



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



Appearances

For Government: Nicholas T. Temple, Esq., Department Counsel
For Applicant: Tonya Hardzinski, Esq.

07/24/2025

Decision

HALE, Charles C., 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 on December 6, 2021. On October 17, 2024, the Department of Defense (DoD) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline B. The DoD acted 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 the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016).

Applicant answered the SOR on October 24, 2024, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on February 10, 2025, and the case was assigned to me on June 5, 2025. On June 11, 2025, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled for July 9, 2025. I convened the hearing as scheduled. Government Exhibits (GE) 1 and 2 were admitted in evidence without objection. Applicant's Exhibit (AE) A through AE G (character letters, Applicant's DD Form 214, Applicant's authorized medals and honors, Applicant's spouse's citizenship certificate, updated Thailand travel advisory, news articles, and a character letter) were admitted without objection. He testified but did not present the testimony of any other witnesses. The record remained open through July 22, 2025, no additional evidence was submitted by either side. DOHA received the transcript (Tr.) on July 17, 2025.

Department Counsel requested that I take administrative notice of relevant facts about Kingdom of Thailand. The request and supporting documents are attached to the record as Hearing Exhibit (HE) I. The facts administratively noticed are set out below in my findings of fact.

Findings of Fact

In Applicant's answer to the SOR, he admitted all the allegations. His admissions are incorporated in my findings of fact.

Applicant is a 29-year-old aviation mechanic employed by a defense contractor since June 2023. He served on active duty in the U.S. Navy from December 2016 to July 2021 and received a general discharge under honorable conditions. He is proud of his naval service and wanted to follow what his "granddad did." He has a 100 percent disability rating from the Department of Veterans Affairs. After his discharge from the Navy, Applicant "moved across the flightline" and began working in the same field because he still wanted to help on the "civilian side." He has held a security clearance since January 2017. (GE 1; Tr. 16-17, 29.)

Applicant's spouse recently became a U.S. citizen in June 2025. (Tr. 20.) They started dating in late 2016, while he was assigned to a ship on the West Coast, and she was working on her master's degree in education. He kept his command informed of his relationship and was granted leave to go to Thailand in 2017, after completing entry level training. He met his wife's family for the first time on that visit. They married in March 2020, while he was still stationed on the West Coast. She earned her master's degree about the same time as their marriage. When his ship deployed his wife moved to the East Coast and lived with his mother from approximately August 2020 until July 2021. His wife and his mother have a very close relationship as a result of his deployment. He and his wife returned twice to Thailand in 2022. The second visit was to have a wedding ceremony. They moved back to the East Coast in May 2023. (GE 1; 18-21, 42-44, 47.)

SOR ¶ 1.a. alleges Applicant's mother-in-law and father-in-law are citizens and residents of Thailand. He reported that both of his in-laws are elderly and retired. Neither was

affiliated with the government of Thailand. His wife is very close to her parents and speaks with them weekly via Facetime. If he is not working and at home, he will “sit down and speak with them.” He speaks with her mother-in-law and father-in-law when he can so as not to be a “bad son-in-law” but it is limited to general conversations. His mother-in-law does not speak English, and his father-in-law has limited English language skills. His wife does the translating for them. They do not talk about his actual work. His in-laws do not ask about specific details of his job. They only know that he is an aircraft mechanic. When he and his wife go back for visits, they stay with his in-laws. They have never discussed what if anything his wife might inherit after his in-laws pass. He described his in-laws as wealthy by Thai standards. However, Applicant and his wife purchased airline tickets for his in-laws so they could come and visit the United States. (Tr. 22-25, 33-34, 37-39.)

SOR ¶ 1.b alleges Applicant’s brother-in-law is a citizen of Thailand employed as a pilot for the Thai Air Force. Applicant first met his brother-in-law in 2017 when his brother-in-law was still a cadet. His brother-in-law completed pilot training in the 2020-to-2021-time frame. His brother-in-law does not live at home, and they do not stay with him when they visit. He will communicate with his brother-in-law independently of his wife. Given their shared backgrounds in aviation they talk generally about aviation. They do not discuss his work and his brother-in-law “has never asked specific questions about what [Applicant does or how he does] it.” The plane his brother-in-law flies is not what Applicant works on and Applicant’s work is on old aircraft not in use by the U.S. military. He does not communicate with his brother-in-law on regular schedule. It could be weekly to once a month depending on their schedules. They do not do anything socially online. His brother-in-law is not fluent in English, so their conversation is not detailed. His wife communicates with her brother about once a month. (Tr. 23, 34-37, 40, 44-47.)

Applicant and his wife do not own any property in Thailand. There is an unfunded bank account his wife still has in Thailand. He does not have access to it. He and his wife own a home in the United States and their personal property and financial accounts are in the United States. He plans to retire in the United States. Aside from the alleged persons he does not have any continuing contacts with people he met at their Thai wedding in 2022. His wife is a schoolteacher at the same high school he graduated from. He plans to retire in the United States. (Tr. 27-29, 44.)

Applicant submitted multiple character letters on his behalf, the writers all had prior military service. His work colleagues attested to his trustworthiness and dedication. His Senior Aerospace Science Instructor from high school, a retired Air Force Chief Master Sergeant gave him his highest endorsement as he has demonstrated no lapses in judgment or divided loyalty to our country or susceptibility to foreign influences. His former instructor noted Applicant “always carved out time to speak to our cadet corps about the benefits of service and told them to live their personal and professional life anchored to the moral compass of our core values” whenever he was home on leave. (AE A; AE G.)

In Thailand, the king is the head of government, and individuals are legally precluded from publicly criticizing the ruling government and monarchy. However, in July to December 2020, there were numerous anti-government protests. The U.S. Department

of State at one point issued a Level 3 (Reconsider Travel) advisory for the southernmost provinces of Thailand due to civil unrest and terrorist attacks. However, it is a Level 1 travel advisory as of June 9, 2025, according to the most recent advisory from the Department of State. (HE I; AE E.) In 2025, a U.S. aircraft carrier made a port call in Thailand. In February 2025, the U.S. Embassy & Consulate in Thailand extended its gratitude on behalf of the United States “to our friend and Ally for hosting this worldclass training exercise,” Cobra Gold. (AE F.)

The current king ascended to the throne in 2019 following the death of his father and that same year the civilian authorities were given more authority after the March 2019 elections. The election results were disputed and widely viewed as skewed, resulting in major anti-government protests in 2020, which led to reformist movements culminating in the 2023 election of the current prime minister. The Thailand 2023 Human Rights Report reflects that Thailand continues to have significant human rights abuses. (HE I; HE I Item IX.)

China is seeking to expand its power projection in the region. The Chinese Navy conducted recent port calls in Thailand, and China conducts regular military exercises that include Thailand. In early 2019, the Thai government decided to partner with Huawei to build the nation’s 5G network. There is no evidence that Thailand targets the United States for military or economic intelligence. (HE I Item V.)

Policies

“[N]o one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to “control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, 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 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.” Exec. Or. 10865 § 7. 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. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531.

Analysis

Guideline B, Foreign Influence

The SOR alleges that Applicant’s father-in-law and mother-in-law are citizens and residents of Thailand (SOR ¶¶ 1.a) and that his brother-in-law is a citizen of Thailand and a member of the Thai Air Force (SOR ¶ 1.b).

The security concern under this guideline is set out in AG ¶ 6:

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 if they create circumstances in which the individual maybe 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.

Guideline B is not limited to countries hostile to the United States. “The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States.” ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004). Furthermore, “even friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security.” ISCR Case No. 00-0317 (App. Bd. Mar. 29, 2002).

The following disqualifying conditions under this guideline are applicable:

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; and

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.

Applicant's parent-in-laws are elderly. His mother-in-law does not speak English, and his father-in-law speaks broken English. Neither have any apparent connections to the government of Thailand. Applicant's brother-in-law is a junior officer in the Thai Air Force. They share a mutual interest in flying and keep in touch on a regular basis but not on any set schedule. Despite these facts, the relative obscurity of these family members does not provide a meaningful measure of whether an applicant's family connections pose a security risk. See ISCR Case No. 07-13696 at 5 (App. Bd. Feb. 9, 2009).

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

Furthermore, “even friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security.” ISCR Case No. 00-0317 (App. Bd. Mar. 29, 2002). Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic,

scientific, and technical fields. Nevertheless, the nature of a nation's government, its relationship with the United States, and its human-rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the United States. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue. *See generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing decision to grant clearance where administrative judge did not consider terrorist activity in area where family members resided).

The following mitigating conditions under this guideline are potentially relevant:

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 U.S.;

AG ¶ 8(b): there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest; and

Applicant is a loyal U.S. citizen. He served in the U.S. Navy and continues to work in support of the U.S. military mission after he left military service. His wife is a now a U.S. citizen and she works in the local community and has developed a close relationship with Applicant's mother. He credibly testified that his relationships with his in-laws in Thailand could not be used to coerce or intimidate him into revealing sensitive or classified information. His relationship with his in-laws was consistent with the cultural norms of Thailand. His connection to his parents-in-law is solely by virtue of his marriage and he is only able to communicate with them through the assistance of his spouse. His communications with his brother-in-law are limited. By working in the military community, he is qualified to understand the threats and be mindful what could be used against him in talking to his brother-in-law and can be trusted to act in the favor of the United States.

Although Thailand has defense-related and commercial contacts with China, and China is seeking to expand its power projection in the region, Thailand is not hostile to the United States. There is no evidence that Thailand targets the United States for military or industrial intelligence. The State Department recently lowered the travel advisory for Thailand. I find that Applicant's ties to Thailand are outweighed by his deep and long-standing relationships and loyalties in the United States. There is no conflict of interest, because he can be expected to resolve any conflict of interest in favor of the United States. AG ¶¶ 8(a) and 8(b) are applicable.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. In applying the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. 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 applied the adjudicative factors in AG ¶ 2(d). Applicant was candid, sincere, and persuasive at the hearing. His character letters reflect his sense of duty, responsibility, and dedication to his work and country. After weighing the disqualifying and mitigating conditions under Guideline B and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by his family ties in Thailand.

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 and 1.b: **For Applicant**

Conclusion

I conclude that it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is granted.

Charles C. Hale
Administrative Judge