



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



In the matter of: )  
)  
) ADP Case No. 22-01665  
)  
Applicant for Public Trust Position )

**Appearances**

For Government: Carroll Connelley, Esq., Department Counsel  
For Applicant: *Pro se*

05/01/2023

**Decision**

OLMOS, Bryan J., Administrative Judge:

Applicant did not provide sufficient information to mitigate the trustworthiness concerns under Guideline B, Foreign Influence, regarding his connections to Jordan. Applicant's eligibility for access to sensitive information is denied.

**Statement of the Case**

Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) on January 25, 2020. On November 18, 2022, the Defense Counterintelligence and Security Agency Defense Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to Applicant detailing trustworthiness concerns under Guideline B, Foreign Influence. The CAF took the action under Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Security Executive Agent Directive 4 (SEAD 4), *National Security Adjudicative Guidelines (AG)*, effective June 8, 2017.

Applicant answered the SOR on December 9, 2022, and provided an exhibit (AX) A. He elected a decision on the written record by an administrative judge from the Defense Office of Hearings and Appeals (DOHA), in lieu of a hearing. On January 31, 2023, Department Counsel submitted the Government's File of Relevant Material (FORM), including exhibits (GX) 1 through 3. Department Counsel also submitted a Request for Administrative Notice regarding Jordan with supporting documentation. Applicant received the FORM on February 9, 2023 and was afforded an opportunity to note objections and to submit material in refutation, extenuation, or mitigation. He responded on March 1, 2023 and provided a statement with additional information. (FORM Response) Department Counsel did not object to the statement.

The case was assigned to me on March 14, 2023. The SOR and the Answer (GX 1) are the pleadings in the case. GX 2-3, AX 1 are admitted without objection, as is the FORM Response.

### **Request for Administrative Notice**

As part of the FORM, Department Counsel submitted a written request that I take administrative notice of certain facts about Jordan, and about the United States' relations with that country. Department Counsel provided supporting documents that verify and provide context for those facts. They are detailed in the Government's administrative notice filing (AN I) and addressed in the Findings of Fact.

Official pronouncements by the President, the State Department, the Defense Department, or other appropriate federal agencies on matters of national security are legislative facts for purposes of DOHA adjudications and must govern the judge's analysis. See ISCR Case No. 17-04208 at 3 (App. Bd. Aug. 7, 2019). Where appropriate, I have taken administrative notice of updated and current information from the websites of the State Department and the White House, consistent with my obligation to make assessments based on timely information in cases involving the potential for foreign influence. See ISCR Case No. 05-11292 at 4 (App. Bd. Apr. 12, 2007) ("Decisions in Guideline B cases should be made to the greatest extent possible in the context of current political conditions in the country at issue.")

### **Findings of Fact**

The two allegations in the SOR concern Applicant's family members in Jordan (SOR ¶ 1.a) and his financial support for them (SOR ¶ 1.b). In his Answer, Applicant largely admitted both allegations, with explanations. His admissions are incorporated into the findings of fact. After a thorough and careful review of the pleadings and evidence submitted, I make the following additional findings of fact:

Applicant is 40 years old. He was born in Kuwait but was granted Jordanian citizenship at birth as both of his parents are citizens of Jordan. The record does not reflect when his family moved back to Jordan. However, in 2005, Applicant earned his undergraduate degree at a university in Jordan. He came to the United States in 2007,

at the age of 25, and began working in the banking industry. In 2012, he became a naturalized United States citizen, based on his own application. He earned a master's degree in 2017 from a university in the United States. He has worked for his current employer since 2019 and is a senior analytics consultant. (GX 2-3)

Applicant married in 2013. At the time, his wife was a citizen of Syria. In 2014, he sponsored her immigration to the United States. She later became a naturalized United States citizen. They have two young children, both native-born United States citizens. (GX 2-3; Answer)

On his January 2020 e-QIP and during his March 2020 background interview, Applicant disclosed several family members who are citizens and residents of Jordan. He described his family as "very close" and that he maintained regular and frequent contact with them. He also provided some financial support to them when needed. None of his family members is affiliated with a foreign government or foreign military. (GX 2-3)

Applicant also disclosed that he travelled to Jordan three times in 2013 and twice in 2018. He visited his family on each of his trips. There is no record evidence of any more recent travel to Jordan. (GX 2)

Applicant's mother and father are citizens and residents of Jordan. They are in their late 70s and retired. His father owned a small business and his mother was a homemaker. Applicant has weekly contact with his parents, primarily by phone. He has provided them financial support over the years, usually in \$200 increments and totaling about \$3,000. (GX 2-3; Answer)

Applicant also has two sisters (S1 and S2) who are citizens and residents of Jordan. Both are married, have children and are homemakers. Applicant communicates with them daily, primarily through a digital messaging application. He estimated that, over several years, he provided about \$600 in financial support to one of his sisters. (GX 2-3; Answer)

Applicant has one brother (B1) who is a citizen and resident of Jordan. This brother works in a drugstore. Applicant communicates with B1 every few months, primarily through a digital messaging application. (GX 2-3; Answer)

Another of Applicant's brothers (B2) is a Jordanian citizen who lives in Saudi Arabia (and not in Jordan, as alleged). B2 is married and has two children. He works in a trade organization. Applicant communicates with B2 daily, primarily through a digital messaging application. (GX 2-3; Answer)

Applicant also has a brother (B3) and sister (S3) who are dual U.S.-Jordanian citizens who live in the United States. B3 lives near Applicant. S3 is married, has five children and lives in another state. (GX 2-3; Answer)

In his Answer, Applicant stated he maintained a “balanced relationship” with his family in Jordan and was committed to being a “model U.S. citizen.” He described his financial support to his family in Jordan as a “gesture of love” that came with no obligations or commitments. (Answer)

Applicant also included in his Answer two reference letters from character witnesses who stated that he is a reliable, valued and trustworthy associate. In his FORM Response, Applicant summarized his professional achievements and responsibilities as a team leader within his company. He cited his conduct, ethics and dedication to the DOD mission he was working. (AX A; FORM Response)

### **Hashemite Kingdom of Jordan (Jordan)**

Jordan is a constitutional monarchy ruled by King Abdullah II bin Hussein. The king has ultimate executive and legislative authority. The multiparty parliament consists of a popularly elected House of Representatives and a Senate appointed by the king. The Public Security Directorate has responsibility for law enforcement and reports to the Ministry of Interior. The Public Security Directorate and the General Intelligence Directorate share responsibility for maintaining internal security. The General Intelligence Directorate reports directly to the king. The armed forces have a support role for internal security. Civilian authorities maintain effective control over the security forces. There were credible reports that members of the security forces committed some abuses.

The State Department updated its Country Report on Terrorism for Jordan in February 2023. The information is substantially similar to the prior report, included as part of AN I. I refer to the more recent report available as it reflects the most current information available. Jordan remained a committed partner on counterterrorism and countering violent extremism. As a regional leader in the Defeat-ISIS Global Coalition, Jordan played an important role in coalition successes in degrading the terrorist group’s territorial control and operational reach. Although Jordan did not experience a successful terrorist attack in 2021, the country faced a continued threat from terrorist groups. (See U.S. State Department, *Country Reports on Terrorism 2021*: <https://www.state.gov/reports/country-reports-on-terrorism-2021/> (February 27, 2023))

However, the U.S Department of State travel advisories for Jordan, last updated in October 2022, range from Level 2 (Exercise Increased Caution) due to terrorism, to Level 4 (Do Not Travel), depending on the area of the country visited. The capital of Amman is currently assessed as being a high-threat location for terrorism directed at or affecting official U.S. Government interests. Transnational and indigenous terrorist groups have demonstrated the capability to plan and implement attacks in Jordan. Violent extremist groups in Syria and Iraq, including the Islamic State of Iraq and ash-Sham (ISIS), and al-Qaida, directly or indirectly have conducted or supported attacks in Jordan and continue to plot against local security forces, U.S. Western interests and “soft” targets, such as high-profile public events, hotels, places of worship, restaurants,

schools and malls. Jordan's prominent role in the Global Coalition to defeat ISIS and its shared borders with Iraq and Syria increase the potential for future terrorist incidents.

The most recent State Department Human Rights Report for Jordan was issued in March 2023. Significant human rights issues in Jordan included credible reports of: torture and other cruel, inhuman, and degrading treatment or punishment by government authorities; arbitrary arrest and detention; political prisoners or detainees; arbitrary or unlawful interference with privacy; serious restrictions on freedom of expression and media, including harassment and intimidation of journalists, unjustified arrests or prosecutions of journalists, censorship, and enforcement of and threat to enforce criminal libel laws; serious restrictions on internet freedom; substantial interference with the freedom of peaceful assembly and freedom of association, including overly restrictive laws on the organization, funding, or operation of nongovernmental organizations and civil society organizations; inability of citizens to elect their executive branch of government or upper house of parliament; lack of investigation of and accountability for gender-based violence, including but not limited to domestic or intimate partner violence, sexual violence, and other harmful practices; violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, or intersex persons; and significant restrictions on workers' freedom of association, including threats against labor activists. The government took some steps to investigate, prosecute, and punish officials who committed human rights abuses; however, government impunity for such abuses remained widespread. (See U.S. State Department, *Country Reports on Human Rights Practices for 2022: Jordan*: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/jordan/> (March 20, 2023))

### **Policies**

Positions designated as ADP I/II/III are classified as "sensitive positions." The Deputy Under Secretary of Defense (Counterintelligence and Security) Memorandum, dated November 19, 2004, indicates trustworthiness adjudications will apply to cases forwarded to the DOD and DOHA by the Defense Security Service and Office of Personnel Management. DOD contractor personnel are afforded the right to the procedures contained in the Directive before any final unfavorable access determination may be made.

It is well established that no one has a right to a security clearance, or, as here, to a determination of public trust. As the Supreme Court noted in *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988), "the clearly consistent standard indicates that security [and trustworthiness] determinations should err, if they must, on the side of denials."

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 the national security is the 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 [or trustworthiness] decision.”

A person who seeks access to sensitive 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 sensitive information. Decisions include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of sensitive information.

## **Analysis**

### **Guideline B, Foreign Influence**

AG ¶ 6 expresses the trustworthiness concern regarding foreign influence:

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.

AG ¶ 7 describes conditions that could raise a trustworthiness concern and may be disqualifying. The following are potentially applicable:

(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(a) requires evidence of a “heightened risk.” The “heightened risk” required to raise this disqualifying condition is a relatively low standard. It denotes a risk greater than the normal risk inherent in having a family member living under a foreign government or owning property in a foreign country. The totality of Applicant’s family ties to a foreign country as well as each individual family tie must be considered.

Guideline B is not limited to countries hostile to the United States. “The United States has a compelling interest in protecting and safeguarding classified or 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.” See ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004).

The mere possession of close family ties with one or more family members living in Jordan is not, as a matter of law, disqualifying under Guideline B. However, if an applicant has a close relationship with even one relative living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified or sensitive information. See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006). There is a rebuttable presumption that a person has ties of affection for, or obligation to, their immediate family members. See ISCR 01-03120 (App. Bd. Feb. 20, 2002).

Applicant’s parents, one brother and two sisters are citizens and residents of Jordan. The country’s shared borders with Iraq and Syria and the presence of ISIS and al-Qaida reflects that Jordan remains a high-threat location for terrorism and establish a “heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion.” AG ¶ 7(a) has been raised by the evidence.

I have analyzed the facts and considered all of the mitigating conditions under AG ¶ 8 and conclude the following are potentially applicable:

(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 or infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

Understandably, Applicant maintains regular and frequent contact with his parents and siblings who reside in Jordan (as well as his Jordanian brother in Saudi Arabia). It cannot be said that his relationship with his immediate family members are casual or infrequent. AG ¶ 8(c) does not apply to them.

Applicant has lived in the United States since 2007. He obtained an advanced education and has established his career in the United States. His wife is a U.S. citizen and both of his children are native-born U.S. citizens. He also has one brother and sister that are citizens and residents of the United States. These are all factors that weigh in Applicant's favor.

However, his ties to Jordan are also strong. He maintains a very close relationship with his parents and siblings in Jordan, communicating with them daily. He also provides financial support to them when needed. Applicant failed to provide sufficient evidence to find that it is unlikely that he 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. Additionally, Applicant did not meet his burden of demonstrating that he would resolve any conflict of interest in favor of the United States. AG ¶¶ 8(a) and (b) are not established.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a position of public trust 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 position of public trust 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 in my whole-person analysis. I also considered Applicant's favorable character evidence.

Applicant did not request a hearing and I did not have the opportunity to question him further about his family connections to Jordan or to assess his credibility by observing his demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003). The record reflects that Applicant came to the United States in 2007, became a U.S. citizen in 2012, and has since worked and furthered his education. He has additionally married and raised two children in the United States.

However, Applicant also maintains close and ongoing ties with his family in Jordan. Although Jordan is a key U.S. ally in combating terrorism and extremist ideology, it remains a high-threat location for terrorism. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a public trust position. Given Applicant's family connections to Jordan, I conclude that he did not present sufficient evidence to meet his burden of persuasion as to mitigation. This is not a comment as to Applicant's loyalty to the United States. It is merely a finding that he did not provide sufficient evidence to mitigate foreign influence trustworthiness concerns under Guideline B.

### **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:	Against Applicant

### **Conclusion**

In light of all of the circumstances, it is not clearly consistent with the national interest to grant Applicant a position of public trust. Eligibility for access to sensitive information is denied.

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Bryan J. Olmos  
Administrative Judge