



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



In the matter of:)	
)	
)	ISCR Case No. 24-02253
)	
Applicant for Security Clearance)	

Appearances

For Government: Cynthia Ruckno, Esq., Department Counsel
For Applicant: *Pro se*

02/25/2026

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines B (Foreign Influence) and C (Foreign Preference). No disqualifying conditions under Guideline C are established, but security concerns under Guideline B are not mitigated. Clearance is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on September 7, 2023. On August 8, 2025, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines B and C. The DCSA acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (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), which became effective on June 8, 2017.

Applicant answered the SOR on August 15, 2025, and he requested a hearing before an administrative judge. Department Counsel was ready to proceed on September 2, 2025. The case was assigned to me on January 6, 2026. On January 13, 2026, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted by video teleconference on January 28, 2026. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 3 were admitted in evidence without objection. Department Counsel requested that I take administrative notice of relevant facts pertaining to Iraq, based on the documents in Hearing Exhibit (HX I) and I granted the request. Applicant testified but did not present the testimony of any other witnesses or submit any documentary evidence. DOHA received the hearing transcript on February 9, 2026.

Findings of Fact

The SOR alleges that Applicant's mother and father are citizens and residents of Iraq and that they both worked for the Iraqi government before retiring (SOR ¶ 1.a). It also alleges that his mother-in-law and father-in-law are citizens and residents of Iraq (SOR ¶ 1.b), that his brother and sister are citizens and residents of Iraq (SOR ¶ 1.c), that he and his spouse are dual citizens of Iraq and the United States and are residents of Iraq (SOR ¶ 1.d), that he maintains a bank account in Iraq (SOR ¶ 1.e), and that he received financial support from his father and his father-in-law, who are citizens and residents of Iraq. (SOR ¶ 1.f) In Applicant's answer to the SOR, he admitted all the allegations in the SOR. His admissions are incorporated in my findings of fact.

Applicant is a 35-year-old time and attendance coordinator for a British company that manages an airport in Iraq. (Tr. 13) He has held that position since July 2023. He has applied for a position as a linguist for a U.S. defense contractor. The position requires a security clearance.

Applicant was born in Iraq. He received a bachelor's degree from a university in Baghdad in June 2012. In March 2013, he fled to Turkey after he was threatened by an armed Iraqi militia. He applied for and received refugee status in July 2014 and came to the United States. He became a U.S. citizen in November 2019.

Applicant's wife also came to the United States as a refugee and became a U.S. citizen. They married in May 2017, and they have three children, ages six, four, and three months, who are U.S. citizens by birth.

Applicant purchased a home in the United States in March 2021. He voted and paid taxes in the United States. His work history in the United States was spotty. He had problems with his supervisors, and he left three jobs after being told that he would be fired. (GX 2 at 5) In April 2023, Applicant sold his home in the United States and returned with his family to Iraq. He testified that he returned to Iraq because he wanted to "try something different," he wanted to see his family, and he wanted his children to experience both the American and Iraqi cultures. (Tr. 16)

In Applicant's response to the SOR, he stated that his Iraqi passport has expired, and he does not intend to renew it, since he has a valid U.S. passport. He stated that he retained his dual citizenship with Iraq only for property rights and travel, and he is willing to renounce it.

Applicant has a bank account in Iraq. When he sold his home in the United States, the proceeds were deposited in a U.S. bank account. He maintains a small balance in his U.S. account, but his primary bank account is now in Iraq. (Tr. 21)

Applicant apparently has mixed feelings about staying in Iraq. He testified that if he is hired by the U.S. defense contractor, he and his family will be required to remain in Iraq. He testified that his motive in seeking the job is to serve the U.S. Government. He testified that the job would be long-term, with good pay and a job location near his home in Baghdad. If he is not hired, he intends to move with his family to the United States within six months, because he is concerned about his family's safety. He does not allow his children to disclose that they are U.S. citizens, because he is concerned about their safety. (Tr. 24, 28-30)

Applicant's mother, father, sister, and brother are citizens and residents of Iraq. His mother was a teacher, and his father was a journalist working in the Ministry of Culture. Neither of them was involved in making policy or enforcing the law. They both retired from jobs with the Iraqi government and receive retirement income from the Iraqi government. (GX 2 at 10-11; Tr. 20-21) His brother is a software engineer, and his sister is a teacher. (Tr. 12) His mother-in-law and father-in-law are citizens and residents of Iraq. In his SCA, he stated that he does not know his in-laws' occupations. (GX 1 at 33-35) When he completed a counterintelligence questionnaire in September 2023, he stated that he had borrowed money from his father-in-law and was living with his mother-in-law and father-in-law. (GX 3 at 11-12) He admitted in his answer to the SOR that he had received financial support from his father. He has weekly contact with his parents and siblings in Iraq. (GX 2 at 10-15) His family members are not aware that he is applying for a job with a U.S. government contractor. (Tr. 25)

I have taken administrative notice that the U.S. Department of State travel advisory for Iraq is Level 4: "Do not travel to Iraq due to terrorism kidnapping, armed conflict, civil unrest, and the U.S. Government's limited ability to provide emergency services to U.S. citizens in Iraq." U.S. citizens in Iraq face high risk of violence and kidnapping. Terrorist and insurgent groups regularly attack Iraqi security forces and civilians. Anti-U.S. militias threaten U.S. citizens. U.S. Government personnel in Iraq live and work under strict security due to serious threats. The Islamic State in Iraq and Syria, known as ISIS, ISIL, or Da'esh, is a designated terrorist organization active in Iraq. Iran-aligned militia groups encourage and conduct attacks against the U.S. presence in Iraq.

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* at 531. Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” See ISCR Case No. 17-04166 at 3 n.2 (App. Bd. Mar. 21, 2019). It is “less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “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. 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* at 531.

Analysis

Guideline B, Foreign Influence

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.

An applicant with foreign family ties to a country that is hostile to the United States has a very heavy burden of persuasion to show that neither he nor his family members are subject to influence by that country. ISCR Case No. 11-01888 (App. Bd. Jun. 1, 2012), citing ISCR Case No. 07-00029 (App. Bd. Dec. 7, 2007). While Iraq may not be a “hostile” country, it is dominated by powerful elements that are hostile to the United States and who target U.S. citizens, especially those employed by U.S. Government contractors. Thus, the “very heavy burden of persuasion” is applicable to this case.

Applicant’s admissions and the evidence presented at the hearing establish the following disqualifying conditions under this guideline:

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.

The following mitigating conditions are potentially applicable:

AG ¶ 8(a): the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States;

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

AG ¶ 8(c): contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

AG ¶ 8(a) is not established. Applicant recognizes that he, his wife, and his children are at risk in Iraq if their U.S. citizenship is revealed.

AG ¶ 8(b) is not established. Applicant is deeply concerned about the safety of his wife and children while they are living in Iraq. His sense of loyalty to his parents and siblings in Iraq is significant and clearly not "minimal." His sense of loyalty to his in-laws is unclear. His bank account in Iraq is not insignificant. He is something of an enigma, who is deeply concerned about the safety of his family in Iraq but willing to accept that risk to accept a job in Iraq. However, his vulnerability to pressure directed at his wife, children, parents, or siblings is too great to establish that he can be expected to resolve any conflict of interest in favor of the U.S. interest. He has not met the "very heavy burden of persuasion" to show that neither he nor his immediate family members are subject to influence by hostile elements in Iraq.

AG ¶ 8(c) is not established. There is a rebuttable presumption that contacts with an immediate family member in a foreign country are not casual. ISCR Case No. 00-0484 at 5 (App. Bd. Feb. 1, 2002). Applicant has not overcome that presumption with respect to his communications with his parents and siblings.

Guideline C, Foreign Preference

The concern under this guideline is set out in AG ¶ 9:

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may provide information or make decisions that are harmful to the interests of the United States. Foreign involvement raises concerns about an individual's judgment, reliability, and trustworthiness when it is in conflict with U.S. national interests or when the individual acts to conceal it. *By itself*; the fact

that a U.S. citizen is also a citizen of another country is not disqualifying without an objective showing of such conflict or attempt at concealment. The same is true for a U.S. citizen's exercise of any right or privilege of foreign citizenship and any action to acquire or obtain recognition of a foreign citizenship.

The enumerated disqualifying conditions under this guideline are:

AG ¶ 10(a) applying for and/or acquiring citizenship in any other country;

AG ¶ 10(b) failure to report, or fully disclose when required, to an appropriate security official, the possession of a passport or identity card issued by any country other than the United States;

AG ¶ 10(c) failure to use a U.S. passport when entering or exiting the U.S.;

AG ¶ 10(d) participation in foreign activities, including but not limited to:

(1) assuming or attempting to assume any type of employment, position, or political office in a foreign government or military organization; and

(2) otherwise acting to serve the interests of a foreign person, group, organization, or government in any way that conflicts with U.S. national security interests;

AG ¶ 10(e) using foreign citizenship to protect financial or business interests in another country in violation of U.S. law; and

AG ¶ 10(f) an act of expatriation from the United States such as declaration of intent to renounce U.S. citizenship, whether through words or actions.

The SOR alleges that Applicant's residency in Iraq since about April 2023 raises concerns under this guideline. However, mere residency in a foreign country, even if the country is hostile to the United States or dominated by elements hostile to the United States, does not trigger any of the above disqualifying conditions. No disqualifying conditions under this guideline are established.

Whole-Person Analysis

Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. An administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all the 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 Guidelines B and C in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under Guidelines B and C and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised under Guideline B. No disqualifying conditions under Guideline C were established by the evidence.

Formal Findings

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

Paragraph 1, Guideline B (Foreign Influence):	AGAINST APPLICANT
Subparagraphs-1.a-1.f:	Against Applicant
Paragraph 2, Guideline C (Foreign Preference):	FOR APPLICANT
Subparagraph 2.a:	For Applicant

Conclusion

I conclude that it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is denied.

LeRoy F. Foreman
Administrative Judge