



**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. 15-06976

**Appearances**

For Government: Adrienne Driskill, Esq., Department Counsel  
For Applicant: Ryan Nerney, Esq.

08/08/2017

**Decision**

WESLEY, Roger C., Administrative Judge:

Based upon a review of the pleadings, exhibits, and testimony, I conclude that Applicant has mitigated foreign influence. Eligibility for access to classified information is granted.

**History of Case**

On May 12, 2016, the Department of Defense (DOD) Consolidated Adjudication Facility (CAF) issued a Statement of Reasons (SOR) detailing reasons why DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines (AGs), effective within the Department of Defense on September 1, 2006.

Effective June 8, 2017, by Directive 4 of the Security Executive Agent Directive (SEAD 4), dated December 10, 2016, *National Security Adjudicative Guidelines* for all

covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position were established to supercede all previously issued national security adjudicative criteria or guidelines. Procedures for administrative due process for contractor personnel continue to be governed by DOD 5220.6, subject to the updated substantive changes in the AGs, effective June 8, 2017. Application of the AGs that were in effect as of the issuance of the SOR would not change the results of the decision in this case.

Applicant responded to the SOR on July 1, 2016, and requested a hearing. The case was previously assigned to another judge and was reassigned to me on October 20, 2016. The case was scheduled for hearing on November 16, 2016. At the scheduled hearing, the Government's case consisted of nine exhibits (GEs 1-9); Applicant relied on one witness (himself) and six exhibits (AEs A-F). The transcript (Tr.) was received on November 23, 2016.

Besides its seven exhibits, the Government requested administrative notice of certain facts pertaining to Afghanistan. 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).

There being no objection, and for good cause shown, administrative notice was granted with respect to the requested facts and incorporated source documents addressing the geopolitical situation in Afghanistan. The Government's administrative notice and incorporated source documents were received as HE 1. Administrative notice was extended to the requested facts and incorporated source documents consistent with the provisions of Rule 201 of Fed. R. Evid. This notice did not foreclose Applicant from challenging the accuracy and reliability of the information contained in the reports addressing the current status of Afghanistan.

In addition to taking official notice of the source documents covered by he administrative Notice, I also took official notice, *sua sponte*, of *Background Note: Afghanistan*, U.S. Department of State (November 2011) This document contains pertinent background information covering Afghanistan. This document was received as HE 2.

Applicant, in turn, requested administrative notice be taken of additional facts and incorporated source documents pertaining to Afghanistan. There being no objection, and for good cause shown, administrative notice was granted with respect to Applicant's requested facts and incorporated source documents addressing the geopolitical situation in Afghanistan. Applicant's administrative notice request was received as HE 3.

### **Procedural Issues**

Before the close of the hearing, Applicant requested the record be kept open to afford him the opportunity to supplement the record with a request for administrative notice of additional pertinent facts pertaining to Afghanistan. For good cause shown,

Applicant was granted seven days to supplement the record, and the Government was afforded two days to respond. Within the time permitted, Applicant provided a request for administrative notice of pertinent facts and supporting source documents related to Afghanistan. Applicant's submissions were admitted without objection as AE G.

### **Summary of Pleadings**

Under Guideline B, Applicant allegedly (a) has immediate family members (a mother and three sisters) who are citizens and residents of Afghanistan; (b) a spouse who is a citizen of Afghanistan residing in the United States; (c) has a father-in-law who is a citizen and resident of Afghanistan; (d) has a mother-in-law who is a citizen of Afghanistan resident of Pakistan; (e) sent between \$15,000 and \$20,000 to his mother between March 2010 and October 2012; and (f) has inheritance rights to property in Afghanistan.

In his response to the SOR, Applicant admitted some of the allegations with explanations. He claimed he has not remitted any money to his mother in Afghanistan since 2012. Applicant denied the remaining SOR allegations with explanations. He claimed his wife is a naturalized U.S. citizen residing in the United States. He further claimed his father-in-law is deceased and his mother-in-law resides in Afghanistan. He claimed he has not remitted any money to his mother since 2012 and lost his inheritance rights when he applied for U.S. citizenship.

### **Findings of Fact**

Applicant is a 38-year old 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.

#### **Background**

Applicant was born and raised in Afghanistan to parents of Afghan descent. (GEs 1 and 2) He married an Afghan citizen in July 2010 and has one child (age two) from this marriage. (GEs 1-2); Tr. 22, 40) Applicant immigrated to the United States in October 2008 and became a naturalized U.S. citizen in March 2014. (GE 1; Tr. 35-36) In June 2014, he renounced his Afghan citizenship and surrendered his U.S. passport. (GEs 5-6 and AE F; Tr. 46) By renouncing his Afghan citizenship, he implicitly forfeited his inheritance rights and property rights and his property rights to property owned by his family in Afghanistan. (Tr. 33-34 and 47)

Applicant studied medicine in Afghanistan and earned a medical degree in March 2004. (GE 1; Tr. 48) He has pursued no post-graduate education since immigrating to the United States in 2008, and has no current plans to pursue a medical license in the United States. (GE 1; Tr. 48-49) Applicant reported no Afghan or U.S. military service. (GE 1) Since January 2015, Applicant has been employed by his current employer as a linguist and deployed with his military command in Afghanistan. (GE 1; Tr. 22, 42-43) Between April 2013 and January 2015, he was unemployed. He worked for several employers between October 2004 and April 2013 as an interpreter and language

instructor. (GE 1) Applicant has never held a security clearance for the DOD or any other federal agency. (GE 1; Tr. 24)

Travel records document Applicant's frequent travels between Afghanistan and the United States before he became a naturalized U.S. citizen. (GEs 3-4) In these travels, he used his Afghan passport. After becoming a US. Citizen in March 2014, Applicant, he used his U.S. passport exclusively when traveling on his employer-related assignments. (AE F)

### **Applicant's Family Members**

Applicant's wife was born and raised in Afghanistan and immigrated to the United States in 2010 and became a naturalized U.S. citizen in January 2016. (GE 1; Tr. 29-30) She received her U.S. passport in March 2016. (AE B) His wife temporarily resides with her sister in the United States while Applicant is deployed. (Tr. 42)

Applicant's father is deceased, and his mother resides in Afghanistan. She never worked for the Afghan government and has been a housewife her entire life. (Tr. 26-27) Applicant is currently sponsoring his mother for an immigration visa, which is still pending. And he maintains monthly contact with her mother. (AE C; Tr. 19)

Applicant has three sisters who are citizens and residents of Afghanistan. (GE 1; Tr. 27-28) His oldest sister does not work and resides with her mother in one of Afghanistan's largest cities. (Tr. 29) His two youngest sisters both reside in Afghanistan. Both sisters are employed as school teachers in a primary school. Neither of Applicant's youngest sisters have ever worked for the Afghan government, or have any affiliations or connections with the Afghan government. (Tr. 38-39) Applicant maintains infrequent contact with his sisters. (Tr. 29, 38) None of his three sisters are aware of Applicant's work as an interpreter for the United States.

Applicant's father-in-law is deceased. (GE 1; Tr. 30) His mother-in-law is an Afghan citizen who no longer resides in Pakistan. (Tr. 30-31) She resides in Afghanistan and has no ties or affiliation with the Afghan government. (GEs 1 and 5-8; Tr. 31) Applicant has infrequent contact with his mother-in-law. (Tr. 31)

Between March 2010 and October 2012, Applicant remitted between \$15,000 and \$20,000 to his mother in Afghanistan for her use in making wedding preparations for himself and his fiancée. (Tr. 35) He estimated 80 % of the proceeds remitted to his mother were devoted to his wedding ceremony, with the remaining 20% (i.e., \$12,000 and \$13,000) committed to his mother's sisters for their personal needs. (Tr. 33-34 and 47)

### **Country information on Afghanistan**

Afghanistan is a country in Southwestern Asia. It is sometimes referred to as the crossroads of Central Asia. *See Background Note: Afghanistan, supra*, at 2. It has had a turbulent history.

Following invasions by Alexander, the Scythians, the White Huns, and the Turks, the Arabs invaded Afghanistan in 642 AD and introduced Islam. *See Background Note: Afghanistan, supra*, at 3. Arab rule held for several hundred years before giving way to the Persians who controlled the region to 998 before succumbing to the Turkic Ghasnavids. *Id.* Turkish rule under Mahmud was short-lived and was followed by attempts by various princes to rule sections of the country before the Mongol invasion of 1219 under Genghis Khan. *Id.* For many centuries following Khan's death in 1227, the country was contested by a succession of chiefs and princes. By the late 14<sup>th</sup> century, Tamerlane (a Khan descendent) incorporated Afghanistan into a vast Asian empire. *Id.*

In 1747, Ahmad Shah Durrani (the founder of what is known today as Afghanistan) established his control over most of Afghanistan. British expansion in the 19<sup>th</sup> century was countered by Russian advances and precipitated Anglo-Afghan wars and later led to a boundary accord that created what would become modern Afghanistan. *See Background Note: Afghanistan, supra*, at 3.

Since the British relinquished control in August 1919, Afghanistan has been an independent state. *Background Note: Afghanistan, supra*, at 3-4. 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, supra*.

Prime minister between 1953 and 1963, Sardar Mohammad Daoud mounted a military coup in 1973 and seized power amid charges of corruption and malfeasance against Zahir Shah and his royal family. Daoud proceeded to abolish the monarchy, abrogate the constitution, and declare Afghanistan a republic. (*Background Note: Afghanistan, supra*, at, 4-5). 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. (*Background Note: Afghanistan, supra*, at 5). Sur Muhammad Taraki was installed as the country's president of the revolutionary council. Opposition to the Taraki government increased as many of 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. (*Id.*)

### **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*, at 5-6. Faced with a deteriorating security situation, the Soviets invaded Afghanistan in December 1979, killed the Afghan ruler, and installed Babrak Karmal (an exiled leader of the Parcham faction) as the country's prime minister. (*id.*)

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 *Background Note: Afghanistan, supra*, at 6-7. 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. Many of the Taliban had been educated in *madrassas* in Pakistan with roots in rural Pashtun areas of the country. See *Background Note: Afghanistan, supra*, at 7. 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 Panjshir 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. From the mid-1990s, the Taliban provided sanctuary to Osama bin Laden, and provided a base of operations for his and other terrorist organizations. (*Background Note: Afghanistan, supra*, at 7-8). 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.

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 *Background Note: Afghanistan, supra*, at 7-8. 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.*, at 8)

A new constitution was drafted and ratified by a constitutional loyal *jirga* on January 4, 2004. See *Background Note: Afghanistan, supra*, at 8. 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.*; *Country Specific Information: Afghanistan, supra*, at 1). Hamid Karzai was sworn in as Afghanistan's President on December 7, 2004. He presided over the new government's first convened parliament in late 2005. See *Background Note: Afghanistan, supra*.

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 *Background Note: Afghanistan, supra*, at 8-9.

### **Political conditions in Afghanistan**

A new democratic government assumed control of Afghanistan in 2004 following a popular election. 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 *Background Note: 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. Today, Afghanistan's local government lags, and corruption remains widespread. See Administrative Notice, *supra*, at 3; K. Katzman, *Afghanistan, Post-Taliban Governance, Security, and U.S. Policy*, CRS Report for Congress at 9 (October 2015)

Afghan insurgency and extremist networks, fueled by Taliban, Al Qaida, and Haqqani Network support, continue to assert power and intimidation within the country. See Administrative Notice, *supra*; K. Katzman, *Afghanistan, Post-Taliban Governance, Security, and U.S. Policy, supra*, at 22-23. 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 *Report on Enhancing Security and Stability in Afghanistan*, U.S. Department of Defense (June 2015). Risks of terrorist activity remain extremely high at the present time. See Administrative Notice, *supra*, at 3-4

Human rights conditions in Afghanistan remain poor by all reported accounts. State Department Reports confirm active insurgent activity in Afghanistan, prompting the U.S. State Department to place Afghanistan in Tier 2. See K. Katzman, *Afghanistan, Post-Taliban Governance, Security, and U.S. Policy, supra*, at 17. The Department of State's 2014 Human Rights Report also noted widespread violence, predominantly indiscriminate attacks on civilians, armed insurgents groups' killing of persons affiliated with the Afghan government, and targeted violence against women and girls. See *Country Reports on Human rights Practices for 2015: Afghanistan*, U.S. Department of State (June 2016).

No section of Afghanistan is safe or immune from risks of violence, kidnapping, hostage taking, military combat, operations, land-mines, banditry, armed rivalry between political and tribal groups, militant attacks, direct and indirect fire, suicide bombings, and insurgent attacks. See *Travel Warning, Afghanistan*, U.S. Department of State (June 2016). Kabul, in particular, has experienced increased militant attacks in recent years, including rocket attacks, vehicle-borne improvised explosive devices (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.

To date, Afghanistan has still encountered difficulties in building effective, honest, and loyal provincial and district institutions and lacks a coherent tribal engagement strategy for unifying the country. See *Administrative Notice, supra*, at 3-4; *Report on Enhancing Security and Stability in Afghanistan, supra*, at 29-30. The protracted Afghan election of June 2014 and the accompanying delays in forming a new government contributed to political uncertainties and delays in the development of the U.S. long-term security partnership with the new Afghan unity government. (Id. at 2)

Economic growth has been similarly slowed by a lack of investor confidence in the Afghan government and its prospects for the future. (Id.) Encouragingly, Afghanistan's unity leaders (notably President Gani and Chief Executive Abdullah) have proven to be amenable to working more cooperatively with the United States and other interested members of the international community. (Id.) This creates opportunities for the United States to deepen and strengthen its partnership with Afghanistan.

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

Looking to the future, the United States recognizes the many challenges that the unity government of Afghanistan will continue to contend with as their leaders settle their own respective responsibilities. See *Report on Enhancing Security and Stability in Afghanistan, supra* at 3. Despite these challenges, the fundamental partnership between the U.S.-led coalition and the Afghan government remains strong. (Id.)

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. 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 recognize and incorporate democratic principles, promote the rule of law and encourage transparent and accountable forms of government. See *Report on Enhancing Security and Stability in Afghanistan, supra*.

In May 2012, the United States and Afghanistan signed the Enduring Strategic Partnership Agreement, demonstrated the United States' shared commitment to the combating of terrorism and the promoting of democratic values and economic opportunity in Afghanistan and the region. See AE G and *U.S. Relations with Afghanistan Fact Sheet*, U.S. Department of State (October 2015). Through the New Silk Road initiative forged between Afghanistan and the United States in 2011 as a means of reconstructing infrastructure links in the region, both countries have helped to bolster peace and stability in the region by supporting a transition to trade and the opening of new markets in Central Asia and beyond. See AE G and *U.S. Support for the Silk Road*, U.S. Department of State (March 2016)

What strategic options the United States ultimately adopts to enhance its working relations with Afghan's unity government in their joint efforts to limit the

advances of an increasingly aggressive Taliban are uncertain at this time. Decisions on the appropriate level of troop strength will require some careful balancing and calibrating.

### **Endorsements and Awards**

Applicant is highly regarded by senior military commanders who worked closely with Applicant in Afghan military operations in 2007 and 2008. (AE E) They consistently credited Applicant with exceptional translation work while working in positions requiring high trust while embedded with military commands operating in Afghanistan. (AE E) They extolled his substantial contributions to the promotion of good and efficient relations between the International Security Force (ISAF) and the respective Afghan ministries. (AE E)

Applicant earned numerous certificates of achievement and appreciation from the military commands he worked closely with while assigned to Afghanistan. (AE D) These awards express gratitude for Applicant's commitment and achievements to his military commands while working foreign translation assignments. (AE D)

### **Policies**

The SEAD 4, App. A lists guidelines to be considered by judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. These guidelines include conditions that could raise a security concern and may be disqualifying" (disqualifying conditions), if any, and all of the "[c]onditions that could mitigate security concerns, if any. These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(d) 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 ¶ 2(d) 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 individual guidelines are pertinent herein:

### **Foreign Influence**

*The Concern:* Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a security concern if they result in divided allegiance. They may also be a national security concern 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. See AG ¶ 6.

### **Burden of Proof**

By virtue of the principles and policies framed by the revised AGs, a decision to grant or continue an applicant's 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 commonsense 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. Conversely, the judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) it must prove by substantial evidence any controverted facts alleged in the SOR, 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 materiality showing, 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 evidentiary burden shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Exec. Or. 10865 that all security clearances be clearly consistent with the national interest, the applicant has the

ultimate burden of demonstrating his clearance eligibility. “[S]ecurity-clearance determinations should err, if they must, on the side of denials.” See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

### **Analysis**

Applicant is a highly regarded linguist for a U.S.-based defense contractor. He is an Afghan citizen by birth and a naturalized U.S. citizen with permanent residency in the United States. Foreign influence concerns relate to Applicant’s having immediate and extended family members who are citizens and residents of Afghanistan.

Applicant is a naturalized U.S. citizen whose mother, sisters, and in-laws are citizens and residents of Afghanistan. Security concerns are raised under the foreign influence guideline due to Applicant’s having family members residing in Afghanistan and alleged financial interests in Afghanistan. Afghanistan itself is a country with a somewhat checkered history of wars, political instability, and violence.

Despite encouraging efforts in the development of strategic partnerships between Afghanistan and the United States in recent years, Afghanistan remains a war-torn country and one still in the process of establishing a stable democratic government that is able to build effective, honest, and loyal provincial and district institutions, provide effective protections for its constituent groups, and maintain cross-border security. The historically close relationship between Applicant and his immediate and extended family members who reside in Afghanistan makes them potentially vulnerable to coercion and non-coercive measures.

Because Taliban, Al Qaida, and Haqqani Network insurgents operating in Afghanistan have a history of violating Afghan domestic laws and regulations, as well as international laws, they are more likely to use improper and illegal means, or one of the other, to obtain classified information in Applicant’s possession or control through his family members still residing in Afghanistan. DC ¶ 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,” applies.

To date, none of Applicant’s mother, sisters, and in-laws residing in Afghanistan have any history of being subjected to any coercion or influence. These historical antecedents do limit the severity of any potential conflict situation. However, the absence of any past coercive measures taken by Afghan authorities does not completely absolve Applicant from coercive risks in the future given Afghanistan’s considerable history of wars, political instability, violence, hostage taking, and abusive measures taken against its own citizens. For these reasons, ¶ DC 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,” has some application to Applicant and his family members residing in Afghanistan.

Still, none of Applicant’s immediate and extended family members have any known affiliations or connections with the Afghan government or their military, or any other foreign government. Any potential conflict that might be associated with his sisters presents a low risk and not likely to pose any conflicts of interest for Applicant in the foreseeable future.

As a nation, Afghanistan continues to be a country with emerging strategic relationships with the United States and is a front-line partner in the war on terror. Because of the security dangers that still confront U.S. and Afghanistan forces operating in the region, Afghanistan remains a country that presents a heightened risk. Afghanistan is also a country that is benefitting from long-term U.S. commitments to help the Afghan government and its tribal regions reconstitute and rebuild their institutions and infrastructure in the aftermath of years of war, human rights abuses, and political and economic mismanagement under Soviet-backed regimes and Taliban rule. Given the current geopolitical infrastructure that exists in Afghanistan, the risk of a pressure or influence situation involving an immediate or extended family member of Applicant’s can be characterized as somewhat reduced, commensurate with improved security and political conditions on the ground in the country.

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. The revised AGs take into account the country’s demonstrated relations with the United States as an important consideration in gauging whether the particular relatives with citizenship and residency elsewhere create a heightened security risk. The geopolitical aims and policies of the particular foreign regime in issue do matter.

Applicant’s situation is a special one for reasons that pertain wholly to his unique status and circumstances as a linguist working with military commands operating in Afghanistan. Not only has he been careful to avoid any frequent contact with his sisters and in-laws in Afghanistan, but he has been scrupulous about making certain his family members are not aware of his linguist assignments and duties that cover Afghan culture and political conditions.

In special circumstances involving linguists who put themselves in harm’s way by working in and out of unstable countries where they have family members residing, the Appeal Board has been quick to note that such individuals are more likely to recognize, resist, and report any attempts by a foreign power, terrorist group, or insurgent group at coercion or exploitation. See ISCR Case No. 07-00034 at 2 (App. Bd. Feb. 5, 2008). Applicant’s strong connections to the United States and to his U.S. family members, community, and his employment as a linguist for military commands

operating in Afghanistan make it highly unlikely he would ever resolve any potential conflict against his U.S. interests.

Based on his case-specific circumstances, 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,” is available to Applicant. Balancing security interests associated with Applicant’s Afghanistan-based family members, conclusions warrant that neither Applicant nor his immediate or extended family members residing in Afghanistan pose any heightened security risks that could subject them to potential pressures and influence from Afghan government and military officials.

Of benefit to Applicant, too, is MC ¶ 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.” Applicant’s demonstrated loyalty, patriotism, and professional commitments to the United States are well demonstrated and sufficient under these circumstances to neutralize all potential conflicts that are implicit in his relationships with his immediate and extended family residing in Afghanistan.

One other mitigating condition has application to Applicant’s situation. MC ¶ 8(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.” is fully applicable. He has no current financial interests in Afghanistan, and uncertain likelihood of ever acquiring any inheritance rights in the country that could create any conflicts in the foreseeable future.

To complete a whole-person assessment of Applicant’s foreign influence risks to ascertain whether they are fully compatible with minimum security clearance eligibility requirements, Applicant’s substantial civilian contributions to U.S. security interests as an Afghan linguist require careful balancing with the raised security concerns. His endorsements and certificates of appreciation attest to his valuable contributions to U.S. military forces operating in Afghanistan. They are impressive. Further, Applicant is recognized for the important role he has played with the military commands he serves during his translation assignments.

Whole-person assessment is available also to minimize Applicant’s exposure to conflicts of interests with his Afghan family members. Most importantly, Applicant is not aware of any risks of coercion, pressure, or influence that either his mother, sisters or in-laws might be exposed to. So, in Applicant’s case, the potential risk of coercion, pressure, or influence being brought to bear on him, or any of his respective family members residing in Afghanistan, is very low and mitigated.

