



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 15-07001

**Appearances**

For Government: Brittany Muetzel, Esq., Department Counsel  
For Applicant: Alan V. Edmunds, Esq.

05/21/2018

**Decision**

MASON, Paul J., Administrative Judge:

Applicant has contacts with his mother and grandmother who are citizens and residents of Iraq. However, those contacts are eclipsed by his long-term contributions as a linguist to the national security of the United States. Eligibility for security clearance access is granted.

**Statement of the Case**

On January 27, 2015, Applicant signed and certified an Electronic Questionnaire for Investigations Processing (e-QIP) application for a security clearance. The Department of Defense (DOD) could not make the preliminary affirmative findings required to grant a security clearance. DOD issued to Applicant a Statement of Reasons (SOR), dated April 27, 2017, detailing security concerns under the guideline for foreign influence (Guideline B). The action was taken under Executive Order (E.O.) 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) effective in the DOD on September 1, 2006.



While this case was pending a decision, the Director of National Intelligence issued Security Executive Agent Directive 4 on December 10, 2016, establishing *National Security Adjudicative Guidelines for Determining Eligibility for access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs). The guidelines were made applicable to all individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position. The new AGs supersede the September 1, 2006 AGs and are effective on or after June 8, 2017. Accordingly, Applicant's security clearance eligibility has been adjudicated under the new AGs. My decision would be the same under the 2006 or 2017 guidelines.

Applicant provided his notarized answer on June 14, 2017. The case was assigned to me on January 17, 2018. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on January 30, 2018, for a hearing on February 20, 2018. The hearing was held as scheduled. The government's five exhibits (GE) 1-5 and Applicant's eleven exhibits, (AE) A-K, were entered into evidence without objection. One hearing exhibit (HE) 1 (administrative notice) was admitted into evidence. Most of Applicant's administrative notice documents, which appear at AE H, have been admitted. Applicant's three post-hearing exhibits (AE L, M, and N) were admitted without objection. DOHA received the transcript (Tr.) on February 28, 2018. The record closed on March 6, 2018.

### **Administrative Notice**

Both parties recommended that I take administrative notice of certain relevant facts related to Iraq. The facts are limited to matters of general knowledge and not subject to reasonable dispute. The government's administrative notice memorandum and source material is identified as Hearing Exhibit (HE) 1. Applicant's administrative memorandum and source material appear in AE H. However, two newspaper articles, located at the tenth and eleventh sections of AE H, are not considered appropriate source material for administrative notice.

### **Findings of Fact**

In his answer to the SOR, Applicant admitted that his mother and grandmother are citizens and residents of Iraq. He denied that his conversations with them make him subject to a heightened risk of foreign influence or expose him to a conflict of interest as set forth in the disqualifying conditions of the foreign influence guideline. (Answer to SOR)

Applicant is 33 years old and single. He was born in Iraq in 1985. He began his college education at an Iraqi university in 2004. From August 2006 to August 2009, he worked in the country as a linguist for a government contractor. He received a bachelor's degree in June 2008. He immigrated to the United States in October 2009 and received permanent residency through a special immigrant visa (SIV) program for linguists who assisted the U.S. military for more than three years. He was unemployed for two years before landing a job at a discount hardware store, where he worked for



about two months. After five months of unemployment, he began working for an international hotel chain as a housekeeping representative in November 2011. From September 2012 to August 2013, Applicant worked as a translator. From August 2013 to January 2015, he was employed as a linguist for a legal interpreting business.<sup>1</sup> From January 2015, when he became a U.S. citizen, to the present, he has been working for another government contractor, providing his linguist services to the U.S. Army. In the middle of 2017, his current employer changed names. (GE 1 at 15-27; Tr. 14, 25, 26)

While working for the U.S. Army in three areas of Iraq as a linguist between 2006 and 2009, Applicant was in combat situations when his unit received fire from snipers during house-to-house search missions and when improvised explosive devices (IEDs) were occasionally detonated. Applicant has been in no combat situations since he was deployed in March 2015. (Tr. 27, 32, 34, 46-48)

Applicant's mother and paternal grandmother are citizens and residents of Iraq (SOR 1.a). His mother is 62 years old. She became a widow when Applicant's father died in 1996. She is a retired textile worker. She never had ties to any foreign government or military. Applicant's last face-to-face contact with his mother occurred in October 2009 when he immigrated to the United States. In the last four years, his phone contacts with his mother and grandmother have increased to once every three to four months because of their health issues. His conversations with them focus on their respective health and the kind of day they are having. When he contacts them while he is in Iraq, he uses a telephone that does not display the number. They do not know where Applicant works or his work responsibilities. (GE 2 at 9; Tr. 19-20, 23, 36, 38-40)

Applicant's paternal grandmother is 85 years old and is retired from working at a different textile factory from where Applicant's mother worked. She never was affiliated with any foreign government or military. Both relatives live together in a house that Applicant's paternal grandmother owns. Neither relative has ever visited the United States. Applicant has never provided support to either relative. (Tr. 20, 36-37, 41, 45)

Applicant never worked for a foreign government or served in the Iraqi military. He is not connected to any Iraqi political organization. He owns no property in Iraq. He feels no allegiance or obligation to Iraq. He renounced his Iraqi citizenship. He does not receive income from a foreign government and does not owe money to a foreign government. He will not inherit his grandmother's house because of reasons not clear in the record. He explained that after she dies, the house will be donated or escheat to the Iraqi province where the dwelling is located. The combined total amount of money in Applicant's U.S. savings and checking accounts is approximately \$197,000. (GE 2 at 9; GE 2 at 3-11; GE 3 at 17, 26; AE I; AE N; Tr. 17, 22, 26, 42-43)

Every time Applicant travels abroad, he reports his itinerary to his facility security officer (FSO). He only travels overseas on his U.S. passport. When he speaks to his mother or grandmother, he advises his FSO about those contacts. Applicant would

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<sup>1</sup> During part of this employment, Applicant had a second job at a hotel, but was terminated for attendance problems. (GE 3 at 18)



alert his FSO if someone tried to pressure him to compromise classified information. He would notify his FSO if someone tried to use a family member against him. Applicant's loyalty to the United States is firm. (Answer to SOR; Tr. 21, 24, 45)

## **Character Evidence**

Applicant submitted eight character references from commissioned and non-commissioned officers, and his supervisor. In a July 2016 reference, a major from one of the coalition force countries indicated that Applicant's linguist responsibilities included: interpreting daily meetings with the officers; interpreting daily meetings between local workers; interpreting training directives for the various Iraqi sects; and translating documents and other written materials. In the major's view, Applicant demonstrated extensive knowledge and expertise in executing his linguistic responsibilities in a professional manner. (AE A1)

In an undated letter of recommendation, a second major from one of the coalition force countries stated that Applicant was an interpreter in a six-week staff course in August 2017. The major was impressed with Applicant's preparation and willingness to improve his linguistic capabilities. The major recommended Applicant for future employment. The senior site lead of Applicant's employer recommended him for future employment based on his reliability and stellar performance. A captain from one of the coalition force countries admired Applicant's skill as a teacher and cultural advisor. (AE A2; A3; A4)

In December 2015, a major from one of the coalition force countries indicated that Applicant conducted interpreting for training of a battalion staff course, a medical course, a sniper course, and a signals course. Applicant executed his job responsibilities in a proficient manner. (AE A5)

Applicant received two certificates of appreciation. The first one is undated. The second certificate of appreciation recognized Applicant's contribution to coalition forces training between August and December 2015. (AE F)

In July 2007, a major from the U.S. Army expressed his pleasure in working with Applicant from April to July 2007. Applicant participated in over 70 missions. He always carried out his job duties in an energetic and professional manner. A captain in the U.S. Army wrote in October 2008 that he considered Applicant a valuable asset to the team because of his linguistic ability. The captain recalled that Applicant risked his life daily in some dangerous areas. The captain believed that Applicant's character made him an ideal candidate for the SIV program. (AE 6; AE 7)

A master sergeant from the U.S. Army wrote a character endorsement in August 2009. He worked with Applicant from October 2008 to the date when he wrote the endorsement and not September 2009 as indicated. Applicant displayed his linguistic versatility in his daily interaction with his peers, with key leaders in the field, and with



local government officials. During this assignment, Applicant repeatedly demonstrated his linguistic skills. (AE A8)

### **Administrative Notice – Iraq**

The U.S. State Department warns U.S. citizens living in Iraq are at a high risk for kidnapping and terrorist violence. The U.S. Government considers the potential threats to U.S. government personnel in Iraq to be serious enough to require them to live and work under strict security guidelines.

Terrorist groups have continued to launch a large number of attacks throughout Iraq using captured military tanks, improvised explosive devices, and self-developed aerial drones. The ISIL terrorist activity in Iraq continued to swell in 2015, with the organization taking territorial control over a large part of the country. The Iraqi government made significant progress in retaking major parts of the country between late 2015 and 2017.

A March 2017 human rights report, indicated that serious human rights problems are still widespread. Sectarian hostility and corruption at all levels of government have diluted the Iraqi government's human rights protections. Other human rights-related problems include: dangerous conditions in prisons and detention facilities; arbitrary arrest and pretrial detention; limits on freedom of expression and assembly; and discrimination based on gender, race and religion. (HE 1)

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines, which are flexible rules of law, apply together with common sense and the general factors of 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 the national security is the paramount consideration. 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."

Under Directive ¶ E3.1.14, the Government must 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 applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion in seeking a favorable security decision.



## Analysis

### Foreign Influence

AG ¶ 6 sets forth the security under Guideline B:

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.

Conditions under AG ¶ 7 that could raise a security concern and may be disqualifying include:

- (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
- (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.

Contacts and ties to family members who are citizens of a foreign country do not automatically disqualify an applicant from security clearance access. As set forth under AG ¶ 7(a), the contacts are only disqualifying if they create a heightened risk of foreign exploitation. As set forth in AG ¶ 7(b), connections family members are only disqualifying if they create a potential conflict of interest between Applicant's security duties and his desire to assist his foreign family member. As the guideline indicates, the country in question must be considered. Terrorist organizations, continue to operate against the United States and Iraqi interests within the country. Iraq has a poor human rights record that is adversely affected by the country's terrorism. Applicant's mother and grandmother are citizens and residents of Afghanistan. He contacts his two foreign family members every three to four months by phone.

The level of contacts that Applicant has with his two family members in Iraq, combined with the level of continuing violence committed by terrorist groups including



ISIL and other terrorist groups against the Iraqi government, Iraqi citizens, U.S. interests, and those who cooperate and assist the United States military, creates a heightened risk of foreign influence under AG ¶ 7(a). AG ¶ 7(b) is applicable because Applicant's connections to his mother and grandmother create a potential conflict of interest between his obligation to protect classified or sensitive information or technology and his desire to help that his family members by providing that information. Under either disqualifying condition, a hostile force could try to compel classified or sensitive information from Applicant by intimidating his mother or paternal grandmother.

Conditions under AG ¶ 8 that could mitigate security concerns include:

(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; and

(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.

Neither Applicant's mother nor his grandmother are affiliated with the Iraqi government or military. Nevertheless, the level of contact with his foreign family members precludes the applicability of AG ¶ 8(a).

AG ¶ 8(b) applies based in large part on his contributions to the national security of the United States. The DOHA Appeal Board has held that, as opposed to simple statements of intent which carry little weight, an applicant's demonstrated willingness to place himself at risk for United States defense interests is significant evidence that can justify a favorable result in a Guideline B case. See, e.g., ISCR Case No. 07-00034 at 2 (App. Bd. Feb. 5, 2008); ISCR Case No. 04-02511 at 4 (App. Bd. Mar. 20, 2007); ISCR Case No. 10-05329 at 3 (App. Bd. Oct. 17, 2011). The Appeal Board explained that an applicant's service to the United States at the risk of his own safety is considered important evidence to show that he could be expected to resolve any conflict in favor of U.S. interests. See ISCR Case No. 06-25928 at 4 (App. Bd. Apr. 9, 2008). Here, eight character references indicate that Applicant has faithfully and courageously supported U.S. forces since 2006. On documented occasions before he immigrated to the United States, he executed his linguist responsibilities in difficult combat zones within Iraq. His



continuing support of U.S. forces demonstrates that he is unlikely to capitulate to potential pressure related to his mother and grandmother living in Iraq. Based on his long record of service to U.S. forces, at times putting U.S. interests ahead of his own safety, I conclude that he will resolve any future conflict of interest in favor of the United States.

Applicant's contacts with his mother and grandmother are limited to once every three to four months. The last time he had face-to-face contact with his mother was in October 2009, when he immigrated to the United States. The record is unclear as to when he last saw his grandmother. While his relatives know that he immigrated to America, they do not know the nature of his employment or where he is located. Applicant has never provided money to either relative. Though an insurgent or terrorist could try to pressure Applicant by harming his relatives, the chances of such an attempt is unlikely. AG ¶ 8(c) has limited application.

### **Whole-Person Concept**

I have examined the evidence under the foreign influence guideline in the context of the nine general factors of the whole-person concept 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 eligibility for access to classified information must be an overall common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

While Applicant was attending an Iraqi university in 2006, he began working as a linguist for the U.S. Army. He continued his linguist job after obtaining a bachelor's degree from the Iraqi university in June 2008. Because of his top-notch performance as a linguist, as observed by U.S. Army personnel from 2006 to October 2009, Applicant qualified for an SIV, and immigrated to the United States in October 2009. The character evidence from other military personnel and Applicant's supervisor demonstrates that he has continued to provide a quality performance as a linguist. He has lived in the United States since October 2009. He became a naturalized U.S. citizen in January 2015. He has a total of \$197,000 in his U.S. savings and checking accounts. In January 2018, he renounced his Iraqi citizenship. The impressive character references and certificates of appreciations, and Applicant's credible evidence supporting his loyalty to the United States, demonstrate that Applicant will resolve any conflict of interest in favor of U.S. interests. Considering the evidence from an overall



commonsense point of view, Applicant has met his heavy burden of mitigating the security concerns based on the foreign influence guideline.

### **Formal Findings**

Formal findings for or against Applicant 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 B): FOR APPLICANT

Subparagraphs 1.a: For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is granted.

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Paul J. Mason  
Administrative Judge