



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



In the matter of:)
)
) ISCR Case No. 11-11017
)
Applicant for Security Clearance)

Appearances

For Government: Braden M. Murphy, Esquire, Department Counsel
For Applicant: Christopher Graham, Esquire

04/02/2013

Decision

DAM, Shari, Administrative Judge:

Based upon a review of the case file, pleadings, exhibits, and testimony, foreign influence security concerns are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

On August 30, 2010, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) (SF 86) (Government Exhibit (GE) 1). On August 20, 2012, the Department of Defense (DOD) issued a statement of reasons (SOR) to him, alleging security concerns under Guideline B (foreign influence). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated by the President on December 29, 2005.

The SOR detailed reasons why DOD could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for him, and recommended referral to an administrative judge to determine whether a clearance should be granted for Applicant.

On October 10, 2012, Applicant responded to the SOR and requested a hearing before an administrative judge (Answer). On January 4, 2013, Department Counsel was prepared to proceed. On January 10, 2013, DOHA assigned the case to me. On January 22, 2013, DOHA issued a Notice of Hearing, setting the hearing for February 19, 2013. The hearing was held as scheduled. I received the transcript of the hearing (Tr.) on February 28, 2013.

Procedural Rulings

At the hearing, Department Counsel offered three exhibits that he marked as Government Exhibits (GE) 1 through 3. Applicant did not object to my consideration of the exhibits, and I admitted them. (Tr. 14.) The following day, on February 20, 2013, I received Applicant's resume that I marked as Applicant's Exhibit (AE) 1, and admitted into evidence without objection from Department Counsel.

Department Counsel requested administrative notice (AN) of facts concerning Taiwan. (Tr. 13; Hearing Exhibit (HE) 1, AN Request.) Department Counsel provided 16 supporting documents to show detail and context for those facts. (HE 1: I to XVI.) Applicant did not object, and I granted Department Counsel's request. (Tr. 13.) Applicant offered one AN document that I marked as HE A and admitted without objection from Department Counsel. (Tr. 15.)

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See 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) and *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986)). Usually administrative notice at ISCR proceedings is accorded to facts that are either well known or from government reports. See Stein, ADMINISTRATIVE LAW, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice).

Findings of Fact¹

Applicant's SOR response admitted the allegations in SOR ¶¶ 1.a to 1.e. (Answer). After a complete and thorough review of the evidence of record, I make the following findings of fact.

Applicant is a 51-year-old senior security engineer and program manager. In August 2008, he started working for a defense contractor and applied for his first security clearance that same month. (Tr. 42.)

Applicant was born and raised in Taiwan. In 1984, he received a bachelor's degree in library and information science from a Taiwanese university. From 1984 to May 1986, he was conscripted into Taiwanese military service. In 1987, he moved to

¹The facts in this decision do not specifically describe employment, names of witnesses, names of other groups or locations in order to protect Applicant's and his family's privacy. The cited sources contain more specific information.

the United States on a student visa and began studying at a U.S. university. In 1988, he earned a master's degree in library science, and in 1990 he earned a master's degree in telecommunications. In October 1999, he became a U.S. citizen and obtained his U.S. passport.

From 1995 to 1999, Applicant worked for U.S. universities. From 1999 to 2000, he was a senior system analyst for a private company. From March 2000 to November 2001, Applicant worked for a private company as a director of information technology, at which time the company went out of business and he became unemployed until July 2002. He then took a position as a senior technical engineer with another private company and worked there until November 2005, when he began working for a Taiwanese company with its main office in Taiwan. He worked for that company from December 2005 until March 2010 as its director for the information management division. (GE 1, 2, 3; AE 1.) In August 2010, he renounced his Taiwanese citizenship and surrendered his Taiwanese passport to the Taiwan Consular Office. (Tr. 43-45; GE 1, 2, 3.) He does not receive any benefits from the Taiwanese government. (Tr. 59.)

During those years that Applicant worked in Taiwan, he commuted back and forth from the United States. He lived and worked there approximately eight months a year. (Tr. 65.) He was a dual citizen at the time and used his Taiwanese passport to enter and exit as a convenience. (Tr. 44, 65.) While working there, he had a checking account into which his paycheck was deposited. He believes it is inactive because he withdrew his money from it. (Tr. 62.)

In August 2010, Applicant started his current position with a U.S. company. Since then, he traveled to Taiwan twice, once in 2011 and in December 2012 to visit his parents. He used his U.S. passport both times. (Tr. 55-56, 66.)

Applicant's spouse was born in Taiwan. They met in 1988 while studying in the United States. In February 1992, they married. She became a U.S. citizen in 1999. She worked for a U.S. company from 1999 to 2005. Now, she is a housewife. (GE 3.) She has an expired Taiwanese passport. (Tr. 46.) They have a 10-year-old child who was born in the United States.

Applicant's parents are citizens and residents of Taiwan. His father, age 85, was employed by a Taiwanese agency for 30 years and receives a government pension. His mother, age 81, is a housewife. (Tr. 25; GE 3.) Both parents resided with him in the United States for two or three years. They returned to Taiwan for medical reasons. They have U.S. alien registration status since 2002. (Tr. 26, 56; GE 1.) Applicant speaks to them twice a month. (Tr. 31, 52.) He visited them on the weekends when he worked in Taiwan. (Tr. 54.)

Applicant's brother is a citizen and resident of Taiwan. His brother and sister-in-law work for an insurance company. (Tr. 27.) He speaks to his brother twice a month, when he calls his parents because they reside in the same building. (Tr. 58.) Applicant's sister was born in Taiwan and is a U.S. citizen and resident. (GE 1.) Her husband is the Chief Executive Officer (CEO) of the Taiwanese company where Applicant formerly

worked. He is a citizen and resident of Taiwan, and commutes to and from the United States. (Tr. 53, 68.)

Applicant's mother-in-law and father-in-law were born in Taiwan (formerly China). Her father, a retired construction worker, died in November 2012. (Tr. 54.) Her mother is a citizen and resident of Taiwan. She was a housewife. Applicant's wife telephones her mother once or twice a year. (Tr. 58.)

Applicant owns his residence in the United States. As of July 2011, he has paid half of the mortgage. (GE 3.) His annual income is \$125,000. (Tr. 61.) He has bank, retirement, and investment accounts in the United States. (Tr. 34.) He does not have financial interests in Taiwan. (Tr. 34.) He does not provide financial support to his family in Taiwan. (Tr. 30.)

Applicant testified credibly. He would report to his employer or local authorities any incident in which someone sought information from him, or threatened him or his family to obtain it. (Tr. 70.) He expressed strong allegiance to the United States and his intention to remain living in the United States. (GE 2, 3.) The investigator, who interviewed Applicant in July 2011, reported that Applicant was cooperative and direct in his responses. (GE 3.) There is no evidence that Applicant has engaged in criminal activity, abused alcohol or illegal drugs, or has financial problems.

Character Evidence

Applicant's supervisor testified. He holds a Top Secret security clearance. He is the president and owner of the company where Applicant works. He has known Applicant since 1999, when Applicant worked for him at a company that went bankrupt. He stated that Applicant is "extraordinarily skilled in the area of system administration, network engineering." (Tr. 75.) Applicant holds "over 20 certifications in related fields which is extraordinary. Most people have one or two." (Tr. 75; AE 1.) He has no reservations about Applicant holding a security clearance and protecting classified information. (Tr. 77.) He considered Applicant to be a family man, a dedicated employee, and non-political in his attitude or activities. (Tr. 81.)

Taiwan

Taiwan is a multi-party democracy. The United States does not support Taiwan independence, in keeping with the Chin policy; however, it maintains strong and, unofficial relations with Taiwan in order to further peace and stability in Asia. The United States supports Taiwan's membership in appropriate international organizations where statehood is not a requirement for membership and encourages its meaningful participation in appropriate international organizations, such as the World Trade Organization, Asia-Pacific Economic Cooperation (APEC) forum, and the Asian Development Bank. Maintaining diplomatic relations with the People's Republic of China (PRC) has been recognized to be in the long-term interest of the United States by six consecutive administrations.

There are significant economic ties between Taiwan and the PRC, which are attributable to their physical proximity and history. Because of its location, Taiwan has a particular interest in information from the United States that could aid it in its own defense. Taiwan's primary defense goal is to deter invasion from the PRC. The PRC maintains intelligence operations in Taiwan through a bureau utilizing PRC nationals with Taiwanese connections. Unlike the PRC, however, the constitutional basis of the Taiwanese government suggests that resort to coercive measures against its citizens to collect economic intelligence is unlikely.

Taiwan's commercial ties with the United States have expanded since 1979. Export-Import Bank financing, Overseas Private Investment Corporation guarantees, normal trade relations (NTR) status, and ready access to U.S. markets have enhanced the Taiwan economy.

The record references various cases involving the illegal export or attempted illegal export of U.S. restricted, dual-use technology to and/or through Taiwan. One report to the U.S. Congress concerns foreign economic collection and industrial espionage. That report notes that Taiwan was then known to be an active collector of U.S. economic intelligence. The report ranked Taiwan after China, Japan, Israel, France, and Korea as an active collector of such information. Although some of the record information about Taiwan's intelligence activities targeting U.S. classified or sensitive information is more than 10 years old, several exhibits address more recent espionage by Taiwan's National Intelligence Bureau. There is some evidence that Taiwan has specifically targeted U.S. citizens in the last five to seven years to obtain protected and classified information.

Taiwan is a modern democracy with vibrant public participation during which demonstrations may become confrontational. The U.S. State Department urges caution within the vicinity of any political demonstrations. Overall crime is noted as low.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "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 applicants 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.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's

overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 about potential, rather than actual, risk of compromise of classified information. Adverse clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. See also Executive Order 12968 (Aug. 2, 1995), § 3.1.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “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). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). 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). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Foreign Influence

AG ¶ 6 explains the security concern about “foreign contacts and interests” stating that such concerns may arise:

[I]f the individual has divided loyalties or foreign financial interests, [he or she] 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.

AG ¶ 7 indicates two conditions that could raise a security concern and may be disqualifying in this case:

(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

(b) 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, his parents, his spouse, some of his in-laws, and two siblings were all born in Taiwan. His parents and brother are citizens and residents of Taiwan. He has frequent contact with his parents and brother. He cares about the welfare of his family living in Taiwan. Taiwan's economic espionage activities create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion.

The mere possession of close family ties with a family member living in Taiwan, is not, as a matter of law, disqualifying under Guideline B. However, if an applicant has a close relationship with even one relative, living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. See *Generally* ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

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 vulnerable to government coercion or inducement. 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 collection operations against the United States. The relationship of Taiwan with the United States places a significant, but not insurmountable, burden of persuasion on Applicant to demonstrate that his relationships with his family members living in Taiwan do not pose a security risk. Applicant should not be placed into a position where he might be forced to choose between loyalty to the United States and a desire to assist a family member living in Taiwan.

Guideline B is not limited to countries hostile to the United States. "The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004). Furthermore, friendly nations can have profound disagreements with the United States

over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. See ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at **15-16 (App. Bd. Mar. 29, 2002).

While there is no evidence that intelligence operatives or terrorists from Taiwan seek or have sought classified or economic information from or through Applicant or his family, nevertheless, it is not possible to rule out such a possibility in the future. International terrorist groups are known to conduct intelligence activities as effectively as capable state intelligence services; however, Taiwan does not have a significant problem with terrorism. Applicant's relationship with family members living in Taiwan creates a potential conflict of interest because this relationship is sufficiently close to raise a security concern about his desire to assist family members in Taiwan by providing sensitive or classified information. Department Counsel produced substantial evidence of Applicant's contacts with his family living in Taiwan and has raised the issue of potential foreign pressure or attempted exploitation. AG ¶¶ 7(a) and 7(b) apply, and further inquiry is necessary about potential application of any mitigating conditions.

AG ¶ 8 lists six conditions that could mitigate foreign influence security concerns including:

- (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;
- (d) the foreign contacts and activities are on U.S. Government business or are approved by the cognizant security authority;
- (e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; and

(f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

AG ¶¶ 8(a) and 8(c) do not apply. Applicant has frequent contacts with his parents and sibling, who are citizens and residents of Taiwan. His parents are in their 80s and retired. His father receives a government pension. Applicant traveled back and forth to Taiwan for work between December 2005 and March 2010, and resided there about eight months a year. He used his Taiwan passport for that travel and after becoming a U.S. citizen. He most recently traveled to Taiwan in December 2012 to visit his parents. His loyalty and connections to his family living in Taiwan are a positive character trait; however, for security clearance purposes, those same connections to his family living in Taiwan negate the possibility of mitigation under AG ¶¶ 8(a) and 8(c). Applicant failed to fully meet his burden of showing there is “little likelihood that [his relationships with his relatives who are Taiwan citizens] could create a risk for foreign influence or exploitation.”

AG ¶ 8(b) fully applies. A key factor in the AG ¶ 8(b) analysis is Applicant’s “deep and longstanding relationships and loyalties in the U.S.” Applicant has significant connections to the United States. His spouse, child, and sister are U.S. citizens and residents. In 1987, he moved to the United States to attend graduate school. In 1988, he met his spouse, who was studying at the same university. In both 1988 and 1990, he earned a master’s degree. In 1992, he married his spouse. In 1999, he became a U.S. citizen. He has worked for universities and private companies since living in the United States. He intends to continue residing in the United States with his spouse and child.

Applicant’s relationship with the United States must be weighed against the potential conflict of interest created by his relationships with his family living in Taiwan, and indirectly, his family’s relationships with other Taiwan citizens living in Taiwan. He frequently communicates with his family living in Taiwan. There is no evidence, however, that terrorists, criminals, the Taiwan Government, or those conducting espionage have approached or threatened Applicant or his family in Taiwan to coerce Applicant or his family for classified or sensitive information.² As such, there is a reduced possibility that Applicant or his family would be specifically selected as targets for improper coercion or exploitation. While the Government does not have any burden to prove the presence of such evidence, if such record evidence were present, Applicant would have a heavier evidentiary burden to mitigate foreign influence security concerns. It is important to be mindful of the United States’ many years of friendship and trade with Taiwan.

AG ¶¶ 8(d) and 8(e) do not apply. The U.S. Government has not encouraged Applicant’s involvement with family members living in Taiwan. Applicant is not required to report his contacts with family members living in Taiwan.

²There would be little reason for U.S. enemies to seek classified information from an applicant before that applicant has access to such information or before they learn of such access.

AG ¶ 8(f) does not apply because there is no evidence that Applicant has any interest in property or bank accounts in Taiwan. However, this mitigating condition can only fully mitigate the disqualifying condition under AG ¶ 7(e), which provides, “a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation.” Applicant’s assets in the United States, which include his residence, retirement, investment, and bank accounts, and gross annual earnings of about \$125,000, are an important connection to the United States.

In sum, Applicant’s connections to family living in Taiwan are significant; however, they are less important than his and his family connections to the United States. His connections to the United States taken together are sufficient to fully overcome the foreign influence security concerns under Guideline B. Foreign influence concerns under Guideline B are mitigated; however, even if AG ¶ 8(b) was not applicable, security concerns are separately mitigated under the whole-person concept, *infra*.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an Applicant’s eligibility for a security clearance by considering the totality of the Applicant’s conduct and all the 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 have incorporated my comments under Guideline B in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

There are foreign influence security concerns arising from Applicant’s parents, in-laws, and brother being citizens and residents of Taiwan. Applicant, his spouse, his parents, and his siblings were born in Taiwan. He frequently communicates with his parents and brother in Taiwan. He regularly visited them when he worked there. His wife has some communication with her parents. His father receives a government pension. Applicant worked for a Taiwanese company for about four years that was managed by his brother-in-law, and required him to live in Taiwan eight months a year.

He used his Taiwanese passport to enter and exit the country during those years as a convenience.

The factors weighing towards approval of Applicant's security clearance are more substantial than the factors weighing against its approval. There is no evidence that Applicant has engaged in criminal activity, abused alcohol or illegal drugs, or has financial problems. His spouse, child, and sister are U.S. citizens and live in the United States. In 1987, he moved to the United States, where he met his wife the following year. In 1988 and 1990, he earned master's degrees. In 1992, he and his wife married. He has worked at U.S. universities and private company since arriving in the United States. In 1999, he became a U.S. citizen, which included swearing an oath of allegiance to the United States. His parents resided in the United States for two or three years. He began working for his current employer in August 2010. After leaving his previous employer, he renounced his Taiwan citizenship and surrendered his Taiwan passport to the Taiwan Consular Office. He intends to reside in the United States with his spouse and child. He has U.S. employment with income of \$125,000 per year and U.S. assets, including real estate and financial accounts. Applicant's supervisor, who has known him for over ten years, lauds his knowledge and achievements. He has no reservations about Applicant's loyalty, trustworthiness, or reliability to hold a security clearance.

A Guideline B decision concerning Taiwan must take into consideration the geopolitical situation and dangers there.³ Various court cases establish the illegal export or attempted illegal export of U.S. restricted, dual-use technology to and/or through Taiwan. One U.S. Government report describes Taiwan as one of the top seven countries, who are active collectors of U.S. economic intelligence. There is some evidence that Taiwan has specifically targeted U.S. citizens in the last five to seven years to obtain protected and classified information. However, the United States is committed to assisting Taiwan with the maintenance of Taiwan's defensive capabilities and a free and independent Taiwan Government. Taiwan and the United States have close relationships in diplomacy and trade.

I have carefully assessed Applicant's demeanor and sincerity at his hearing, and I find his statements to be credible. I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude Applicant has carried his burden and foreign influence concerns are mitigated. Eligibility for access to classified information is granted.

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:

³ See ISCR Case No. 04-02630 at 3 (App. Bd. May 23, 2007) (remanding because of insufficient discussion of geopolitical situation and suggesting expansion of whole-person discussion).

Paragraph 1, Guideline B:

FOR APPLICANT

Subparagraphs 1.a through 1.e:

For Applicant

Conclusion

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

Shari Dam
Administrative Judge