



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



Appearances

For Government: George A. Hawkins, Esq., Department Counsel
For Applicant: *Pro se*

06/23/2025

Decision

HALE, Charles C., Administrative Judge:

Applicant did not successfully mitigate the risks of foreign influence raised by his ties with Iraq. Eligibility for access to classified information is denied.

Statement of the Case

On August 20, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B (foreign influence). This action was taken under Executive Order (EO) 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 implemented by the DOD on June 8, 2017.

On September 8, 2024, Applicant responded to the SOR (Answer) and requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. On April 25, 2025, a notice of hearing was issued, scheduling the hearing for May 20, 2025. The hearing proceeded as scheduled. Department Counsel submitted four documents, which

I admitted as Government Exhibits (GE) 1 through 4, without objection. Department Counsel also submitted materials for administrative notice concerning Iraq, which I accepted as Administrative Notice (AN) I, without objection. The administrative notice materials are included in the record to show the basis for concluding that the noticed facts are well known, generally accepted within the U.S. Government, or are not subject to reasonable dispute. Applicant testified, and while the record remained open he submitted five emails containing images of senior officers he supported while working with U.S. forces in Iraq. These were labeled as Applicant's Exhibits (AE) A through E, which were admitted into evidence without objection. A character email dated June 4, 2025, was admitted as AE F. The record closed on June 10, 2025. DOHA received the transcript (Tr.) on June 2, 2025.

Findings of Fact

The SOR alleges foreign influence security concerns based on Applicant's family members, real property, and foreign government connections in Iraq. In his Answer, Applicant admitted all the SOR allegations, SOR ¶¶ 1.a through 1.f. After a thorough and careful review of the pleadings and exhibits, I make the following findings of fact:

Applicant is 58 years old. He was born in Iraq. He served in the Iraqi Army for four years. Prior to working with the U.S. military, he worked in a factory under the Ministry of Industry for fifteen years through 2002, which qualified him for a pension from the Ministry of Industry. (GE 1, GE 3; Tr. 25.)

Applicant worked as a linguist for the U.S. military in Iraq from approximately 2003 to 2008. From 2003 to 2011, he interviewed with U.S. Forces semi-annually to annually in Iraq for his continued work as a local hire linguist supporting U.S. forces. He first entered the United States in 2012 with his wife and two children. He and his wife divorced in 2019. Their children are now adults and have applied for U.S. citizenship on their own. From August 2013 to November 2019, he worked for a service company, which provided food services to a university. His certificate of naturalization was issued in October 2018. On his October 2023 SCA, in the "Where You Have Lived" section, he listed that he has been residing at Iraqi addresses from September 2020 to the present. He also listed on the SCA that he had been unemployed since April 2020. (Answer; GE 1, GE 3; AE C; Tr. 18-26, 31-35, 57.)

Foreign Influence

SOR ¶ 1.f alleges that Applicant chose to reside in Iraq since 2020, despite having U.S. citizenship, which he admits. In his Answer, he stated he returned to Iraq because of "[encountering] bad circumstances" and he also listed his 2019 divorce, COVID-19, and needing to care for his father after his mother passed away. He reiterated these reasons in his testimony and added that the "atmosphere" in the U.S. city where he was residing "pushed" him to return to Iraq. As part of the hiring process for the position requiring a U.S. security clearance he returned to the United States in the fall of 2024. National Institute of Health indicates that the number of shootings and murders in the city he left, per 100,000 residents, was among the highest in the country. (Answer; GE 1; Tr. 14, 38; National Institute of Health.)

SOR ¶ 1.a alleges that Applicant's brother is a citizen and resident of Iraq and a Brigadier General in the Iraqi National Defense Forces. Applicant admits the allegation and describes his brother both in his testimony and in his Answer as a corrupt man. They do not speak unless it is necessary. His brother joined the Iraqi army under the Saddam Hussein regime and then worked as a translator for coalition forces. After working as a translator with U.S. forces in the Green Zone his brother returned to the Iraqi Homeland Security. He last saw his brother in September 2024 just prior to returning to the United States. While living in Iraq from 2020 to 2024 he estimated he saw his brother once every three months. (GE 3; Tr. 31-34.)

SOR ¶ 1.b alleges that Applicant's three sisters are citizens and residents of Iraq. Sister 1 regularly assists his father, who is a citizen and resident of Iraq (SOR ¶ 1.c) and suffers from Alzheimer's disease. Applicant admitted he keeps in close contact with Sister 1 because they are close in age and her role with their father. Sister 1's husband is self-employed in a trade. However, Applicant does not have a close relationship with Sister 2 or Sister 3. The relationship with these two sisters is best summarized as limited and estranged. A family tragedy concerning another brother and that brother's wife, which involved murder and suicide, has fractured the family relationships amongst the siblings. Sister 2 is married to an Iraqi government official responsible for foreign workers. She is a computer engineer in the Directorate of Ports. Applicant describes Sister 2 and her husband as corrupt. Sister 2's husband has threatened him with a pistol in the past. Sister 3 is married to a judge. She works in the Directorate of the Presidency. Applicant describes this couple as corrupt as well. (Tr. 28-30 49-56, 62-63, 66.)

SOR ¶ 1.c. Applicant admits his father is a citizen and resident of Iraq. His father lives with Sister 1 and he suffers from Alzheimer's disease. He worked in the oil industry in administrative fields. After retirement his father worked in the Green Zone in the Iraqi court system. Applicant suspected his father was corrupt and was taking money from contractors in the Green Zone. He has discussed with Sister 1 about obtaining a visa for her and their father to come to the United States. (Tr. 37-38, 52-56.)

SOR ¶ 1.d alleges Applicant's family owns a home in Iraq with an approximate value of \$191,000. Applicant owns a share of the home with his siblings. The property was originally their mother's property but passed to them upon her death in 2021. The siblings cannot agree on what to do with the property. Applicant wants to sell but some of his sisters do not want to sell. In his testimony he estimated the home was worth \$180,000. The home is vacant and as long as his father is alive it cannot be sold. Despite living in the United States and his estranged relationship with his sisters, he believes he will receive a share of the home when it is sold after the passing of his father. When asked if he ever considered that his siblings could withhold his proceeds and ask him for something in the future, he responded "yes." (Tr. 61-62.)

SOR ¶ 1.e. Applicant admits he receives a monthly pension of approximately \$350 from the Iraqi government. He stated in his Answer and testimony that he earned the pension for his 15 years of service with the Ministry of Industry. He used the pension to cover his living expenses while he lived in Iraq during the period set forth in SOR ¶ 1.f. He receives the payments from the Iraqi government through a MasterCard he set up. He does not have to reside in Iraq to receive his pension payments. (Tr. 40, 56-57)

Applicant has been living with his son since his return to the United States in September 2024. He resumed working for same service company while he awaits the determination of his security clearance. He asserted that he cannot be manipulated by a foreign person or organization because of his relationships with his Iraqi family members or his partial ownership of property in Iraq. (Tr. 24, 44-45, 48-49.)

Character Evidence

A senior U.S. military officer submitted an email on behalf of Applicant. The officer described Applicant as:

[Applicant] was very brave and quite willing to sacrifice all that he held dear to help Coalition Forces defeat Al Qaeda in Iraq....It is my humble opinion, based on the quality of his service to the country, that the United States owes [Applicant] the benefit of the doubt (at a minimum) and a debt of gratitude (as a matter of course). (AE F.)

Additionally, Applicant submitted images of other senior officers whom he had referred to in his testimony. (AE A-E.)

Administrative Notice

I have taken administrative notice of the following facts concerning Iraq:

The Federal Republic of Iraq (Iraq) is a constitutional parliamentary republic. The U.S. Department of State warns U.S. citizens not to travel to Iraq due to terrorism and armed conflict. U.S. citizens in Iraq are at high risk for violence and kidnapping. Numerous terrorist and insurgent groups are active in Iraq and regularly attack both Iraqi security forces and civilians. The Islamic State in Iraq and Syria (ISIS), a designated terrorist organization, remains a threat to public safety in Iraq. Additionally, criminal gangs and local militia pose a potential threat to U.S. citizens. In February 2022, the U.S. Director of National Intelligence (DNI) concluded that, given the ongoing presence of ISIS and Iraqi Shia militias, Iraq will likely face a lengthy period of political turmoil and conflict. (AN I)

Iraq's most significant human rights abuses are largely fueled by the terrorist activities of ISIS; however, some Iraqi security forces were alleged to have engaged in unlawful killings, disappearances and extortion, torture, life-threatening conditions in detention and prison facilities, and arbitrary arrest and detention. (AN I)

The United States' commitment to Iraq is balanced against the inherent dangers of the ongoing conflict in Iraq to its citizens and residents from terrorists and significant human rights issues. (AN I)

Policies

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

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny 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 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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security 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 access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See also EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline B: Foreign Influence

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

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.

Two disqualifying conditions under this guideline are relevant to this case:

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;

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; and

AG ¶ 7(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.

Not every foreign contact or tie presents the heightened risk consideration. The "heightened risk" denotes a risk greater than the normal risk inherent in having a family member or a spouse's family member living under a foreign government. The nature and strength of the family ties or other foreign interests and the country involved (i.e., the nature of its government, its relationship with the United States, and its human rights record) are relevant in assessing whether there is a likelihood of vulnerability 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 on, the foreign government; or the country is known to conduct intelligence operations against the United States. In considering the nature of the foreign government, the administrative judge must take into account any terrorist activity in the country at issue. I find Applicant's relationships create "a heightened risk of foreign inducement, manipulation, pressure, or coercion" under AG ¶ 7. See generally ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006).

"The United States has a compelling interest in protecting and safeguarding [sensitive] 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). To establish AG ¶ 7(a), the Government must demonstrate a "heightened risk" of

exploitation due to Applicant's contacts with his family members in Iraq. Given the presence and activities of several terrorist organizations hostile to the interests of the United States in Iraq, the Government has established the requisite "heightened risk" and potential conflict of interest regarding Applicant's contacts with his brother, sisters, and father in Iraq. Two sisters, Sisters 2 and 3 and their husbands work for the Iraqi Government and his brother is serving as a general officer in the Iraqi defense forces. AG ¶¶ 7(a) and 7(b) apply. Given the length of Applicant's stay in Iraq and his interest in his share of his mother's home in Iraq, AG ¶ 7(f) applies.

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 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, 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.

Terrorist organizations pose an ongoing and critical threat to U.S. interests in Iraq, which Applicant also admitted during his hearing. Three of Applicant's siblings are employed in positions directly connected to the Iraqi government and likely to cause a conflict of interest. Applicant actively maintains close relationship with one sister and receives a pension from the government of Iraq.

Security-clearance determinations are predictive judgments as to whether an individual will safeguard classified information. The DOHA Appeal Board has identified "an exception in Guideline B cases in which applicants demonstrate that they have made significant contributions to national security in dangerous, high-risk circumstances." ISCR Case No. 10-05329 at 3 (App. Bd. Oct. 17, 2011). In this case, Applicant demonstrated his significant contributions to national security while serving in high-risk combat environments for more than seven years. Nevertheless, he left the United States for four years and resided in Iraq. His purpose was to assist his sister in the care of his father. He has not forged deep relationships with U.S. government such that he can be expected to resolve any conflict of interest in favor of the U.S. interest, should any conflict arise. Applicant's brother is working for the Iraqi Government, in a high-level position, which is problematic.

I considered the totality of Applicant's ties to Iraq, the nature of its government, its relationship with the United States, and its human rights record, all of which are relevant in assessing the likelihood that an applicant's family members are vulnerable to government

coercion. Applicant's extended family members in Iraq "could be a means through which Applicant comes to the attention of those who seek U.S. information or technology and who would attempt to exert coercion upon him." ADP Case No. 14-01655 at 3 (App. Bd. Dec. 9, 2015) (citing ISCR Case No. 14-02950 at 3 (App. Bd. May 14, 2015)). Given the length of his stay in Iraq shortly after becoming an U.S. citizen and the purpose of his return to Iraq to care for family, I find his relationships with family members who are living in Iraq creates a potential conflict of interest. Terrorists could place pressure on his family in an effort to cause Applicant to compromise classified information. Overall, the facts show there is a possibility that Applicant could be placed in a position of having to choose between the interests of his foreign family members and the interests of the United States. Given his lengthy stay outside the United States from 2020 until 2024, his ties to the United States are not enough to fully mitigate the risk of undue foreign influence. AG ¶¶ 8(a), 8(b), and 8(c) do not apply.

Whole-Person Concept

Under the whole-person concept, the 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. 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 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 potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline B and the factors in AG ¶ 2(d) in this whole-person analysis.

Applicant has family connections to Iraq, which, given current geopolitical circumstances and risks from terrorists, presents a heightened risk. His brother is employed by the Iraqi Government, as a high ranking official. The evidence supports that Applicant's bonds of affection for Sister 1 and his father in Iraq are ongoing. His regular and frequent contacts with Sister 1 in Iraq, who cares for his father, is a manifestation of his care and concern for relatives living in that country. He has not made a new life for himself in the United States. After receiving his U.S. citizenship in 2018 he spent nearly four years living in Iraq between 2020 and 2024. While his children are permanent U.S. residents and are seeking their U.S. citizenship, that consideration is not sufficient to fully mitigate the risk of undue foreign influence. It is important to make clear to Applicant that despite the compelling words of a senior military officer, security clearance decisions must be made in terms of the national interest and shall in no means be a determination of his loyalty to the United States. The

evidence shows that Applicant is committed to the best interests of the United States, and his past service provided to the U.S. troops in Iraq was honorable.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. Applicant's connections to Iraq are substantial and ongoing, and they raise significant security matters. After a careful review of the documents and testimony in the record, I conclude foreign influence security concerns are not mitigated. Eligibility for access to classified information is denied.

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:	AGAINST APPLICANT
Subparagraphs 1.a-1.b, 1.e-1.f:	Against Applicant
Subparagraph 1.c:	Against Applicant for Sister 1 and For Applicant for Sisters 2 and 3
Subparagraph 1.d:	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 national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Charles C. Hale
Administrative Judge