



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



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 12-02411

**Appearances**

For Government: Caroline Heintzelman, Esquire, Department Counsel

For Applicant: *Pro se*

07/31/2014

**Decision**

WESLEY, Roger C., Administrative Judge:

Based upon a review of the pleadings and exhibits, I conclude that Applicant did not mitigate security concerns regarding foreign influence and financial considerations. Eligibility for access to classified information is denied.

**History of Case**

On February 25, 2013, the Department of Defense (DoD) pursuant to Executive Order 10865 and DoD Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to Applicant, which detailed reasons why DoD adjudicators could not make the affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant, and recommended referral to an administrative judge to determine whether his clearance should be granted, continued, denied or revoked.

Applicant responded to the SOR on April 1, 2013, and elected to have his case decided on the basis of the written record. Applicant received the File of Relevant Material (FORM) on May 8, 2014. He timely provided additional materials in response to the FORM. In his supplemental response, he furnished a cover letter indicating he did

not wish to provide any additional materials. The case was assigned to me on June 9, 2014.

Besides its three exhibits, the Government requested administrative notice of certain facts with respect to the Islamic Republic of Afghanistan (Afghanistan). It cited six source documents, all official U.S. Government publications, pertaining to Afghanistan: *Afghanistan: Post-Taliban Governance, Security and U.S. Policy*, CRS Report for Congress (October 2013); *Unclassified Report on Progress Toward Security and Stability in Afghanistan*, U.S. Department of Defense (November 2013); *Country Reports on Terrorism 2012, Chapter 2-Country Reports: South and Central Asia*, U.S. Department of State (May 2013); *Country Reports on Human Rights Practices for 2012: Afghanistan*, U.S. Department of State (undated); *Travel Warning: Afghanistan*, U.S. Department of State (August 2013); and *Country Specific Information: Afghanistan*, U.S. Department of State (August 2013).

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292 (App. Bd. April 12, 2007). Administrative notice is appropriate for noticing facts or government reports that are well known. See *Stein*, Administrative Law, Sec. 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situation in Afghanistan. Administrative notice was extended to the documents themselves, consistent with the provisions of Rule 201 of the Federal Rules of Evidence. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing Afghanistan's current state.

### **Summary of Pleadings**

Under Guideline B, Applicant is alleged to have a mother and two brothers who are citizens and residents of Afghanistan. Under Guideline F, Applicant is alleged to have accumulated 15 delinquent debts exceeding \$50,000. Allegedly, these debts remain unpaid and were either charged off, are in collection, or are unpaid.

In his response to the SOR, he admitted each of the allegations covered by Guidelines B and F. He claimed he settled several of the listed debts and would settle the remaining ones. He explained that he ran his own business before becoming a linguist for a defense contractor and borrowed money from his family to start his business. He claimed his first priority was to pay them back, which he has done, and is now working on settling his remaining debts.

### **Findings of Fact**

Applicant is a 35-year-old contract linguist for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are adopted as relevant and material findings. Additional findings follow.

## **Applicant's background**

Applicant was born and raised in Afghanistan to parents with Afghani citizenship and residency. By virtue of his birth to Afghan parents, Applicant was eligible for Afghan citizenship himself. Through his parents, he became an Afghan citizen, attended Afghani primary and secondary schools, and earned a high school diploma in April 1996. (Item 6) He claims no military service in either Afghanistan or the United States. (Items 6-8)

In 1982, Applicant and his family fled Afghanistan to escape the Soviet invasion and settled illegally in Iran between 1982 and 1994. (Item 7) After returning to Afghanistan in 1994, Applicant was sent back to Iran by his family in 1997 to escape the Taliban. (Item 7) After a brief stay, he returned to Afghanistan in November 1998. (Item 7) Between December 1998 and June 2001, he was granted refugee status in Turkey through the United Nations' (UN) refugee program. (Item 7) While living in Turkey, he did not work, but drew financial support from the UN's refugee program. (Item 7)

Applicant immigrated to the United States from Afghanistan in June 2003 for a better life, to include freedom of worship, better employment, and educational opportunities. (Item 8) He married in August 2008 and has two children from this marriage. (Item 6) He became a naturalized U.S. citizen in April 2009. (Item 6) He has a U.S. passport, which was issued in April 2011 and expires in April 2012. (Item 7)

When Applicant became a naturalized U.S. citizen, his Afghan passport was canceled and his Afghan citizenship was renounced. (Item 7) His current wife was born in Afghanistan, holds dual Afghan-Dutch citizenship, and is a U.S. permanent resident. (Items 6-8) She has expressed interest in becoming a U.S. citizen, but to date, has not applied for U.S. citizenship.

Applicant's father, previously a citizen and resident of Afghanistan, passed away in 1990. (Item 8) But Applicant still has immediate family members who are citizens and residents of Afghanistan: his mother and two brothers. His mother was born in Afghanistan in 1951. Applicant maintains monthly contact with her by telephone and mail, but has not seen her in 15 or years. (Item 8)

Applicant's mother has no known affiliation with a foreign government or military, and she has never inquired about his work in the defense industry. (Item 8) Of Applicant's two brothers who reside in Afghanistan, one is a college student; while the other attends high school. (Item 8) Applicant maintains monthly contact with both brothers by phone and mail. Neither is aware of Applicant's work in the defense industry, and neither has inquired about his work. (Item 8)

Before opening his bakery business in 2011, he annually transmitted funds between \$500 and \$600 through Western Union on a regular basis to his mother and brothers to help them with his living expenses. (Item 7) Since opening his bakery, he has not sent them any money.

## Country information on Afghanistan

Afghanistan is a country in Southwestern Asia. It is sometimes referred to as the crossroads of Central Asia. Since the British relinquished control of Afghanistan in August 1919, Afghanistan has been an independent state. Between 1919 and 1973, Afghanistan moved away from its longstanding isolation under a succession of Muslim rulers: King Amanullah (1919-1929), Nadir Khan (1929-1933), and Mohammad Zahir Shah (Nadir Khan's 19-year-old son), who ruled Afghanistan for over 40 years (1933-1973). See *Background Note: Afghanistan*, at 1-2, U.S. Department of State (November 2011).

Prime Minister Sardar Mohammad Daoud (between 1953 and 1963) mounted a military coup in 1973 and seized power amid charges of corruption and malfeasance against Zahir Shah and his royal family. (*Background Note: Afghanistan, supra*, at 2) Daoud proceeded to abolish the monarchy, abrogate the constitution, and declare Afghanistan a republic. His economic and social reforms contributed little, however, to stabilizing political conditions in the country.

Following a Soviet-supported overthrow and assassination of Daoud in April 1978, a Marxist government was formed with the backing of the Soviets. See *Background Note: Afghanistan, supra*; *Country Specific Information: Afghanistan, supra*. Sur Muhammad Taraki was installed as the country's president of the revolutionary council. Opposition to the Taraki government increased as many members of Afghan elites, religious establishments, and intelligentsia were imprisoned, tortured, or murdered. A revolt against the Marxist government occurred in the summer of 1978 and quickly spread into a countrywide insurgency. (*Background Note: Afghanistan, supra*, at 3)

## Soviet invasion

Seeking to take advantage of the unrest following the April 1978 coup, the Soviet Union quickly signed a bilateral treaty of friendship and cooperation with the new Afghan regime and increased its military assistance to the regime. See *Background Note: Afghanistan, supra*; *Country Specific Information: Afghanistan, supra*. Faced with a deteriorating security situation, the Soviets invaded Afghanistan in December 1979, killed the Afghan ruler, and, backed by 120,000 Soviet troops, installed Babrak Karmal (an exiled leader of the Parcham faction) as the country's prime minister. (*Background Note: Afghanistan, supra*)

Afghan freedom fighters (*mujahideen*) who opposed the Karmal communist regime, armed with increased weapons and training assistance from the U.S. and its allies, collaborated with other Peshawar-based guerilla groups in the 1980s to destabilize the Karmal regime. See *Country Specific Information: Afghanistan, supra*. The resistance movement eventually led to an agreement known as the Geneva Accords (signed by the front-line states of Pakistan and Afghanistan, the United States, and the Soviet Union). The agreement served to ensure that Soviet forces withdrew from the country in accordance with their expressed commitments in February 1989. (*Id.*)

## Ascendency of the Taliban

By the mid-1990s, the Taliban had risen to power in reaction to the anarchy and increase of warlords in the aftermath of the withdrawal of Soviet forces. (*Background Note: Afghanistan, supra*, at 3-4) Many of the Taliban had been educated in *madrassas* in Pakistan with roots in rural Pashtun areas of the country. See *Country Specific Information: Afghanistan, supra* Beginning with its capture of Kandahar in 1994, the Taliban mounted an aggressive expansion of its control throughout Afghanistan. By the end of 1998, its forces occupied almost 90 percent of the country, and reduced its opposition largely to a small sections of the northeast and the Panshir valley. (*id.*)

Bolstered by its imposition of an extreme interpretation of Islam on the entire country, the Taliban committed massive human rights violations (particularly directed at women and children), and committed serious atrocities against minority populations. See *Background Note: Afghanistan, supra*, at 4. From the mid-1990s, the Taliban provided sanctuary to Osama bin Laden, and provided a base of operations for his and other terrorist organizations. (*Country Specific Information: Afghanistan, supra*) Bin Laden and his Al-Qaida group are known to have provided financial and political support to the Taliban, and acknowledged their responsibility for the September 11, 2001 terrorist attacks against the United States. (*id.*)

Beginning in October 2001 (following the Taliban's refusal to expel bin Laden), the United States and its coalition partners initiated a military campaign, targeting terrorist facilities and Taliban military and political assets within Afghanistan. U.S. military and anti-Taliban forces routed the Taliban and caused their rapid disintegration. After the fall of Kabul in November 2001, a UN-sponsored conference was created to restore stability and governance in Afghanistan. See *Country Specific Information: Afghanistan, supra*. From this conference emerged a Transitional Authority headed by President Hamid Karzai. This authority (renamed the Transitional Islamic State of Afghanistan) was charged with the responsibility of drafting a constitution. (*id.*)

While the core insurgent faction in Afghanistan remains the Taliban movement, other militant factions present security challenges to the United States and the allied government of Afghanistan. One militant faction cited by U.S. officials as a particularly potent threat to Afghan security is the "Haqqani Network," which the Obama Administration reported to Congress in September 2012 as an organization that meets the criteria for FTO [Foreign Terrorist Organization] designation. See *Afghanistan: Post-Taliban Governance, Security and U.S. Policy, supra*, at 15-17; *Administrative Notice, supra*, at 2) Other groups designated by the Administration as FTOs include a Pakistani group, known as the Pakistani Taliban, that supports the Afghan Taliban from both sides of the Afghan-Pakistani border and another Pakistani group known as the Lakshar-e-Taryyiba (LET) that is increasingly active inside Afghanistan. (*id.*)

A new constitution was drafted and ratified by a constitutional loyal *jirga* on January 4, 2004. See *Background Note: Afghanistan, supra*, at 4-5; *Country Specific Information: Afghanistan, supra*. The Afghan constitution provides for indirect election of

the National Assembly's upper house by the provincial councils and by reserved presidential appointments. On December 4, 2004, the country was renamed the Islamic Republic of Afghanistan. (*id.*) Hamid Karzai was sworn in as Afghanistan's President on December 7, 2004. (*id.*) He presided over the new government's first convened parliament in late 2005. Presidential and provincial elections in Afghanistan for 2010 were coordinated by the Afghanistan Independent Election Commission (IEC), with assistance from the UN. (*id.*) Challenged presidential election results in 2010 have not been widely disseminated. See *Country Specific Information: Afghanistan, supra*.

### **Political conditions in Afghanistan**

A new democratic government assumed control of Afghanistan in 2004 following a popular election. See *Background Note: Afghanistan, supra*. While the national government has continued to expand its authority, it has been hampered in its ability to deliver necessary social services and remains dependent on U.S.-led assistance. See *Unclassified Report on Progress Toward Security and Stability in Afghanistan, supra*. With its international community support at work, its ability to secure its borders and maintain internal order is increasing. Although the Taliban-led insurgency in Afghanistan has lost ground in some areas, it remains resilient and capable of challenging U.S. and NATO goals. See *Country Specific Information: Afghanistan, supra*.

International terrorists, fueled by Taliban and Al Qaida support, continue to assert power and intimidation within the country. See *Afghanistan: Post-Taliban Governance, Security and U.S. Policy, supra*, at 13-14. Safety and security remain key concerns because these terrorist organizations continue to target U.S. and Afghan interests by suicide operations, bombings, assassinations, car-jackings, assaults, and hostage-taking. See *Country Reports on Terrorism 2010, supra*, at 9-10; *Country Specific Information, Afghanistan, supra*, at 2-3. Risks of terrorist activity remain extremely high at the present time. See *Administrative Notice, supra*, at 2-4

Human rights conditions in Afghanistan remain poor by all reported accounts. State Department reports confirm active insurgent activity in Afghanistan. See *Country Reports on Human Rights Practices for 2012: Afghanistan, supra*, at 1-3. No section of Afghanistan is safe or immune from violence. See *Travel Warnings, Afghanistan, supra*. Kabul, in particular, has experienced increased militant attacks in recent years, including rocket attacks, vehicle-borne IEDs, and suicide bombings. (*id.*) Foreigners throughout the country continue to be targeted for violent attacks and kidnappings: some motivated by terrorism, and others by common criminal activity. See *Country Specific Information: Afghanistan, supra*.

To date, Afghanistan has still not been able to build effective, honest, and loyal provincial and district institutions and lacks a coherent tribal engagement strategy for unifying the country. Besides being subject to Afghan laws, Afghan-Americans may also be subject to other laws that impose special obligations on Afghan citizens. See *Country Specific Information: Afghanistan, supra*, at 6. U.S. citizens who are also Afghan nationals do not require visas for entry into Afghanistan.

Likewise, for U.S. passport holders born in Afghanistan, a visa is not required for entry. For these individuals, the Embassy of Afghanistan issues a letter confirming nationality for entry into Afghanistan. (*id.*, at 2) The Afghan drug trade remains a major source of revenue for corrupt officials, the Taliban, and other insurgent groups who conduct operations in the country. See *id.* at 8-9; *Country Reports on Terrorism 2012, Chapter 2-Country Reports: South and Central Asia, supra.*

### **U.S.-Afghanistan relations**

Since the fall of the Taliban, the United States has supported the creation of a broad-based government in Afghanistan, and has made a long-term commitment to help Afghanistan reconstitute and rebuild following years of war and unstable governments. See *U.S. Relations with Afghanistan*, at 1-2, U.S. Department of State (September 2013). At the July 2012 Tokyo Conference, the United States and other international partners committed to continue providing development assistance to Afghanistan through the 2014 transition and the ensuing transformational decade. (*id.*) Through the Tokyo Mutual Accountability framework, the United States and other international donors committed to providing Afghanistan \$16 billion in aid through 2015 and continuing assistance at levels commensurate with the last decade through 2017.

The United States and its coalition partners in the international community currently provide important humanitarian assistance, capacity-building, security protection, counter-narcotic programs, and infrastructure projects. The United States has also brought important political influence to bear on the establishment of durable democratic principles that promote the rule of law and encourage transparent and accountable forms of government. See *Country Specific Information: Afghanistan, supra.* Efforts are currently underway to improve Afghanistan's business climate (inclusive of measures designed to strengthen the country's regulatory and legal framework) to attract foreign trade and investment. (*U.S. Relations with Afghanistan, supra*)

The United States also supports the Afghanistan government's commitment to the protection of women's rights, human rights, and religious tolerance. (*U.S. Relations with Afghanistan, supra*) Educational advancements by 2009 reflect increased female enrollment of 37 percent of the student population in Afghan schools and similar advances in the number of female teachers. (*Country Specific Information: Afghanistan, supra*)

### **Applicant's finances**

Following his immigration from the United States in June 2003, Applicant was unemployed for seven months (i.e., from June 2003 to December 2003). He used these first few months to integrate himself into American society with learning skills designed to acclimate him to American life and customs. During this time, he received financial support from various U.S. agencies until he was able to find work.

Between 2004 and 2009, Applicant worked for a bakery and made decent wages. (Item 8) While employed, he purchased two vehicles: one (a new Nissan Rouge) he purchased in 2007 for \$30,737. (Item 8) After his employer reduced his wages (from \$4,500 a month to \$3,000 a month), Applicant fell behind in his payments. By the time the vehicle was repossessed in 2010, he had paid approximately \$17,000 on his car loan and was about \$6,000 behind in his payments. (Items 8 and 9). After the vehicle was sold at public auction, Applicant was left with a \$6,000 deficiency balance according to his credit reports. With accumulated interest, the deficiency has grown on the loan balance to about \$12,464. (Items 8 and 9)

In June 2009, Applicant purchased a second vehicle (a Ford Mustang), this one for his stepson. (Item 8) He paid over \$30,000 for the vehicle and financed his purchase with a local lender. When the stepson failed to make any payments on the vehicle as promised, Applicant fell behind on the car loan. (Items 8, 10, and 11) In May 2010, the vehicle was repossessed, leaving a deficiency balance of \$17,080 after the sale of the vehicle. Applicant has never made any payments on the loan and disputes the balance owing. (Item 8) He claims he was never notified of any due residual payments. (Item 8)

Besides the two repossessions, Applicant accumulated a number of delinquent debts between 2009 and 2010. Most of them were consumer or medical-related. (Items 8, 10, and 11) Between 2005 and 2007, he opened a number of consumer accounts that he failed to maintain after his income was reduced in the 2009 time-frame. His delinquent debts entail consumer accounts with the following creditors: medical debts with creditors 1.a-1.c and 1.k (\$156, \$270, \$2,621, and \$2,510, respectively); consumer debts with creditors 1.d-1.g and 1.l-1.o (\$1,649, \$178, \$1,493, \$926, \$274, \$1,892, \$321, and \$439, respectively); and car loans with creditors 1.h and 1.i (\$12,464 and \$17,080, respectively).

Applicant attributed his financial problems to losing his job three years ago. Because Applicant is the only income earner in his household, his loss of work placed additional strains on his family's budget. (Item 7) However, since 2009, Applicant has maintained full-time jobs for all but about nine months (i.e., October 2011 through June 2012). During this period of sustained full-time employment, he experienced only one reported work reduction (i.e., in 2010).

In 2011, Applicant financed his start-up bakery business with funds he received from his sale of three cars, loans from his father-in-law (\$25,000) and \$5,000 to \$6,000 in loaned funds from a friend. (Item 7, at 10) He earned approximately \$1,800 a month from this business (netting \$1,666 a month) for the few months of his business operations and reported monthly expenses of \$2,700. (Items 6 and 7) He reported a negative monthly remainder of almost \$1,100. (Item 6)

Applicant presented no evidence of credit counseling or debt consolidation initiatives. (Item 7) He provided no evidence either of individual payment plans approved by any of the creditors listed in the SOR.



## **Endorsements**

Applicant did not provide any endorsements or personnel evaluations. Records do not document any security violations or reprimands since joining his defense contractor in 2012. (Items 6-8) His deployments placed him in combat zones in Afghanistan.

## **Policies**

The AGs for Determining Eligibility for Access to Classified Information (effective September 2006) list Guidelines to be considered by administrative judges in the decision-making process covering DOHA cases. These Guidelines require the administrative judge to consider all of the "Conditions that could raise a security concern and may be disqualifying" (Disqualifying Conditions), if any, and all of the "Mitigating Conditions," if any, before deciding whether or not a security clearance should be granted, continued or denied. The Guidelines do not require the administrative judge to assess these factors exclusively in arriving at a decision. Each of the guidelines is to be evaluated in the context of the whole person in accordance with AG ¶ 2(c).

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in AG ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following AG ¶ 2(a) factors: (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.

Viewing the issues raised and evidence as a whole, the following adjudication policy concerns are pertinent herein:

## **Foreign Influence**

*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.” (AG B ¶ 6)

### **Financial Considerations**

*The Concern:* “Failure or inability to live within one’s means, satisfy debts and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Compulsive gambling is a concern as it may lead to financial crimes including espionage. Affluence that cannot be explained by known sources of income is also a security concern. It may indicate proceeds from financially profitable criminal acts.” (AG F ¶ 18)

### **Burden of Proof**

By virtue of the precepts framed by the Directive, a decision to grant or continue an Applicant's request for a security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a common sense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. See *United States, v. Gaudin*, 515 U.S. 506, 509-511 (1995). As with all adversarial proceedings, the judge may draw only those inferences which have a reasonable and logical basis from the evidence of record.

The Government's initial burden is twofold: (1) It must prove any controverted facts alleged in the Statement of Reasons and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required showing of material bearing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, consideration must take account of cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the burden of proof shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation or mitigation of the Government's case.

## Analysis

Born and raised in Afghanistan, Applicant immigrated to the United States in 2003 and became a naturalized U.S. citizen in 2009. He received his formal education in Afghanistan and is currently married with two minor children, both with U.S. residence and citizenship status. Applicant is a contract interpreter assigned to a deployed U.S. Army unit.

Security concerns focus on Applicant's mother and two brothers, who are citizens and residents of Afghanistan and his contacts with these family members. Other security concerns center on Applicant's accumulated delinquent debts, none of which he has recently addressed.

### Foreign Influence concerns

By virtue of the Afghan citizenship and residency status of Applicant's immediate family members in Afghanistan and the frequent contacts he maintains with them, Applicant manifests close working relationships with his family and an abiding interest in their welfare. Potential heightened security risks covered by disqualifying condition (DC) ¶ 7(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," of the AGs for foreign influence apply to Applicant's situation.

To be sure, none of Applicant's family members residing in Afghanistan are employed by the Afghan government or have any known relationships with Afghan government or military officials. As a result, DC ¶ 7(b), "connection 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," has no application to Applicant's situation. Still, the citizenship and residence status of Applicant's mother and brothers in Afghanistan impose heightened risks because of the political and economic instability that currently pervades the country. Despite their improved bilateral trade and security relations, Afghanistan's unsettling political and economic conditions cannot be fully reconciled with U.S. security interests.

The AGs governing collateral clearances do not dictate *per se* results or mandate particular outcomes for applicants with relatives who are citizens/residents of foreign countries in general. What is considered to be an acceptable risk in one foreign country may not be in another. While foreign influence cases must by practical necessity be weighed on a case-by-case basis, guidelines are available for referencing in the supplied materials and country information about Afghanistan. Quite clearly, the geopolitical aims and policies of the particular foreign regime operating in Afghanistan does matter. The Appeal Board has been clear and consistent in its holdings that the nature of the foreign government, the intelligence-gathering history of that government, and the presence of

terrorist activity in the country are material to a foreign influence case. See ISCR Case No. 07-07266 (App. Bd. Dec. June 27, 2008); ISCR Case No. 02-26130 (App. Bd. Dec. Dec. 7, 2006).

Afghanistan's bilateral relations with the United States over the past half-century have been uneven and sometimes contentious. Afghanistan has extensive terrorist networks operating within its borders. Extremist groups operating within Afghanistan continue to target Americans and other western interests, as well as high-level Afghanistan government officials and members of minority, indigenous, and religious groups. Despite increased efforts by Afghan security forces, al-Qaida terrorists, Afghan militants, foreign insurgents, and Pakistani militant groups that support the Afghan Taliban from both sides of the Afghan-Pakistani border are increasingly active in Afghanistan and plan attacks against the United States and its allies in Afghanistan.

Applicant's communications with his mother and brothers in Afghanistan are frequent. Although Applicant has not seen his mother in 15 years, there is a rebuttable presumption that a person has ties of affection for, or obligation to, his immediate family members. ISCR Case No. 01-03120, at 8 (App. Bd. Feb. 2002). Having immediate family members residing in Afghanistan is not alone disqualifying. However, in Applicant's case, his having immediate family members residing in a heightened-risk country like Afghanistan is enough to create the potential for foreign influence and an ensuing compromise of classified information. See, *generally*, ISCR Case No. 03-02382, at 5 (App. Bd. Feb. 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 2001).

Based on his case-specific circumstances, both MC ¶ 8(a), "the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these 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 United States," and MC ¶ 8(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 United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest," are potentially applicable to Applicant's situation. His circumstances, though, do not warrant any more than minimal application. See *infra*.

Applicant has enjoyed U.S. citizenship only since 2009 and maintains close relationships, bound by presumed ties of affection, with his mother and two younger brothers in Afghanistan. Until recently, he provided financial support to his family members, and can be expected to resume his payments when his finances permit. Because so little is known about his mother and brothers in Afghanistan, his frequent contacts with them cannot be minimized. Simply not enough is known about Applicant's family members in Afghanistan to facilitate safe predictions about how he would likely respond were his family members to be placed in a pressure situation.

MC ¶ 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,” has little applicability based on Applicant’s own reported contacts with his family members in Afghanistan. None of the other mitigating conditions covered by Guideline B are applicable to Applicant’s situation. None of Applicant’s foreign contacts with his mother and brothers in Afghanistan can be considered casual or infrequent. And there is no proof of any prior self-reporting of his family contacts in Afghanistan to warrant any meaningful consideration.

Whole-person assessment cannot minimize Applicant’s exposure to conflicts of interests with his Afghan family members. In Applicant’s case, the potential risk of coercion, pressure, or influence being brought to bear on him and his immediate family members in Afghanistan are still too substantial to absolve him of security concerns. Although his linguist contributions to the military unit he has been assigned to during his deployments have been considerable and worthy of respect and appreciation, they are not enough to overcome the heightened risks associated with his close relationships with his family members residing in Afghanistan.

Overall, any potential security concerns attributable to Applicant's relations with his mother and brothers residing in Afghanistan are insufficiently mitigated to permit safe predictive judgments about Applicant's ability to withstand risks of undue influence attributable to his familial relationships in Afghanistan. Neither his own citizenship and residence in the United States nor those of his mother and brothers in Afghanistan are safely insulated from risks of coercion, pressure, or influence by Afghan authorities or terrorists. Unfavorable conclusions warrant with respect to the allegations covered by subparagraph 1.a of Guideline B.

### **Financial concerns**

Security concerns are also raised under the financial considerations guideline. Applicant’s accumulation of a number of delinquent debts and his failure to mount any meaningful effort to resolve the 15 debts listed in the SOR warrant the application of two of the disqualifying conditions (DC) of the AGs for financial considerations: ¶ 19(a), “inability or unwillingness to satisfy debts” and ¶ 19(c) “a history of not meeting financial obligations.”

Since receiving the SOR, Applicant claims to have paid several of the listed debts, but provided no documentation to validate his claims. Nor did he furnish any documentation of his pursuing financial counseling, establishing payment plans with his creditors, or addressing his remaining charged-off and collection accounts. Without any evidence of counseling and sustained payments on his remaining debts, Applicant may not take advantage of MC ¶ 20(c) “the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control.”

Holding a security clearance involves the exercise of important fiducial responsibilities, among which is the expectancy of consistent trust and candor. Financial stability in a person cleared to access classified information is required precisely to inspire trust and confidence in the holder of the clearance. While the principal concern of a clearance holder's demonstrated financial difficulties is vulnerability to coercion and influence, judgment and trust concerns are explicit in financial cases (as here) and bring into play security concerns covered by the financial considerations guideline.

Based on the limited information available in this administrative record, it appears that Applicant has not been in a financial position to make any concerted progress in addressing most of his debts to date. Under these exhibited circumstances, MC ¶ 20(b) of the financial considerations guideline, "the conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce, or separation, and the individual acted responsibly," has some applicability to Applicant's inability to resolve his debt issues. MC ¶ 20(b) cannot be fully applied, however, due to the lack of sufficient information from Applicant on the origination, payment history, and attempted repayment efforts since receiving the SOR.

Gainfully employed on a full-time basis for most of the time since 2009 and no cited unemployment periods since June 2012, Applicant could reasonably be expected to have initiated more timely and material repayment efforts with the resources available to him from his deployment assignments in 2012. Without any sizeable payment track record to look to, it is still too soon to mitigate his historical difficulties with his finances, given the lack of any significant repayment progress he has been able to demonstrate to date with most of his listed creditors.

Whole-person assessment of Applicant's financial problems is hampered by the limited amount of information supplied in this administrative record. Applicant is able to show some extenuating circumstances associated with his period of unemployment in 2011 and 2012. And his linguist services on deployments with the U.S. Army are respected and worthy of considerable appreciation.

Applicant's lack of demonstrated corrective steps in addressing his incurred debts with the available income sources available to him reflect questionable resolve and accountability. Taken together, Applicant's lack of corrective steps to improve his finances reflect continuing lapses in his overall judgment and still leaves doubts about the stability of his finances at the present time. These doubts cannot be reconciled with minimum requirements for retaining the Government's confidence in his financial judgment, reliability and trustworthiness.

Applicant fails to mitigate security concerns related to his outstanding debt delinquencies and judgment lapses associated therein. Unfavorable conclusions warrant with respect to the allegations covered by the financial considerations guideline.

### **Formal Findings**

In reviewing the allegations of the SOR in the context of the findings of fact, conclusions, and the factors and conditions listed above, I make the following separate formal findings with respect to Applicant's eligibility for a security clearance.

GUIDELINE B: (FOREIGN INFLUENCE):                   AGAINST APPLICANT

    Subpara. 1.a:   Against Applicant

GUIDELINE F (FINANCIAL CONSIDERATIONS):   AGAINST APPLICANT

    Subparas 2a-2o:                                   Against Applicant

### **Conclusions**

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's security clearance. Clearance is denied.

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Roger C. Wesley  
Administrative Judge