



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



In the matter of:)	
)	
[REDACTED])	ISCR Case No. 17-00187
)	
Applicant for Security Clearance)	

Appearances

For Government: Benjamin Dorsey, Esq., Department Counsel
For Applicant: *Pro se*

08/31/2018

Decision

MARINE, Gina L., Administrative Judge:

This case involves security concerns raised under Guideline B (Foreign Influence). Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on January 19, 2016. On March 14, 2017, the Department of Defense Consolidated Adjudications Facility (DOD CAF) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines B and C. The DOD CAF acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006.

Applicant answered the SOR on March 30, 2017, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on September 21, 2017. The case was assigned to me on March 15, 2018. On April 16, 2018, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled for May 23, 2018. I convened the hearing as scheduled.

At the hearing, Government Exhibits (GE) 1 and 2 were admitted into evidence, without objection. Applicant testified and submitted Applicant's Exhibits (AE) A through G, which were admitted without objection. I appended to the record the Government's Exhibit List as Hearing Exhibit (HE) I, and the Government's request for administrative notice of relevant facts about Afghanistan and Iran, as HE II and III, respectively. I left the record open until June 25, 2018. Applicant timely provided additional documents that were admitted into evidence as AE H and I, without objection. DOHA received the transcript (Tr.) on June 8, 2018.

On June 8, 2017, the DOD implemented new AG.¹ Accordingly, I have applied the 2017 AG.² However, I have also considered the 2006 AG because they were in effect on the date the SOR was issued. I conclude that my decision would have been the same under either version.

Procedural Matters³

At the hearing, the Government amended the SOR, without objection from the Applicant. It withdrew the Guideline C allegations under paragraph 2, and added an additional Guideline B allegation under paragraph 1 to conform to new information disclosed by Applicant at the hearing, as follows:

g. Your fiancée is a citizen and resident of Afghanistan.

Applicant was offered several different options to afford him additional time to respond to the new Guideline B allegation, including stopping the hearing that day and reconvening on a different date, or continuing with the hearing that day and leaving the record open until a later date. Applicant opted to immediately respond to the allegation and proceed with the hearing. He admitted the allegation, and advised that he did not need the record to be left open. I, *sua sponte*, left the record open to give Applicant the opportunity to provide an update regarding his fiancée's visa application and relocation to the United States.

¹ On December 10, 2016, the Security Executive Agent issued Directive 4 (SEAD-4), establishing a "single, common adjudicative criteria for all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position." (SEAD-4 ¶ B, *Purpose*). The SEAD-4 became effective on June 8, 2017 (SEAD-4 ¶ F, *Effective Date*). The National Security Adjudicative Guidelines (AG), which are found at Appendix A to SEAD-4, apply to determine eligibility for initial or continued access to classified national security information. (SEAD-4 ¶ C, *Applicability*).

² ISCR Case No. 02-00305 at 3 (App. Bd. Feb. 12, 2003) (security clearance decisions must be based on current DOD policy and standards).

³ Tr. at p. 6-8, 11-12, 47-50, 93-94.

Findings of Fact⁴

Applicant, age 31, has never been married nor has any children. He was enrolled in a U.S. community college from 2009 through 2010 studying criminal justice, but did not earn a degree. He has been employed as a security officer by a U.S. defense contractor since 2015. Before that, he served the U.S. military in Afghanistan from 2003 through 2008, and from 2010 through 2014, primarily as a combat linguist. This is his first application for a security clearance.⁵

Applicant immigrated to the United States in 2008 via a special immigrant visa, which he was granted because of his work as a combat linguist. He became a naturalized U.S. citizen upon his own application in 2014. He does not maintain citizenship with Afghanistan.⁶

Applicant's has three siblings. His parents are deceased. His brother and sister-in-law are citizens of Afghanistan residing in the United States (SOR ¶¶ 1.a and 1.c). One sister (Sister 1) resides with her husband in Iran, who are both citizens of Afghanistan (SOR ¶¶ 1.b and 1.d). His other sister (Sister 2) is a citizen and resident of the Netherlands. In August 2017, Applicant became engaged to a citizen and resident of Afghanistan (SOR ¶ 1.g). Neither his fiancée, siblings, nor in-laws have or had any employment ties to the Afghan or Iranian governments.⁷

Applicant's brother, age 28, works in the automotive industry. He immigrated with his wife to the United States in 2014, also via a special immigrant visa because of his work as a combat linguist for the U.S. Military. His wife is a full-time student. He and his wife own a home in the United States, where they reside with their three minor children. Applicant's brother and each member of his family are permanent U.S. residents and intend to become U.S. citizens at the earliest opportunity. They have already begun the process. Applicant has contact (either in person, by text message, or by phone) with his brother a few times per week.⁸

Sister 1, age 45, is a tailor. She has resided with her husband in Iran for approximately 10 to 15 years. Applicant has contact with her via email or social media about once per quarter, most recently in approximately March or April 2018. He last had in-person contact with her in 2014, when she returned to Afghanistan to reunite with Applicant and their brother. His sister has never visited Applicant in the United States, nor has he ever visited her in Iran. Applicant's last had contact with Sister 1's husband

⁴ Unless otherwise indicated by citation to another part of the record, I extracted these facts from Applicant's SOR answer, his SCA (GE 1), and the summary of his two 2016 subject interviews (AE A).

⁵ Tr. at 6-8, 40, 70-77, 87.

⁶ AE D; Tr. at 39-40, 71, 81-82.

⁷ Tr. at 46, 58-59, 61, 66.

⁸ Tr. at 38, 52-59, 61, 82-83, 86-87.

when Applicant “was a child.” Sister 1’s husband did not accompany her to Afghanistan in 2014.⁹

Applicant’s fiancée, age 25, has imminent plans to relocate to the United States, where she intends to permanently reside with Applicant. Until then, she resides with her parents in Afghanistan. Applicant and his fiancée will marry once she arrives, at which time she will become a permanent U.S. resident and eventually apply for U.S. citizenship. Her fiancée visa, which had been pending since November 2017, was approved by the U.S. Citizenship and Immigrations Services (USCIS) in May 2018. In June 2018, USCIS forwarded the petition to the U.S. Embassy in Afghanistan to initiate the transfer process. Applicant communicates with his fiancée, by either text messages or phone calls, approximately two or three times per week. He does not provide any financial support to his fiancée.¹⁰

Applicant has known his fiancée and her family since childhood. His fiancée’s parents and her two sisters are also citizens and residents of Afghanistan. During his August 2017 visit, he had contact only with his fiancée’s parents and one of her sisters. He has not had any contact with his fiancée’s family since that visit. His fiancée’s parents will “probably” relocate to the United States sometime in the future, but Applicant did not have “any specifics” about those plans.¹¹

Although Applicant has other extended family who are citizens and residents of Afghanistan, he does not maintain close or continuing contact with them. He has infrequent contact via social media only with his (about ten) cousins. When they message to “check on” him, Applicant responds. He otherwise avoids “talking to a lot of people in Afghanistan” to eliminate the risk to his security clearance. He does not have contact with any friends who are citizens and residents of Afghanistan.¹²

Applicant last visited Afghanistan in August 2017 (for ten days) in order to get engaged to his fiancée. His brother and sister-in-law accompanied him on that trip, but stayed for a longer period. He and his brother stayed with his fiancée’s family, and his sister-in-law stayed with her own family (parents, brother, and sister), who are all citizens and residents of Afghanistan. His prior visit to Afghanistan was in approximately July 2014 (for about one month). On that visit, he stayed with his brother, who lived there at the time.¹³

Applicant owns a “small portion of [undeveloped] land” in Afghanistan (SOR ¶ 1.f). His mother purchased the land, as an investment, for approximately \$1,000. He

⁹ Tr. at 59-66.

¹⁰ AE H and I; Tr. at 46-47, 50, 68-69, 88, 92.

¹¹ Tr. at 50-51, 67-68.

¹² Tr. at 66-69, 84-88.

¹³ Tr. at 45-46, 51-52, 56-57.

has never seen the land nor has any idea of its current worth or whether it is titled in his name. He estimates it to be just two to three percent of his overall asset portfolio, which is not significant to him. While he is willing to liquidate it, he does not intend to do so because of the risks involved. He maintains all of his other assets in the United States, including his residence (purchased in 2013) and bank accounts (currently valued at \$20,000). He derives his income solely from his annual salary of approximately \$52,000 to \$55,000.¹⁴

Applicant saw direct combat while serving the U.S. military in Afghanistan. He took direct fire, indirect fire, and mortar and rocket fire, including from air strikes. On one mission, while riding in a MATV (Mine Resistant Ambush Protected All-Terrain Vehicle), bullets hit the hatch where he was sitting. His combat time totaled approximately three years: a year between 2011 and 2012, and two years between 2004 and 2008. In addition to serving as a linguist, Applicant also worked with an advisory team training Afghan officers at high levels.¹⁵

Applicant served as the personal linguist in Afghanistan for one U.S. Marine Corps captain who wrote a recommendation of the “strongest endorsement.” Applicant was “crucial” and “instrumental” to the captain’s communications with, and cultural awareness of, his Afghan counterparts. Applicant “never hesitated to follow [the U.S. Marines whom he served] into direct fire engagements with the enemy,” and “could be counted on to operate in the most austere conditions.” Applicant was “one of the most professional linguists” with whom the captain had engaged during his five combat deployments. Applicant possessed the “rare qualities” most sought after for linguists and “set the standards high for his peers.”¹⁶

A U.S. Army lieutenant colonel who was the commanding officer of a task force that Applicant served in Afghanistan wrote a letter of appreciation. Applicant played a “vital” and “integral” role in the overall success of the task force. He “always displayed a high degree of integrity, responsibility and ambition.” He provided excellent communication and translation service and was well respected by the command group, his peers, and leaders of the Afghan National Army (ANA). Leadership consistently requested him by name. After seeing a need for awareness of Afghan and Western cultures, Applicant organized several events to bring local workers on the base and coalition forces together.

A retired U.S. Marine Corps sergeant and close friend wrote a letter to praise Applicant’s character and integrity. He was an infantry squad leader who served with Applicant in Afghanistan. Applicant was “dedicated, hardworking, driven and motivated to do his very best.” He was “always the first one of the translators to volunteer and even went so far as to volunteer for dangerous missions.” He was “there on the front

¹⁴ Tr. at 16, 40-45.

¹⁵ AE B and G; Tr. at 69-78.

¹⁶ AE B.

lines, in the most dangerous positions, letting us know what was going on and if anything was amiss.”¹⁷

A U.S. Marine Corps lieutenant colonel who as the commanding officer of a battalion Applicant served in Afghanistan presented him with a certificate of commendation for his performance as a linguist between 2011 and 2012. Applicant spent “countless hours” instructing language and culture, and serving as a “masterful translator” between the ANA and Marine Corps leadership. Applicant’s “intelligence, keen insight into Afghan-American relations, thorough understanding of the mission, ability to clearly articulate the spoken and unspoken nuances between English and Dari speakers, and commitment to the success of the Marines and ANA soldiers alike [c]ontributed to the battalion’s success in immeasurable ways.” Applicant’s “outstanding motivation and dedication to duty reflected credit upon him and were in keeping with the highest traditions of the Marine Corps.”¹⁸

A U.S. Army commander of a military police battalion that Applicant served in Afghanistan conferred a certificate of appreciation for his performance as a linguist. Applicant “assisted in the successful development of a rapport which expedited the efficient transition of training for the ANA.” His service was “invaluable.”¹⁹

A good friend and colleague of Applicant in his current position deemed “noteworthy” Applicant’s “patriotism, honesty, and abiding love of all things American.” Applicant is “the most conscientious, adept, and professional [security officer]” that the friend has ever come into contact.²⁰

At the hearing, Applicant stated:

I would like to reemphasize that I take a lot of pride in being an American, Your Honor. I earned it with my life. I risked my life to become an American citizen, and this is all I have. I don't consider myself anything but an American. That's why I moved here.²¹

¹⁷ AE B.

¹⁸ AE B.

¹⁹ AE B.

²⁰ AE B.

²¹ Tr. at 73.

Administrative Notice (Afghanistan)

I have taken administrative notice of the U.S. Government's pronouncements concerning Afghanistan, as outlined in HE II and HE IV, and the documents appended thereto,²² including the following:

- Afghanistan remains an important partner of the United States in the fight against terrorism, working with the United States to eliminate al-Qaeda, ISIS-Khorasan (ISIS-K) and their affiliates in Afghanistan.²³
- U.S. citizens are warned against travel to Afghanistan due to crime, terrorism, civil unrest, and armed conflict. Travel to all areas of Afghanistan is unsafe because of high levels of kidnappings, hostage taking, suicide bombings, widespread military combat operations, landmines, and terrorist and insurgent attacks, including attacks using vehicle-borne or other improvised-explosive devices (IEDs), suicide vests, and grenades. Terrorist groups continue plotting possible attacks in Afghanistan.²⁴
- Afghanistan continues to experience aggressive and coordinated attacks by the Afghan Taliban, including the affiliated Haqqani Network (HQN) and other insurgent and terrorist groups. ISIS-K conducted a number of high-profile attacks during the second half of 2016. Insurgents across Afghanistan used a variety of tactics to expand their territorial influence, disrupt governance, and create a public perception of instability. According to Afghan National Defense and Security Forces (ANDSF) statistics, ANDSF casualties were 30 percent higher in 2016 than in 2015. Insurgents continued to use large vehicle-borne improvised-explosive devices (VBIED) and complex attacks involving multiple attackers laden with suicide vests working in teams to target ANDSF, Afghan government buildings, foreign governments, and soft civilian targets to include international organizations.²⁵

²² The source documents for certain facts cited in the Administrative Notice have been updated. I appended to the record the relevant portions of those updated source documents, collectively, as HE IV, and have provided the updated website addresses in the footnote citations below. I have considered the both the original and updated source documents, which cite facts that do not materially differ. My decision would have been the same in light of either set of facts.

²³ HE IV: Item VI, updated July 26, 2018.
<https://www.state.gov/r/pa/ei/bgn/5380.htm>

²⁴ HE IV: Item I, updated July 9, 2018.
<https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/afghanistan-advisory.html>

²⁵ HE II: Item II.

- Afghanistan faces a continuing threat from an externally supported insurgency and the highest regional concentration of terrorist groups in the world.²⁶
- The most significant human-rights issues in Afghanistan include extrajudicial killings by security forces; disappearances, torture; arbitrary arrest; detention, including of women accused of so-called moral crimes; and sexual abuse of children by security force members. Widespread disregard for the rule of law and official impunity for those who committed human rights abuses were serious problems. The government did not consistently or effectively prosecute abuses by officials, including security forces. There were major attacks on civilians by armed insurgent groups and targeted assassination.²⁷

Administrative Notice (Iran)

I have taken administrative notice of the U.S. Government's pronouncements concerning Iraq, as outlined in HE III and HE V, and the documents appended thereto,²⁸ including the following:

- The United States and Iran do not have diplomatic relations.²⁹
- U.S. citizens are warned against travel to Iran due to the risk of arbitrary arrest and detention of U.S. citizens. Iranian authorities unjustly detain and imprison U.S. citizens, including students, journalists, business travelers, and academics, on charges including espionage and posing a threat to national security. Consular access to detained U.S. citizens is often denied.³⁰

²⁶ HE IV: Item IV, updated June 2018.
<https://media.defense.gov/2018/Jul/03/2001938620/-1/-1/1/1225-REPORT-JUNE-2018-FINAL-UNCLASS-BASE.PDF>

²⁷ HE IV: Item IV, updated on a day in 2018 that is not specified in the record.
<https://www.state.gov/documents/organization/277519.pdf>

²⁸ The source documents for certain facts cited in the Administrative Notice have been updated. I appended to the record the relevant portions of those updated source documents, collectively, as HE V, and have provided the updated website addresses in the footnote citations below. I have considered the both the original and updated source documents, which cite facts that do not materially differ. My decision would have been the same in light of either set of facts.

²⁹ HE V: Item III, updated July 2, 2018.
<https://www.state.gov/r/pa/ei/bgn/5314.htm>

³⁰ HE V: Item VI, updated January 10, 2018.
<https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/iran-travel-advisory.html>

- U.S. Government economic sanctions prohibit most economic activity between U.S. citizens and Iran.³¹
- Iran is among the top four countries that pose the greatest cyber threats to the United States. The use of cyberattacks as a foreign policy tool outside of military conflict has been mostly limited to sporadic lower-level attacks. However, Iran is one of three countries testing more aggressive cyberattacks that pose growing threats to the United States and US partners. Iran will continue working to penetrate US and Allied networks for espionage and to position itself for potential future cyberattacks.³²
- Iran and its strategic partner Lebanese Hizballah pose a persistent threat to the United States and its partners worldwide. Iran remains the most prominent state sponsor of terrorism, providing financial aid, advanced weapons and tactics, and direction to militant and terrorist groups across the Middle East and cultivating a network of operatives across the globe as a contingency to enable potential terrorist attacks. Lebanese Hizballah has demonstrated its intent to foment regional instability by deploying thousands of fighters to Syria and by providing weapons, tactics, and direction to militant and terrorist groups. Hizballah probably also emphasizes its capability to attack US, Israeli, and Saudi Arabian interests.³³
- Iran's support for the Popular Mobilization Committee (PMC) and Shia militants remains the primary threat to US personnel in Iraq. We assess that this threat will increase as the threat from ISIS recedes, especially given calls from some Iranian-backed groups for the United States to withdraw and growing tension between Iran and the United States. Iran continues to develop and improve a range of new military capabilities to target US and allied military assets in the region.³⁴
- The most significant human rights issues in Iran include: a high number of executions for crimes not meeting the international legal standard of "most serious crimes" and without fair trials of individuals, including juvenile offenders; disappearances by government agents; torture; arbitrary detention and imprisonment; severe restrictions on freedom of expression, including criminalization of libel and suppression of virtually all expression

³¹ HE V: Item VII, updated May 23, 2018.

<https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/Iran.html>

³² HE V: Item II, updated February 13, 2018.

<https://www.dni.gov/files/documents/Newsroom/Testimonies/2018-ATA---Unclassified-SSCI.pdf>

³³ HE V: Item II.

³⁴ HE V: Item II.

deemed critical of the regime or its officials; severe restrictions on the press, including imprisonment of reporters, and of the internet which the government disrupted and censored; severe restrictions on the rights of assembly and association to block any activity it deemed “anti-regime”, egregious restrictions on religious freedom; elections where the regime pre-selected the candidates and that otherwise did not meet international standards and severely limited political participation; and pervasive government corruption in all branches and at all levels of government. The Iranian government took few steps to investigate, prosecute, punish, or otherwise hold accountable officials who committed these abuses, many of which were perpetrated as a matter of government policy. Impunity remained pervasive throughout all levels of the government and security forces. Iran materially contributed to human rights abuses in Syria, through its military support for Syrian president Bashar al-Assad and for Hizballah forces there, as well as in Iraq, through its aid to certain Iraqi Shia militia groups.³⁵

Policies

“[N]o one has a ‘right’ to a security clearance.”³⁶ 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.”³⁷ 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.”³⁸

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines 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 and 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 that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible

³⁵ HE V: Item VIII, updated on a day in 2018 that is not specified in the record.
<https://www.state.gov/documents/organization/277485.pdf>

³⁶ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

³⁷ *Egan* at 527.

³⁸ EO 10865 § 2.

extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.”³⁹ Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

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.⁴⁰ “Substantial evidence” is “more than a scintilla but less than a preponderance.”⁴¹ The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability.⁴² Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts.⁴³ An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government.⁴⁴

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.”⁴⁵ “[S]ecurity clearance determinations should err, if they must, on the side of denials.”⁴⁶

Analysis

Guideline B (Foreign Influence)

The security concern under Guideline B (Foreign Influence) is set out in AG ¶ 6, as follows:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern

³⁹ EO 10865 § 7.

⁴⁰ See *Egan*, 484 U.S. at 531.

⁴¹ See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

⁴² See ISCR Case No. 92-1106 at 3 (App. Bd. Oct. 7, 1993).

⁴³ Directive ¶ E3.1.15.

⁴⁴ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

⁴⁵ ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

⁴⁶ *Egan*, 484 U.S. at 531; See also AG ¶ 2(b).

if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

The following disqualifying conditions under this guideline are potentially relevant:

AG ¶ 7(a): contact, regardless of method, 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): connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology; and

AG ¶ 7(e): 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 ties to Sister 1 and Sister 1's husband, who are Afghan citizens residing in Iran, and to his fiancée, who is a citizen and resident of Afghanistan, establish AG ¶¶ 7(a) and 7(b). A heightened risk is associated with the Afghan government given the significant terrorism and human-rights problems existent there; and with the Iranian government because of its persistent threat to the United States as a sponsor of terrorism, its espionage and cyberattacks against the United States, and its serious human-rights violations. The Government did not establish AG ¶¶ 7(a) and 7(b) with respect to Applicant's ties to his brother and sister-in-law, who are permanent residents of the United States, or to any other relative or friend who is a citizen and resident of Afghanistan. The Government did not establish AG ¶ 7(e) as to the land Applicant owns in Afghanistan.

The following are potentially relevant mitigating conditions under this guideline:

AG ¶ 8(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 United States; and

AG ¶ 8(b): there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the 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.

AG ¶ 8(a) is established as to Applicant's brother-in-law since they have not had contact since Applicant was a child. Given the heightened risk associated with Iran and Afghanistan, Applicant's ties to his fiancée and Sister 1 raise concerns that Applicant could be placed in a position of having to choose between their interests and that of the United States. However, those concerns are outweighed by Applicant's demonstrable loyalty to the United States.

Applicant chose to make the United States his permanent home nearly ten years ago. Both before and after immigrating to the United States, he served the U.S. military in Afghanistan for a total of nine years, with distinction and at great risk to his safety. Applicant's significant financial interests are in the United States, including the residence that he has owned since 2013. His future plans involve his fiancée's imminent relocation to the United States, their marriage, and her naturalization as a U.S. citizen. Accordingly, Applicant can be expected to resolve any conflict of interest with respect to Afghanistan or Iran in favor of the United States. AG ¶ 8(b) is established as to Applicant's fiancée and Sister 1.

Whole-Person Analysis

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall common sense judgment based upon careful consideration of the following guidelines, each of which is to be evaluated in the context of the whole person. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(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.

I have incorporated my comments under Guideline B in my whole-person analysis, and I have considered the factors in AG ¶ 2(d) and the personal sacrifice and loyalty associated with Applicant's distinguished service as a combat linguist. After weighing the disqualifying and mitigating conditions under Guideline B, and evaluating all the evidence in the context of the whole person and the heightened risk associated with Afghanistan and Iran, I conclude that Applicant has mitigated the foreign influence concerns. Accordingly, I conclude that he has carried his burden of showing that it is clearly consistent with the national interest to grant him eligibility for access to classified information.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline B (Foreign Influence): FOR APPLICANT

Subparagraphs 1.a – 1.g: For Applicant

Paragraph 2, Guideline C (Foreign Preference): WITHDRAWN

Subparagraph 2.a: Withdrawn

Conclusion

I conclude that it is clearly consistent with the national interest to grant Applicant eligibility for access to classified information. Clearance is granted.

Gina L. Marine
Administrative Judge