



**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. 18-02063

**Appearances**

For Government: Kelly M. Folks, Esquire, Department Counsel  
For Applicant: *Pro se*

04/24/2019

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**Decision**

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WESLEY, Roger C., Administrative Judge:

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

**History of Case**

On October 12, 2018, the Department of Defense (DOD) issued a Statement of Reasons (SOR) detailing reasons why DOHA could not make the affirmative determination of eligibility for granting 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; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and by the Security Executive Agent, Directive 4, *National Security Adjudicative Guidelines* (SEAD 4).

Applicant responded to the SOR on November 6, 2018, and elected to have his case decided on the written record. Applicant received the File of Relevant Material (FORM) on February 12, 2018, and interposed no objections to the materials in the FORM. Applicant did not supplement the FORM with exhibits of his own.

In its FORM materials, the Government requested administrative notice of facts detailed in 13 official source documents that are official Government publications. 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 official background reports addressing the geopolitical situation in Iraq.

Administrative notice was extended to the requested facts and cited source documents, consistent with the provisions of Rule 201 of the Federal Rules of Evidence. This notice did not foreclose consideration of information about the country not covered in the Government's request for administrative notice, so as to ensure accurate and timely assessments of the country's changing political landscape.

### **Summary of Pleadings**

Under Guideline B, Applicant is alleged in the SOR to (a) own property in Iraq with an approximate value of \$620,000; (b) have a stepmother who is a citizen and resident of Iraq; and (c) have in-laws who are citizens and residents of Iraq. In his response to the SOR, Applicant admitted each of the allegations without explanation.

### **Findings of Fact**

Applicant is a 48-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 Iraq and immigrated to the United States in October 2009 on a refugee visa. (Items 1-3 and 5) In June 2015, Applicant became a naturalized U.S. citizen and received a U.S. passport in July 2015. (Item 3) He acquired an Iraqi passport in August 2007 and surrendered it in August 2015 after becoming a U.S. citizen. (Item 3) While Applicant still holds Iraqi citizenship, he has expressed a willingness to renounce it. (Item 3)

Applicant married in March 2003 and has three children from this marriage (ages 14, 12, and 10). (Item 3) While the oldest two children were born in Iraq, the youngest

child was born in the United States. Applicant reported no educational information or active duty military service. (Item 3)

Since June 2017, Applicant has worked as a linguist for a defense contractor. (Item 3) Previously, he worked for other non-defense employers in various jobs. He reported brief periods of unemployment in 2016 and 2009. (Item 3)

### **Applicant's family ties in Iraq**

Both of Applicant's parents passed away: his father in 1984 and his mother in 1993. (GE 3) Applicant has a stepmother, a mother-in-law and father-in-law, a sister-in-law, and a brother-in-law who are citizens and residents of Iraq. He maintains monthly contact with his family members, and sometimes more frequently. (Items 3 and 5) Little is known about the backgrounds of his family members. His father-in-law is a retired member of the Iraqi Army. His rank, pension entitlements, and ties to other members past and present of the Iraqi Army are unknown. (Item 5) Based on information he provided in his OPM summary of interview in July 2017, one sister-in-law works for an Arab arbitration international center; while another sister-in-law works for an Arab embassy in Iraq. (Item 5) What affiliations and roles each sister-in-law plays in the identified Arab organizations is not reported in any of the exhibits in the record. (Item 5) Nothing about affiliations and associations of Applicant's brother-in-law is reported in any of the exhibits.

Applicant owns property in Iraq, which he purchased in 2007 for approximately \$200,000. (Item 5) He purchased this property (a single family home) for himself, and his wife and children to live in when his work in the Iraqi American Green Zone ended. (Item 5) In 2012, he and his family occupied the home. Applicant estimated the value of the home at the time to be approximately \$620,000. (Item 5) Currently, he values the home at just over \$450,000. He hopes to sell the home when market conditions improve. (Item 5) But he could provide no clear estimates of when conditions will permit him to dispose of the property. (Item 5)

Applicant comes from a family of considerable wealth. (Item 5) Before his passing, his grandfather acquired considerable wealth from building and operating an international trading business in Iraq. Since his grandfather's death, Applicant's relatives have managed his grandfather's estate. (Item 5) Applicant has obtained some inheritance proceeds from his grandfather's estate (approximately \$45,000) and anticipates more to come once the estate winds down and distributions are made to qualified family beneficiaries. (Item 5)

### **Iraq's country status**

Iraq is a country with a population of 27 million that is broken down along ethnic and religious lines: Shiites, Sunni, Kurds and Turkoman comprise the predominant ethnic and sectarian groups. Once known as Mesopotamia (the fertile crescent), Iraq is

bordered by Kuwait, Iran, Turkey, Syria, Jordan, and Saudi Arabia. See *Background Note, Iraq*, at 2-3, U.S. Dept. of State (Feb. 2008) At the end of World War I, Iraq became a British-mandated territory, and founding member of the Arab League. (*id.*)

General Abdul Karim Qasim assumed power in a July 1958 coup and held power for five years before succumbing to the Ba'ath Party's takeover of the Iraqi government, and Hasan al-Bakr's selection as prime minister. See *Background Note, Iraq, supra*, at 4. When Bakr resigned in 1979, Saddam Hussein assumed the reigns of power. Under Saddam Hussein's direction, Iraq launched a major invasion of its neighbor, Iran, in the 1980s. See *the World Factbook: Iraq*, U.S. Central Intelligence Agency (Feb. 2018); *Background Note Iraq, supra*. Iraq declared victory in 1988 and survived to claim the largest military establishment in the region. Iraq then turned its forces to mounted attacks against the ongoing Kurdish rebellion by Kurdish elements in the northern mountains of Iraq. (*Id.*)

Iraq invaded Kuwait in August 1990, and was repelled by a U.S.-led coalition in February 1991. See *World Factbook: Iraq, supra*; *Background Note, Iraq, supra*. After the war, the United Nations UN) Security Council required the Hussein regime to surrender to the coalition and submit to UN inspections. When the Ba'ath regime refused to fully comply, the Security Council invoked sanctions to prevent further weapons of mass destruction (WMD) development, and to enforce Iraq's surrender terms. Coalition forces employed limited no-fly zones in southern and northern Iraq and a limited no-drive zone in southern Iraq to prevent the regime from invading Kuwait again. (*Id.*)

In 2003, A U.S.-led coalition invaded Iraq and succeeded in removing Saddam Hussein and his Ba'athist regime from military and political power. See *The World Factbook: Iraq, supra*; *Background Note Iraq, supra*, at 3. After two years of operations under a provisional authority, Iraq's new government assumed office in March 2006 (with the approval of the U.S. Government), following free elections. (*id.*)

Notwithstanding the election of a new national government with U.S. backing, violence continued to envelop Iraq. This violence was fueled and perpetrated by Al Qieda terrorists, Sunni insurgents, and, Shiite militias and death squads. See *The World Factbook: Iraq, supra*; *Background Note Iraq, supra*. State Department reports document human rights abuses that include a "pervasive climate of violence, misappropriation of official authority by sectarian, criminal and insurgent groups; arbitrary deprivation of life, disappearances, torture and other cruel, inhumane or degrading treatment or punishment." (*Id.*)

Since March 2006, the Government of Iraq has been comprised of a broad coalition of political alliances representing the Shiite, Sunni and Kurdish blocs. See *The World Factbook: Iraq, supra*, at 2; *Background Note Iraq, supra*. at 8. While elections have been held, none of the key constituent groups have been able to form a government, adopt an oil law, establish and maintain effective security throughout the

provinces, or neutralize sectarian divisions. In this still very fragile political environment in Iraq, there are substantiated reports of human rights abuses that continue to underscore a still pervasive climate of tension and violence.

### **Economic developments**

Iraq's economy continues to be dominated by the oil sector, as it has for the past half century since the completion of new pipelines to Lebanon in 1949, and to Syria in 1952. See *The World Factbook: Iraq*, supra; *Background Note Iraq*, supra. As a result of the U.S.-led invasion in 2003, much of Iraq's oil-refining capabilities were shuttered. The rebuilding of oil infrastructure and utilities infrastructure has continued to expand since 2004 with U.S. aid and support, despite setbacks from insurgent activity.

Proposed oil revenue-sharing legislation among the three war-hardened ethno-sectarian divisions (Shia, Sunnis, and Kurds) still awaits passage after years of stalled negotiations, however, and at the moment, there are no good estimates of when such legislation will be approved and implemented. See *Statement for the Record, Worldwide Threat Assessment of the US Intelligence Community*, U.S. Director of National Intelligence (Feb. 2018) For the foreseeable future, the national government can be expected to continue to seek the passage and implementation of a revenue sharing law to strengthen and encourage the development of this important sector. See *id.*

Recent reports (although not official U.S. pronouncements) suggest that Baghdad is close to agreement with the semi-autonomous Kurdish regional government (KRG) to restart crude flowing from the Kirkuk oil fields as U.S. sanctions against Iran hit Iran's energy sales. See *Iraq Closing in on Deal to Resume Kirkuk Oil Exports*, Reuters/Bloomberg (Nov. 2018). If these estimates prove to be accurate, they should be welcomed by both U.S. and allied interests.

Despite Iraq's producing 4.3 million barrels of oil per day, according to published reports, Iraq's population remains poor. See *Putting Iraq-KRG Oil Relations on Solid Legal Ground*, the Washington Institute for Near East Policy (July 2018). Currently, the case brought by the federal government of Iraq against the KRG in 2012 over the legality of the KRG's oil contracts and independent exports remains pending with no disposition projected in the near future. See *Id.*

Past budget laws passed by Iraq's national parliament requiring the KRG to contribute certain export earnings in the country's overall exports (a law that would seem to legitimate the KRG's ownership claims to Kirkuk oil) have never led federal authorities to export Kirkuk-produced oil. In so doing, Iraq's federal authorities have severely limited Iraq's northern export outlet via the Kurdish pipeline to Turkey. Breaking the oil-stalemate that existed for years between the KRG and Iraq's federal government can have major positive ramifications for not only Iraq and its oil exports, but for the United States and other Western interests as well.

## Terrorism and human rights issues

Despite recent improvements in its security enforcement efforts, Iraq remains a very dangerous, volatile and unpredictable country. The U.S. State Department continues to strongly warn U.S. citizens against traveling to Iraq. See *Travel Advisory-Iraq*, U.S. Dept. of State (Oct. 2018); Request for Administrative Notice, *supra*, a 3-4. The State Department assessed Baghdad as being a critical-threat location for crime directed at or affecting official U.S. interests. See *Iraq 2018 Crime and Safety Report: Baghdad* at 2-3. U.S. Dept. of State (Feb. 2018) While crime statistics and crime reporting mechanisms are incomplete and inconsistent, the vast majority of individuals under contract with, or employed by, the U.S. Government in Iraq are required to travel with a protective security detail, so as to limit potential criminal threats against them. (*id.*)

Attacks against military and civilian targets throughout Iraq continue and include sites and facilities where foreign tourists frequently visit: hotels, restaurants, police stations, check points, foreign diplomatic missions, international organizations, and other locations with expatriate personnel. See *Travel Advisory-Iraq, supra*, and *Security Message: Expanded Temporary Movement Restriction*, U.S. Department of State (December 2017) The U.S. Embassy's ability to provide consular services to U.S. citizens outside Baghdad is extremely limited under the security environment that still exists in Iraq. See *Country Information: Iraq: Safety and Security*, U.S. Dept. of State (July 2017); Request for Administrative Notice, *supra* at 3-4.

The U.S. Government considers the potential security threats to U.S. government personnel in Iraq to be sufficiently serious to require them to live and work under strict security guidelines. See *Country Information: Iraq: Safety and Security, supra*; Request for Administrative Notice, *supra* at 3-4. The U.S. Embassy's ability to provide consular services to U.S. citizens outside of Baghdad is extremely limited under the security environment that exists in Iraq. See *Country Information: Iraq: Safety and Security*, U.S. Dept. of State (July 2017); Request for Administrative Notice, *supra* at 3-4.

Terrorist groups continue to mount attacks throughout Iraq and pose heightened risks to U.S. citizens and their family members residing in Iraq. See *Country Reports on Terrorism 2016*, U.S. Dept. of State (Sept. 2018); Request for Administrative Notice, *supra* at 3-4. The U.S. Government considers the potential personal security threats to U.S. Government personnel in Iraq to be serious enough to require them to live and work under strict security guidelines.

To deal with expanded terrorist attacks against U.S. citizens in Iraq, the U.S. Embassy has expanded its temporary movement restrictions on Embassy personnel, both inside and outside the international zone, in response to the recent announcement that the United States recognizes Jerusalem as the capital of Israel. See *Iraq 2018 Crime and Safety Situation, supra*; *Security Message: Expanded Temporary Movement Restriction, supra*, at 2-3; and Request for Administrative Notice, *supra*, at 4.

In December 2015, President Obama signed into law the Visa Waiver Program Improvement and Terrorist Travel Protection Act of 2015, which amended the existing Waiver Program. See H.R. 158 Visa Waiver Program Improvement and Terrorist Travel Protection Act of 2015, enacted as Public Law 114-113 (129 Stat, 2242), Dec. 18, 2015. Under the 2015 amendment, citizens of Iran, Iraq, Sudan, and Syria are ineligible to travel or be admitted to the United States under the Visa Waiver Program. See Request for Administrative Notice, *supra*, at 7 for additional coverage citation.

Iraq's human rights record remains a poor one. Based on the U.S. State Department's most recent annual human rights report, violence continued throughout 2017, largely fueled by the actions of the Islamic state in Iraq (ISIS). See *Statement for the Record, Worldwide Threat Assessment of the US Intelligence Community, supra*. After liberating all territory taken by ISIS by the end of 2017, Iraqi Security Forces (ISF) have continued to pursue and restrict ISIS forces still active in Iraq.

Reports of human rights abuses include allegations of unlawful killings by some members of the ISF (particularly by some members of the Popular Mobilization Forces (PMF)). Reports of human rights abuses also include allegations of unlawful killings, torture, harsh and life-threatening conditions in detention and prison facilities, criminalization of libel and other limits on freedom of expression, widespread corruption, greatly reduced penalties for so-called honor killings, coerced or forced abortions imposed by ISIS on its victims, legal restrictions imposed on the freedom of movement of women, and trafficking in persons. See *Country Reports on Human Rights Practices for 2017*, U.S. Department of State (April 2018); Request for Administrative Notice, *supra*, at 5.

### **Implications of the results of Iraq's 2018 federal election on U.S. policy**

In May 2018, Iraq held its parliamentary elections that many believed would produce a new beginning for Iraq and foster progress in the country's historically intractable issues covering such areas as endemic corruption, violent instability, and social/political polarization. See *R. Alaaldin, What Iraq's election Results Mean for U.S. Policy* at 1-6, <https://brookings.edu/blog/order-from-chaos> (May 2018). This parliamentary election marks the first such federal election since the defeat of ISIS in December 2017 and was historic in many respects with over 7,000 candidates vying for 329 seats. See *The World Factbook: Iraq, supra* and *R. Alaaldin, What Iraq's Election Results Mean for U.S. Policy, supra*.

Despite heavy media coverage and high hopes surrounding election prospects for the prime minister, al-Abadi failed to alleviate religious tension and develop a national consensus in Iraq on the importance of secular governance (only 44.5 percent of voting registrants, the lowest turnout since 2003), Iraq's elections did, however, herald a new chapter for the victorious Sadrist movement headed by Shia cleric Muqtada al-Sadr and his millions of underclass followers. See *See R. Alaaldin, What Iraq's Election Results Mean for U.S. Policy, supra*, at 1-6.. According to Brookings

reports, the Winner of the May 2018 election was al-Sadr's al-Sa'iroohn coalition with 54 seats, followed by the Fatah bloc, headed by Hadi al-Amiri who has reported close ties with Iran, with 47 seats, and the Nasr coalition, headed by al-Abadi with 42 seats. (*id.*) Election results were confirmed by Iraq's top election body in June 2018 following a country-wide manual count, clearing the path for political parties to form a government. See <https://www.wsj.com> (Aug. 9, 2018)

While prospects for forming a government between the three principal coalitions are still uncertain, reported public statements about creating an alliance between al-Sadr's and al-Bati's respective coalitions offer promise for Iraq in the wake of widely discredited elections. See *F. Hassan and R. Nordland, Iraqi Political Alliance Unites a U.S. Friend and Foe*, <https://www.nytimes.com>. And although these reports do not represent official U.S. pronouncements, they are illustrative of the major political changes that are gaining traction in Iraq and bear watching.

### **Current U.S. Relations with Iraq**

The U.S. Mission in Iraq remains dedicated to building a strategic partnership with Iraq and the Iraqi people. See *U.S. Relations with Iraq* at 1-2, U.S. Dept. of State (July 2018). In coordination with the Global Coalition to defeat ISIS, the United States assisted Iraq's efforts to achieve the long-sought goal of liberating all of Iraqi territory from ISIS. The Strategic Framework Agreement (SFA) between Iraq and the United States provides the basis of the United States's bilateral relationship with Iraq and covers a wide range of bilateral issues, including political relations and diplomacy, defense and security, trade and finance, energy, judicial and law enforcement issues, services, science, culture, education, and environment. (*id.*)

U.S. bilateral assistance to Iraq is considerable and stresses economic reform, assistance to vulnerable groups, and democracy and governance. See *U.S. Relations with Iraq, supra*. U.S. security assistance supports the development of modern, accountable, fiscally sustainable, and professional Iraqi military resources capable of defending Iraq and its borders.

The United States has designated Iraq as a beneficiary developing country under the Generalized System of Preferences program and has been proactive in the promotion of two-way trade between the United States and Iraq. (*id.*, at 2) Noteworthy, Iraq's re-integration into the international community has been marked by their demonstrated cooperation with international institutions, including the United Nations, International Monetary Fund, World Bank, and the Arab League. (*id.*)

### **Policies**

The AGs list 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 conditions 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(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 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 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 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 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 *Kungys v. United States*, 485 U.S. 759, 792-800 (1988). 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 dual citizen of Iraq and the United States who has family members (a stepmother, in-laws, a sister-in-laws, and a brother-in-law) who are citizens and residents of Iraq. Security concerns are raised under the foreign influence guideline due to Applicant's longstanding family ties to Iraq.

Although Applicant's contacts with his stepmother, in-laws, brother-in-law and sister-in-laws residing in Iraq appear to be modest (monthly and occasionally more often), they do involve close family members. And still not resolved are his property interests in Iraq that Applicant wants to sell when economic conditions improve. But to date, he is still holding the property.

Conditions in Iraq raise heightened country risks as well. While Iraq is a liberated ally of the United States, it is a country that has encountered difficulty forming a government in the past and continues to experience ethno-sectarian

conflicts between principal factions and is considered a country with a poor human rights record and an unsafe country for U.S. citizens to visit by the U.S. State Department.

### **Foreign influence concerns**

Key to the Government's foreign influence concerns are Applicant's extended family members (i.e., his stepmother, in-laws, sisters-in-law and brother-in-law) who are Iraqi citizens and still reside in Iraq, a country that is still in the process of establishing a stable democratic government able to protect all of its disparate constituent groups and maintain peace with its neighbors. Despite encouraging developments in Iraq following the federal elections of May 2018, Iraq is still a very dangerous and volatile country in certain sectors with an overall poor human rights record and heightened risks of terrorism in most sectors of the country.

Applicant's presumably close relationships with his extended family members residing in Iraq make them potentially vulnerable to coercion and non-coercive measures because of their close familial family ties with Applicant. Because the Iraq SFs and non-governmental entities (principally ISIS) operating in Iraq, as well as the former Iraqi military and intelligence authorities, have a history of violating Iraqi domestic laws and regulations, and international laws, they are more likely to use improper and/or illegal means to obtain classified information in Applicant's possession or control through his siblings and in-laws.

Noting that Applicant's contacts with his Iraqi family members typically take place in potentially hostile security environs, the Government urges security concerns over risks that his telephonic contacts with his family members in Iraq might be subject to exploitation, coercion, or duress by Iraqi military and government authorities to access classified information in Applicant's possession or control. Applicant's activities warrant some application of two of the disqualifying conditions of the foreign influence guideline: 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."

The citizenship/residence status of Applicant's in-laws, stepmother, sisters-in-law and brother-in-law in Iraq continue to pose potential concerns for Applicant because of the risks of undue foreign influence that could compromise sensitive or classified information under Applicant's possession and/or control. Applicant has no provided enough information about his family members to abate those concerns.

Although none of Applicant's family members in Iraq have any currently identified Iraqi military or government service, or other demonstrated links to the Iraqi government, they remain potentially vulnerable to pressure and coercion for so long

as they reside in Iraq (even in places considered to be generally safe from terrorist threats). Were any of these family members to be placed in a hostage situation, Applicant could be subject to conflicts over ensuring his family's well being and protecting classified information. For this reason, 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 classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information," is applicable to the facts of this case.

Applicable, too, to Applicant's situation is DC ¶ 7(f), "substantial business, financial, or property interests in a foreign country, or in any foreign-operated business that could subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest." Applicant's reported property interest in Iraq is considerable (last reported to be worth \$620,000 and currently estimated by Applicant to be worth at least \$450,000 based on current market conditions). His valued property in Iraq is still held and maintained by Applicant and far exceeds any reported property he has in the United States.

To be sure, none of Applicant's stepmother, in-laws, sisters-in-law and brother in-law residing in Iraq have any history to date of being subjected to any coercion or influence. These historical antecedents limit the risk of any potential conflict situation. And while the absence of any past coercive measures taken by Iraqi authorities does not absolve Applicant from coercive risks in the future given Iraq's checkered history of political instability, violence, hostage taking, and abusive measures taken against its own citizens. Despite the absence of any known evidence of pressure or coercion in their family history, the potential risk of a potential hostage situation with Applicant's family members residing in Iraq is present.

The AGs governing security clearances do not dictate *per se* results or mandate particular outcomes for any chosen set of guidelines covering risks of foreign influence. 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. Personnel security assessments necessarily embrace similar risk assessments under the new AGs for assessing foreign influence risks and concerns associated with the individual's having family abroad, which include both common sense assessments of country risks and information available from public sources.

Mitigation is partially available to Applicant under the foreign influence guideline of the AGs. Based on his case-specific circumstances, mitigating condition (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 a foreign individual, group, organization, or

government and the interests of the United States.” has some applicability to Applicant’s situation. Reports about Applicant’s family members residing in Iraq, as well as substantial property interests in the country, and little information available to assess their status and prospects for sale of the property in the foreseeable future, make it difficult to permit safe predictions about the future safety of Applicant’s family members and risk projections about his ability to protect his property interests against economic pressures brought to bear on Applicant by an Iraqi government interested in compromising Applicant to acquire classified and sensitive information from him.

Of some 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 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 contributions to the U.S. defense effort are sufficiently demonstrated in this record to warrant partial application of MC ¶ 8(b).

Still, heightened security risks associated with Applicant’s presumed close relationships with his family members residing in Iraq and continued ownership of significant property interests in the country cannot be safely discounted, though, considering all the facts and circumstances associated with his ties to Iraq. His family relationships and property interests in Iraq at this time are not fully reconcilable with his holding a security clearance.

**Whole-person assessment**

Whole-person assessment of Applicant’s foreign influence risks to ascertain whether they are fully compatible with eligibility requirements for holding a security clearance takes account of Applicant’s immigration to the United States on an asylum visa and his current employment as a linguist with the language skills he acquired in Iraq. Applicant’s value to U.S. security interests as a trained linguist is not sufficiently developed in this record to enable him to surmount security concerns over the heightened risks that his family members and property interest in Iraq present to U.S. security interests. Foreign influence concerns are not mitigated.

**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
Subparagraphs 1.a-1.g:	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 Applicant access to classified information. Clearance is denied.

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Roger C. Wesley  
Administrative Judge