



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



In the matter of: )  
)  
)  
[NAME REDACTED] ) ISCR Case No. 15-07312  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Mary Margaret Foreman, Esq., Department Counsel  
For Applicant: Alan Edmunds, Esq.

05/19/2017

**Decision**

MALONE, Matthew E., Administrative Judge:

Available information is sufficient to mitigate the security concerns about Applicant's ties to family members in Iraq, his employment at an Iraqi university, and his possession of an Iraqi identification card. Applicant also mitigated the security concerns about his omission of information from his security clearance application. His request for a security clearance is granted.

**Statement of the Case**

On January 5, 2015, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain a security clearance required for his employment with a defense contractor. Based on the results of the ensuing background investigation, Department of Defense (DOD) adjudicators could not determine that it is clearly consistent with the national interest for Applicant to have a security clearance.<sup>1</sup>

---

<sup>1</sup> Required by Executive Order 10865, as amended, and by DOD Directive 5220.6 (Directive), as amended.

On June 16, 2016, DOD issued a Statement of Reasons (SOR) alleging facts that raise security concerns addressed under the adjudicative guidelines<sup>2</sup> for foreign influence (Guideline B), foreign preference (Guideline C), and personal conduct (Guideline E). Applicant timely responded to the SOR (Answer) and requested a decision based solely on the written record. However, Department Counsel for the Defense Office of Hearings and Appeals (DOHA) timely requested a hearing.<sup>3</sup>

I received this case on December 8, 2016, and convened the requested hearing on December 27, 2016. The parties appeared as scheduled. Department Counsel presented Government Exhibits (Gx.) 1 - 3. Applicant testified and submitted Applicant's Exhibits (Ax.) A – N. After the hearing, Applicant submitted Ax. O - R. I admitted all exhibits without objection. DOHA received a transcript of the hearing (Tr.) on January 3, 2017.

At hearing, both parties asked that I take administrative notice of facts about Iraq that may be pertinent to my decision. I granted those requests and have considered jointly the information presented in the record as Ax. N and Hearing Exhibit (Hx.) 2. (Tr. 16)

### **Findings of Fact**

Under Guideline C, the Government alleged that Applicant possesses an Iraqi identification card (SOR 1.a). In response to the SOR, Applicant admitted SOR 1.a, but stated that he relinquished his Iraqi passport, which expired in 2015, to his company's security office in June 2016. After becoming a U.S. citizen, Applicant used only his U.S. passport for travel. The Government acknowledged these facts at the hearing. SOR 1.a is resolved for Applicant. (Answer; Gx. 3; Ax. A; Tr. 22, 45 – 46, 79)

Under Guideline B, the Government alleged that Applicant's father, stepmother, siblings and half-siblings, brothers-in-law, uncles, and cousins are citizens of, and reside in, Iraq (SOR 2.a). The Government also alleged that his father served in the Iraqi Army for 26 years (SOR 2.b); that one of his brothers is a police officer in an Iraqi province (SOR 2.c); that another brother served in the Iraqi army and is now an employee of an Iraqi utility ministry (SOR 2.d). Additionally, it was alleged that one of his half-brothers is a contractor supporting the Iraqi government (SOR 2.e); that one of Applicant's uncles was a general in the Iraqi army (SOR 2.f); that another of his uncles is a colonel in the Iraqi defense ministry (SOR 2.g); that three of Applicant's uncles (SOR 2.h), two cousins (SOR 2.i), and another brother (SOR 2.j) all work for Iraqi ministries. The Government further alleged that Applicant owns property in Iraq (SOR 2.k); that he provides financial support to one of his brothers (SOR 2.l); and that he was employed by an Iraqi university for nine months in 2014 (SOR 2.m).

---

<sup>2</sup> The Department of Defense implemented the adjudicative guidelines on September 1, 2006. These guidelines were published in the Federal Register and codified through 32 C.F.R. § 154, Appendix H (2006).

<sup>3</sup> Directive, E3.1.7.

In response to the SOR, Applicant denied, with explanations, the allegations at SOR 2.g and 2.k. He admitted, with explanations, the remaining allegations. As to SOR 2.g, available information does not show Applicant has an uncle working for the Iraqi defense ministry. SOR 2.g is resolved for Applicant. As to SOR 2.k, the record shows Applicant bought a small, undeveloped lot for his wife in 2007. She (not Applicant) still owns it, but she is trying to sell it. SOR 2.k is resolved for Applicant. (Answer; Gx. 2; Gx. 3; Ax. Q; Tr. 31 – 34, 66)

Finally, the Government alleged that Applicant deliberately falsified an answer in an e-QIP question when he omitted his ownership of property in Iraq as alleged in SOR 2.k (SOR 3.a). In response to the SOR, Applicant denied SOR 3.a and averred he did not intentionally omit from his e-QIP, information about a property interest in Iraq. That property belongs to Applicant's wife, but he was still required to disclose it in his e-QIP. Applicant claimed he did not read the pertinent question closely enough, and that when he realized his mistake he tried to correct it. In fact, he disclosed it during a counter-intelligence screening in February 2015. The Government acknowledged at hearing that Applicant did not intend to conceal information from the Government. SOR 3.a is resolved for Applicant. (Answer; Gx. 1; Gx. 3; Tr. 79 – 80)

In addition to the facts established by Applicant's admissions under Guideline B, I make the following findings of fact.

Applicant is 39 years old. He was born, raised, and educated in Iraq, where he received bachelor and master's degrees in agricultural economics. He and his wife, who was born and raised in Iraq, have been married since November 2002. They have three children (9, 11, and 12), all of whom were born in Iraq. (Gx. 1)

Applicant is one of six siblings (he has one younger sibling, a brother). His mother died when Applicant was two years old. Applicant's father subsequently remarried and had four more children (Applicant's half-siblings). Applicant also has several uncles and cousins. He describes his cousins as "fourth degree," meaning that they are distant cousins several times removed. All of Applicant's and his wife's relatives are Iraqi citizens and still reside in Iraq. (Answer; Gx. 1 – 3; Tr. 25 – 26)

Before 2003, Applicant and several of his male relatives served in the Iraqi army as part of compulsory service at the time. Applicant only served a few months because of his higher education level. His brothers, half-brothers, cousins and uncles all served longer periods. Applicant's father was a career Iraqi army warrant officer, a rank Applicant described as similar to a U.S. military non-commissioned officer. Applicant's father served for 26 years before retiring in 1989. He still receives a retired pension from the Iraqi government. Applicant also has an uncle who was a general in the Iraqi army before 2003. His uncle's duties, in both the military and later as a civilian, are best described as public works engineering. Available information shows that none of Applicant's male relatives has served in the Iraqi army since 2003. Applicant has not had any contact with most of his relatives in Iraq since 2014. In some cases, as with uncles and distant cousins, he has not had contact with them since 2003. (Answer; Gx. 1- 3; Tr. 26, 31, 48, 52 – 54)

One of Applicant's brothers worked as a contractor at the Iraqi Ministry of Irrigation and Water. His contract ended and Applicant does not know where that brother now works. Three of Applicant's uncles, including the uncle who was a general in the Iraqi army, work for the Iraqi Ministry of Industry. Applicant has had no contact with them since 2003. In addition to his younger brother, two of Applicant's distant cousins are police officers. Applicant has had no contact with them since 2003. (Answer; Gx. 2 – 3; Tr. 25 – 27, 28, 31, 50 - 56)

In 2013 and 2014, Applicant sent a total of about \$900 (in \$300 increments) to his younger brother, who lives with their father. The money went to help their father obtain private medical care he could not afford on his military pension. (Answer; Gx. 1 - 3)

In July 2003, not long after the U.S. invasion of Iraq, Applicant was hired by a U.S. company to be a linguist and translator embedded with U.S. military units in combat zones. During one of the first combat missions on which he worked, Applicant suffered injury when an improvised explosive device (IED) detonated near him. His work with Americans also resulted in threats against him and his family by Iraqi insurgents that caused him to move his wife and children to a more secure area in Iraq. Notwithstanding, he continued to work in support of U.S. military operations in Iraq for the next five years. Applicant participated in over 50 combat missions during this period. In 2008, U.S. military authorities approved Applicant's request to participate in the Special Immigrant Visa program. That decision arose from Applicant's work for the U.S. military in Iraq. Applicant and his family immigrated to the United States as legal aliens in February 2008. They have lived in the United States since then. Applicant, his wife and their children became U.S. citizens in March 2013. Applicant and his wife have bought a house in the United States, and all of their financial, professional, and personal interests lie in the United States. (Answer; Gx. 1 - 3; Ax. A; Ax. I - M; Tr. 19 – 20, 32)

Since 2008, Applicant has continued his work with different companies as a linguist in support of the U.S. military. He returned to Iraq where he worked with the U.S. military from June 2009 until November 2011. Thereafter, he continued to work in the United States as a linguist training troops at a military installation. He also worked at a nearby state university as a language instructor teaching classes tailored to the needs of military and other government personnel. In December 2014, Applicant's current employer hired him for work as a linguist in Iraq. In February 2015, Applicant completed a counter-intelligence (CI) screening. The CI screening contains most of the information about Applicant's family, friends, associates and work in Iraq. It also contains information about his travel to Iraq. Applicant provided all of that information. After completing the CI screening, the Army approved Applicant for deployment to Iraq in support of highly classified U.S. military missions to train and support Iraqi troops and security forces in the effort to combat the Islamic State in the Levant (ISIL) in northern and western Iraq. He has been doing that job since December 2015. Applicant's work now requires his eligibility for access to classified information so that he can operate with forward-deployed military personnel. Applicant's wife also works as a defense contractor providing linguistic

services at a stateside U.S. military facility. (Answer; Gx. 1 - 3; Ax. H; Ax. M; Ax. O; Ax. R; Tr. 44 – 45, 62)

Applicant also travelled to Iraq in early 2014 because his father had a heart attack. He remained for about nine months. Before immigrating to the United States, Applicant had also worked as an adjunct professor at an Iraqi university. When he was in Iraq in 2014, Applicant returned to work at that university on a part-time basis. Applicant returned to the United States in September 2014. Applicant has not seen or had contact with any of his family members since then. As a result, Applicant is unaware of any changes in the available information about his family and other associations in Iraq. None of his family in Iraq know what he currently does for a living. Applicant believes they think his only job is as a language instructor with the aforementioned university in the United States. (Answer; Gx. 2; Gx. 3; Ax. H; Ax. M; Tr. 24, 25 – 27, 42)

In October 2013, the U.S. Army accepted Applicant for enlistment in the Army Reserve under a special program for recruits with certain linguistic skills. However, Applicant missed his date for reporting to basic training because he had returned to Iraq to tend to his father. The Army program expired before he returned. (Gx. 1 – 3)

Applicant's work with military units before he immigrated to the United States drew extensive praise from several sources. His military commanders, many of whom have served with Applicant in sensitive combat missions, and others with whom he has worked hold Applicant in high regard for his commitment to the missions assigned to the units with whom he worked, and he has received several expressions of gratitude and recognition. This trend has continued in his current employment. (Ax. E; Ax. F; Ax. L)

To assess properly the security significance of these facts within the adjudicative guidelines at issue, I have taken administrative notice of certain facts regarding Iraq. Among the most pertinent of these facts are that Iraq's newly and freely elected government has been unable, without assistance from the U.S. military, to quell violence that has engulfed parts of Iraq, fueled and perpetrated, initially by Al-Qaeda terrorists, as well as Sunni insurgents and Shiite militias, and more recently by ISIL. As a result, some parts of Iraq remain wholly unstable. Even the city of Baghdad is still subject to random acts of sectarian violence. Nonetheless, the Iraqi government remains aligned with the United States in its efforts to improve the ability of Iraqi military and police forces to combat ISIL and protect the Iraqi populous. Iraq also remains committed to advancing a democratic form of government that is accountable to its people. (Hx. 1; Ax. N)

## **Policies**

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information,<sup>4</sup> and consideration of the pertinent criteria and adjudication policy in the adjudicative guidelines (AG). Decisions must also reflect consideration of the factors listed in ¶ 2(a) of the guidelines. Commonly referred to as the "whole-person" concept, those factors are:

---

<sup>4</sup> See Directive. 6.3.

(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.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, administrative judges should follow specific applicable guidelines whenever it possible to measure a case against them as they represent policy guidance governing the grant or denial of access to classified information.

The principal purpose of a security clearance decision is to resolve whether it is clearly consistent with the national interest<sup>5</sup> for an applicant to either receive or continue to have access to classified information. The Government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the Government must be able to prove controverted facts alleged in the SOR. If the Government meets its burden, it then falls to the applicant to refute, extenuate or mitigate the Government's case. Because no one has a "right" to a security clearance, an applicant bears a heavy burden of persuasion.<sup>6</sup> A person who has access to classified information enters into a fiduciary relationship with the Government based on trust and confidence. Thus, the Government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability and trustworthiness of one who will protect the national interests as his or her own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.<sup>7</sup>

## **Analysis**

### **Foreign Influence**

Available information shows Applicant and his wife have extensive family ties who are citizens of and live in Iraq. It also has been established that he was recently employed by an Iraqi university; that some of his male relatives served in the Iraqi military and have worked as civilians in support of various Iraqi ministries; that one of his uncles was a general in the Iraqi army; and that Applicant bought a small piece of land for his wife

---

<sup>5</sup> See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>6</sup> See *Egan*, 484 U.S. at 528, 531.

<sup>7</sup> See *Egan*; AG ¶ 2(b).

before they immigrated to the United States. This information presents the following security concern expressed at AG ¶ 6:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

More specifically, these facts support application of the following AG ¶ 7 disqualifying conditions:

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

Available information shows that large parts of Iraq, including the northern parts of Iraq near where Applicant and his family are from, remain unstable and beset by sectarian violence. The presence of Applicant's family members presents a heightened risk that Applicant could be pressured or coerced to act contrary to U.S. interests. Applicant's ties to relatives who served in the Iraqi army and still are connected to the Iraqi government through their civilian work presents the potential for a conflict of interests. The record supports application of both of the above-named disqualifying conditions. Balanced against this is the applicability of the following AG ¶ 8 mitigating conditions:

- (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.;
- (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;

(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

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country.

Applicant's ties to the Iraqi military are either attenuated by the passage of time or, as in the case of SOR 2.g, unsupported by the record. Applicant's father is a pensioner from his service in an army that no longer exists. So too, his uncle is a retired general whose service predates the 2003 U.S. invasion. Applicant's military service and that of his brothers, stepbrothers, uncles and cousins was through compulsory military service. None of them made a career of the military, and their service ended before the invasion. Even if those military connections were still current, they would involve an Iraqi military and police force whom the United States is actively supporting.

Applicant's relatives who work or worked for various Iraqi ministries do not appear to be high level officials, and many of them were employed by civilian contracting firms as opposed to the Iraqi government itself. As to Applicant's employment at an Iraqi university, his last work there was part-time while he was tending to his ailing father. Applicant is again in Iraq, but is solely engaged with his linguist duties for his U.S. employer and not likely to work for that university again. Applicant has had no contact with most of them since 2003.

The February 2015 CI screening of the same facts and circumstances presented here served as the basis for his authorization to deploy to Iraq in support of the current U.S. mission there. Ostensibly, that screening found no conflict between Applicant's Iraqi relationships and his work for the U.S. military at home or abroad. Those conclusions are bolstered by the information about his performance while embedded with combat forces in Iraq before he immigrated to the United States in 2008. Further, Applicant has no property or financial interests in Iraq. He and his immediate family now have deep roots as American citizens whose livelihood arises from their work for and commitment to the U.S. military. Applicant always has been candid and forthcoming about his personal ties to Iraqi citizens and about all aspects of his background. He is cognizant of the security concerns related to someone in his position, so much so that he stopped communicating with his family after receiving the SOR.

All of the foregoing supports application of the above-named mitigating conditions. I conclude it is also sufficient to mitigate the security concerns under this guideline.



## **Foreign Preference**

Available information submitted by the Applicant shows that he relinquished his expired Iraqi passport in June 2016. He also established that he had not used that passport after becoming a U.S. citizen in 2013. As Department Counsel acknowledged at hearing, this information is sufficient to mitigate the security concerns under this guideline.

## **Personal Conduct**

Available information shows that Applicant omitted from his 2014 e-QIP the fact that he had purchased property in Iraq in 2008. The record also shows that Applicant quickly realized his mistake and tried to correct it. To be disqualifying, such an omission must have been intentional. Further, Applicant tried to correct his omission before being confronted with the facts. As Department Counsel acknowledged at hearing, this information is sufficient to mitigate the security concerns under this guideline.

I also evaluated this record in the context of the whole-person factors listed in AG ¶ 2(a). From 2003 to 2008, Applicant worked in support of U.S. interests, often at great personal risk to him and his family. For that work, the United States government approved Applicant's request for Special Immigrant Visas for him and his family. Applicant has continued that work since arriving in the United States in 2008. A recent CI screening did not raise any issue that precluded the U.S. military from approving his continued work with military personnel in Iraq. Current and former military associates and civilian co-workers uniformly and overwhelmingly praise Applicant's character and his suitability for a clearance. All of the foregoing far outweighs security concerns about his family ties in Iraq. A fair and commonsense assessment of this record resolves any remaining doubts about Applicant's suitability for a security clearance.

## **Formal Findings**

Formal findings on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline C:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline B:	FOR APPLICANT
Subparagraphs 2.a – 2.m:	For Applicant
Paragraph 3, Guideline E:	FOR APPLICANT
Subparagraph 3.a:	For Applicant

## **Conclusion**

In light of all of the foregoing, it is clearly consistent with the national interest for Applicant to have access to classified information. Applicant's request for a security clearance is granted.

---

MATTHEW E. MALONE  
Administrative Judge