



DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
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) ISCR Case No. 25-00848
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)
)
Applicant for Security Clearance)
_____)

Appearances

For Government:
Nicole A. Smith, Esq., Department Counsel

For Applicant:
Pro se

08/10/2026

Decision

CEFOLA, Richard A., Administrative Judge:

Applicant mitigated the security concerns under Guideline B (Foreign Influence).
Applicant did not mitigate the security concerns under Guideline C (Foreign Preference).
Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a Questionnaire for National Security Positions on July 31, 2024 (Questionnaire). On August 12, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B (Foreign Influence) and Guideline C (Foreign Preference). The action was taken under Executive Order 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) effective within DoD after June 8, 2017.

On September 23, 2025, Applicant responded to the SOR in writing (Answer) and requested that this case be decided on the written record in lieu of a hearing. In his Answer, he admitted to all of the allegations in the SOR and included a character witness statement now marked as Applicant Exhibit (AE) A. On January 28, 2026, Department Counsel submitted the Government's written case in a File of Relevant Material (FORM). A complete copy of the FORM, consisting of Government's Exhibits (GE) 1 to 5, and the Government's arguments in support of the SOR, was received by the Applicant on March 6, 2026. Applicant was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns, and he timely submitted an undated, supplemental statement (Response). The case was assigned to me on July 24, 2026, and all exhibits were admitted without objection.

In the FORM, Department Counsel requested that I take administrative notice of certain facts about Mexico and provided a summary, supported by Government documents pertaining to the country (GE 5). Without objection, I have taken administrative notice of the facts contained in the request. The facts are summarized in the written request and will not be repeated verbatim here. However, I take particular note of Executive Order (EO) 14157, signed on January 20, 2025, which designated international cartels as Foreign Terrorist Organizations (FTOs). The EO went on to note that "international cartels constitute a national-security threat beyond that posed by traditional organized crime." The President then issued a Declaration of National Emergency at the southern border. On February 20, 2025, the Secretary of State expanded on this concern, noting that the international cartels "threaten the safety of the American people, the security of the United States, and the stability of the international order in the Western Hemisphere."

Findings of Fact

Applicant is 22 years old, single, and has no children. He was born in the United States but moved to Mexico with his family when he was four years old. He completed high school and some college work there, then moved back to the United States in July 2023. Applicant has been employed by a defense contractor since 2024 as a roofer, working on U.S. Government construction contracts in both the United States and abroad. He completed his first application for a security clearance in connection with this employment and received an interim clearance on August 8, 2024. He has valid passports for both the United States and Mexico. He travels abroad frequently, both for work and to visit his family in Mexico. (GE 3 at 5-13, 17, 30-35, 39; GE 4 at 4, 6, 8-9)

SOR Paragraph 1 (Guideline C: Foreign Preference)

The Government alleged that Applicant is ineligible for a security clearance due to foreign preference given his admitted use of a Mexican passport for travel to and from Mexico. The following facts pertain:

1.a. Use of Mexican passport at the U.S. border for travel to and from Mexico in December 2023, July 2024, November 2024 – and in the future: Applicant admitted

the allegation, explaining that his sole motivation was to avoid fees and visas. The purpose of his travel to Mexico was to visit family, as his parents and three of his six siblings live there. He does not use his Mexican passport for travel to any other foreign country. He wishes to continue using this passport for travel to Mexico for the sake of convenience but has since indicated an understanding of the concerns the its use might raise. He noted, “[t]o address this concern, I am fully willing to cease use of my Mexican passport and will only use my United States passport for any future international travel.”

Though Applicant admitted to the allegation as drafted in the SOR, there is nonetheless some ambiguity in the evidentiary record as to whether Applicant used his Mexican passport solely at the Mexican border as opposed to at the United States border. In his responses to interrogatories dated August 7, 2025, he was specifically asked:

Have you ever used a foreign passport to leave or enter the United States (this does not include using a foreign passport to enter or leave a foreign country. This only applies to using a foreign passport when leaving or entering the United States, such as at a U.S. airport).

Applicant replied “YES,” and with the following dates:

December 2023 – 21 days – Mexico

July 2024 – 14 days – Mexico

November 2024 – 30 days – Mexico

During his interview with a defense investigator on January 10, 2025, which the Applicant adopted as true and correct on August 7, 2025, the summary notes, “[Applicant] intends to use the foreign passport to enter or exit the USA.” In the same paragraph, however, Applicant explained his “understanding of his obligations and responsibilities when using the foreign passport is to present in order to enter/exit Mexico. The foreign passport used rather than a US passport to avoid fees and visas.” Additionally, in his Answer, Applicant noted, “The only country I have ever used my Mexican passport to enter is Mexico.” He then explained in his Response, “I used a Mexican passport when traveling to Mexico because it was convenient for entry into the country.” (Answer; Response; GE 3 at 18-26; GE 4 at 4, 8-9)

SOR Paragraph 2 (Guideline B: Foreign Influence)

The Government alleged that Applicant is ineligible for a security clearance due to foreign influence given his contacts with friends and relatives in Mexico, as well as property ownership there. The following facts pertain:

2.a. Applicant owns a \$25,000 (USD) home in Mexico: Applicant admitted the allegation and explained that in August 2024, he purchased a modest home in Morelia, in the state of Michoacán, Mexico. It is fully paid off without liens or encumbrances and there are no co-owners. He does not rent the property or use it to generate income but rather uses it personally when he visits Mexico. (Answer; Response; GE 4 at 4, 10)

2.b. Applicant's parents, brother, and two sisters are citizens and residents of Mexico: Applicant admitted the allegation. He explained that he maintains normal family relationships and retains dual citizenship due to family obligation. His mother is a homemaker and his father is a carpenter. His siblings residing in Mexico are minors. None of his family members are affiliated with the Mexican government or the defense industry. (Answer; Response; GE 3 at 22-26; GE 4 at 4, 9)

Whole Person and Mitigating Evidence

The comments and explanations Applicant included in his Questionnaire, discussions with the defense investigator, interrogatories, Answer to the SOR, and Response were reviewed in their entirety. In his Response, Applicant noted that while he maintains a normal familial relationship with his family members in Mexico, his "life, employment, and primary ties are in the United States," including his "career, financial stability, and daily life." He also explained that his second home in Mexico is small and does not represent a significant financial interest.

Applicant discussed that his use of his Mexican passport to travel to and from Mexico was motivated by convenience. He expanded on this in his responses to interrogatories, stating, "I wish to maintain my dual citizenship/Mexican passport primarily for travel convenience when visiting family and friends in Mexico. Holding a Mexican passport helps avoid unnecessary fees and visas when traveling to Mexico." (GE 4 at 4) In his Answer Applicant noted, however, that, "[i]f required, I am fully willing to cease all use of my Mexican passport to show my exclusive allegiance to the United States." He reiterated that he was "prepared to cease its use entirely." He also repeated this sentiment in his Response, wherein he expressed his willingness to cease use of the Mexican passport in the future.

Policies

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context of a number of variables known as the whole-person concept.

The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision. The protection of national security is of paramount consideration. AG ¶ 2(b) requires, "Any doubt

concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, “The applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information.

Finally, as emphasized in Section 7 of Executive Order 10865, “Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *a/s/o* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

SOR Paragraph 1 (Guideline C: Foreign Preference)

The security concerns relating to the guideline for foreign preference are set out in AG ¶ 9, which reads as follows:

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 facts of this case clearly establish the following potentially disqualifying condition set forth in AG ¶ 10:

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

The burden therefore shifts to Applicant to mitigate security concerns under Guideline C. The guideline includes the following conditions in AG ¶ 11 that can mitigate security concerns arising from Applicant's foreign preference:

(a) the foreign citizenship is not in conflict with U.S. national security interests; and

(f) the foreign preference, if detected, involves a foreign country, entity, or association that poses a low national security risk.

On at least three occasions, Applicant failed to use his United States passport when entering and exiting the United States, as required. The most recent event occurred after he received an interim security clearance. He admits a desire to continue using the passport "for the sake of travel ease," but he has expressed a willingness to cease crossing the border with his Mexican passport in the future. He has not, however, taken the affirmative step of pledging to cease this conduct immediately. Without evidence of an unequivocal assurance that he will never use the Mexican passport when crossing the U.S. border, AG ¶ 11(a) does not apply as the conflict with U.S. national security still exists. Given that Applicant admitted to the allegation in the SOR as drafted, coupled with his answers to interrogatories, any evidentiary ambiguity on this matter cannot be resolved in Applicant's favor.

Regarding the national security risk posed by Mexico, I have reviewed the administrative notice on Mexico provided by Department Counsel (GE 5). Given the facts contained therein, particularly the FTO status of the international cartels and the Declaration of National Emergency at the southern border, AG ¶ 11(f) does not apply as Mexico cannot be deemed to pose a low national security risk at this time. SOR ¶ 1.a is found against Applicant.

SOR Paragraph 2 (Guideline B: Foreign Influence)

The security concern for foreign influence 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 may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest

is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

The facts of this case establish the following potentially disqualifying conditions set forth in AG ¶ 7 to all of the allegations under Guideline B:

(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;

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

(f) substantial business, financial, or property interests in a foreign country, or in any foreign owned or foreign operated business that could subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest.

The burden therefore shifts to Applicant to mitigate security concerns under Guideline B. The guideline includes the following conditions in AG ¶ 8 that can mitigate security concerns arising from Applicant's foreign contacts:

(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;

(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;

(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; and

(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.

Applicant's loyalty to the United States is not the subject of analysis; but the protection of national security is of paramount concern. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." And the mere existence of family members in foreign countries is well-established as a possible basis for a security clearance denial. ISCR 23-01463 at 6 (App. Bd. April 10, 2025).

That said, AG ¶ 7(a) requires a finding of "heightened risk" to be applicable. Regarding Mexico, the record evidence does support a finding of "heightened risk" based on country conditions, as discussed above in SOR ¶ 1.a. With regard to the house in Mexico, the record evidence supports a finding that the minor value of the property is such that it is unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure Applicant. AG ¶ 8(f) applies and SOR ¶ 2.a is found for Applicant.

Regarding Applicant's family, the Government has provided no evidence to suggest how familial contact with his parents (and his minor siblings) creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. Indeed, the positions or activities of Applicant's parents – a carpenter and a homemaker – are such that it is unlikely Applicant 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(a) applies and SOR ¶ 2.b is found for Applicant.

Whole-Person Concept

Applying the whole-person concept, the administrative judge must evaluate an applicant's eligibility for national security eligibility by considering the totality of the applicant's conduct and all relevant circumstances. The 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.

Under AG ¶ 2(c), the ultimate determination of whether to grant national security eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the above whole-person factors and the potentially disqualifying and mitigating conditions in

light of all pertinent facts and circumstances surrounding this case. I have given the appropriate weight to AE A, Applicant's statements to a defense investigator and those included in his Questionnaire, and his responses to interrogatories. Because Applicant requested a determination on the written record without a hearing, I had no opportunity to question him or evaluate his credibility and sincerity based on demeanor. Overall, the Guideline C issue in the record evidence leaves me with questions and doubts as to Applicant's suitability for national security eligibility and a security clearance.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline C:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Paragraph 2, Guideline B:	FOR APPLICANT
Subparagraphs 2.a – 2.b:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, I conclude that it is not clearly consistent with the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

RICHARD A. CEFOLA
Administrative Judge