades of civil strife; and rebuilding a shattered physical, economic and political infrastructure.

Afghanistan's human rights record has remained poor. Human rights problems included extrajudicial killings, torture, poor prison conditions, official impunity, prolonged pretrial detention, restrictions on freedom of the press, restrictions of freedom of religion, violence and societal discrimination against women, restrictions on religious conversion, abuses against minorities, sexual abuse of children, trafficking in persons, abuse of worker rights, the use of child soldiers in armed conflict, and child labor. There were numerous reports that the government – or its agents – committed arbitrary or unlawful killings. Additionally, over the last year, more than 5,814 people died as a result of the insurgency.

The Afghan-Taliban dominated insurgency has become increasingly frequent, sophisticated, dangerous, and destabilizing, despite International Security Assistance Force and Operation Enduring Freedom military operations. Civilians continue to bear the brunt of the violence and increased attacks. Despite the loss of some key leaders, insurgents have adjusted their tactics to maintain momentum following the arrival of additional U.S. forces last year. Additionally, the Taliban was most likely responsible for suppressing voter turnout in the August 2009 elections in key parts of the country. In the past year, armed conflict spread to almost one-third of the country, including previously unaffected areas in the north and northeast. The Taliban's expansion of influence into northern Afghanistan since late 2007 has made the insurgency a nationwide threat. This lack of security in many areas, coupled with a generally low government capacity and competency, has hampered efforts to improve governance and extend development.

Afghan leaders also continue to face the eroding effects of official corruption and the drug trade. Criminal networks and narcotics cultivation constitute a source of funding for the insurgency in Afghanistan. Streams of Taliban from across the border in Pakistan, along with funds gained from narcotics trafficking and kidnapping, have allowed the insurgency to strengthen its military and technical capabilities.

In addition to the Taliban, al-Qa'ida, other insurgent groups, and anti-Coalition organizations continue to operate in Afghanistan resulting in numerous attacks and deaths. Insurgents have targeted NGOs [Non-Government Organizations], Afghan journalists, government workers, and UN workers. Instability along the Pakistan-Afghan frontier continued to provide al-Qa'ida with leadership mobility and the ability to conduct training and operational planning, targeting Western Europe and U.S.

interests in particular. Kabul is considered at high risk for militant attacks, including rocket attacks, vehicle-borne IEDs, and suicide bombings.

Overall, the State Department has declared that the security threat to all American citizens in Afghanistan remains critical, and travel in all areas of Afghanistan remains unsafe, due to military combat operations, landmines, banditry, armed rivalry between political and tribal groups, and the possibility of terrorist attacks.

## **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 seeking to obtain 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 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**

### **Guideline B, Foreign Influence**

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.

Soon after the terrorist attacks of 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. However, despite these efforts, members of the Taliban are known to be in the FATA of Pakistan, the Kpk (formerly known as the NWFP), and in the Balochistan Province, which borders Iran and Afghanistan. Overall, Pakistan has intensified counterinsurgency efforts, but its record with dealing with terrorists and militants has been mixed. Pakistan has demonstrated determination and persistence in combating militants it perceives to be dangerous to Pakistan’s interests, but many terrorist groups, including al-Qa’ida and other transnational terrorists and insurgents appear to be operating freely in parts of Pakistan. Terrorist groups operating in Pakistan

have targeted U.S. citizens. The U.S. Department of State has warned U.S. citizens of the dangers of travel to Pakistan.

In Afghanistan, the Afghan-Taliban dominated insurgency has become increasingly dangerous and destabilizing, despite International Security Assistance Force and Operation Enduring Freedom military operations. In addition to the Taliban, al-Qa'ida, other insurgent groups, and anti-Coalition organizations continue to operate in Afghanistan resulting in numerous attacks and deaths. The State Department has declared that the security threat to all American citizens in Afghanistan remains critical, and travel in all areas of Afghanistan remains unsafe, due to military combat operations, landmines, banditry, armed rivalry between political and tribal groups, and the possibility of terrorist attacks.

Applicant's brother is a citizen and resident of Afghanistan. His stepmother, brother, half-brother, and three half-sisters are citizens of Afghanistan and reside in Pakistan. These facts are sufficient to raise Guideline B security concerns.

I have considered all of the disqualifying conditions under the Foreign Influence guideline. The facts in this case raise 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."

Applicant's family members are citizens of Afghanistan who reside in Afghanistan and Pakistan, two countries destabilized by war and terrorist activity. In the past, Applicant has contacted these relatives once or twice a year by telephone. When deployed overseas on assignment, he has honored his employer's policy of not contacting his family members. In his response to the FORM, Applicant stated that he had had no contact with his family members for eight months. If he were to have contact with these family members, his contacts with them could create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion.

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.

Applicant is a single middle-aged man with no immediate family. In the past, his contacts and relationships with his family members in Afghanistan and Pakistan consisted of one of two telephone calls a year. When on deployment, he honored his employer’s wishes and had no contact with those family members. The record suggests that Applicant’s relationship with his family members in Afghanistan and Pakistan is based on minimal and infrequent contact. Applicant’s conduct suggests he put his loyalty to the United States above his relationships with his family members in Afghanistan and Pakistan.

Applicant has distinguished himself as a contract linguist, and his supervisor and the clients he serves provided credible documentation establishing his honorable and dedicated service in carrying out the interests of the United States in the face of hardship and danger. Applicant himself stated that his loyalties are to his employer, the U.S. military, and to the United States. I conclude that Applicant’s demonstrated service and loyalty to the United States show he can be expected to resolve any conflict of interest in favor of the U.S. interest. I conclude that AG ¶¶ 8(a), 8(b), and 8(c) apply in mitigation to Applicant’s case.

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant’s eligibility for a security clearance by considering the totality of an 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 all the facts and circumstances surrounding this case. Applicant, who is serving overseas as a contract Arab linguist, elected to have a decision without a hearing. Because he did

not appear in person, I was unable to question and observe him in order to assess his credibility. However, in his response to the FORM, Applicant provided assessments of his character and job performance that enabled me to see him as he is seen by those with whom he serves and works. Those individuals provided information establishing Applicant's bravery, professionalism, good judgment, and demonstrated commitment to the goals and interests of the United States.

A careful review of Applicant's family relationships does not raise security concerns about his vulnerability to conflict of interest, foreign exploitation, inducement, and coercion. For his own interests and for the protection of his family members in Afghanistan and Pakistan, Applicant has taken reasonable steps to avoid contact with them.

Overall, the record evidence leaves me with no questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude that Applicant mitigated security concerns arising under the foreign influence adjudicative guideline.

### **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 2: Guideline B:	FOR APPLICANT
Subparagraph 1.a.:	For Applicant
Subparagraph 1.b.:	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.

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Joan Caton Anthony  
Administrative Judge