

DATE: November 18, 2004

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-27076

DECISION OF ADMINISTRATIVE JUDGE

ELIZABETH M. MATCHINSKI

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant, a U.S. citizen since his naturalization in May 1998, was born in Israel to Palestinians ineligible for Israeli citizenship despite their lifelong residency in Jerusalem. His parents and nine siblings continue to reside under Israeli civilian control but have no formal citizenship with any foreign state or authority. Applicant is married to a native Jordanian citizen of Palestinian descent whose parents and siblings reside in Jordan. Foreign influence concerns persist because of close relationships with non-U.S. citizens. Foreign Preference concerns presented by his use of a Jordanian passport, acquired to facilitate travel in the iddle East, are mitigated by the expiration of the passport with no intent to renew it. Clearance is denied.

STATEMENT OF CASE

On November 21, 2003, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to the Applicant which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant. [\(1\)](#) DOHA recommended referral to an administrative judge to conduct proceedings and determine whether clearance should be granted, continued, denied, or revoked. The SOR was based on Foreign Influence (Guideline B) and Foreign Preference (Guideline C).

On December 14, 2003, Applicant, acting *pro se*, executed an Answer to the SOR and requested a hearing before a DOHA Administrative Judge. The case was assigned to me on May 3, 2004, and pursuant to formal notice dated May 5, 2004, a hearing was scheduled for May 25, 2004. Applicant failed to show for his hearing on that date due to innocent mistake and agreed to appear the following day.

At the hearing held on May 26, 2004, the Government submitted two exhibits and Applicant six exhibits. Applicant testified as reflected in a transcript received June 7, 2004. At the request of the Government, administrative notice was also taken of several U.S. State Department documents: extracts from a publication *Patterns of Global Terrorism 2003* (April 2004); Consular Information Sheets for Jordan and for Israel, the West Bank and Gaza; and Travel Warning for

Israel, the West Bank and Gaza (April 28, 2004). Administrative notice was also taken of three Congressional Research Service issue briefs for Congress titled *Jordan: U.S. Relations and Bilateral Issues* (July 23, 2003); *Israeli-United States Relations* (October 10, 2003); and *Palestinians and Middle East Peace: Issues for the United States* (October 10, 2003).

FINDINGS OF FACT

The SOR alleges Foreign Influence concerns: Palestinian citizenship and Israeli residency of Applicant's parents whom he contacts monthly; Applicant's travels to Jordan and Israel in 1996 and 1999 to visit family members; Israeli citizenship and residency of Applicant's nine siblings; the Jordanian citizenship (U.S. residency) of his spouse; and the Jordanian citizenship and residency of his spouse's parents and her siblings. Also alleged are Foreign Preference concerns related to Applicant's obtaining a Jordanian passport in 1996 and travel on that foreign passport to visit Jordan in 1999 after he acquired U.S. naturalized citizenship. In his Answer, Applicant admitted the foreign residency and citizenship of his parents (who carry Israeli identification), siblings, and in-laws, but indicated the U.S. Immigration and Naturalization Service (INS) had approved his mother for immigration to the U.S. and his spouse had applied for U.S. citizenship. Applicant admitted he had renewed his temporary Jordanian passport in 1996 before he became a U.S. citizen, adding that as a Palestinian born in Israel he is not a Jordanian citizen. When trying to enter Jordan in 1999, he had both his U.S. and Jordanian passports and was "forced to use the Jordanian passport" at the airport. Applicant volunteered that he used his U.S. passport to travel to Jordan for vacation with his family in 2002. Applicant's admissions are accepted, and incorporated as findings of fact. After a complete and thorough review of the evidence of record, and upon due consideration of the same, I make the following additional findings of fact:

Applicant is a 37-year-old design engineer who has been employed by a defense contractor since January 2001. He seeks a secret security clearance for his duties.

One of ten children born to Palestinians living in Jerusalem, Applicant spent his formative years essentially with no allegiance to any country. Not recognized as citizens by Israel or of any other country, (2) Applicant and his family members were granted Israeli identification cards.

In September 1990, Applicant married in Jerusalem a U.S. citizen whom he had met when she was visiting her Palestinian relatives. She sponsored his immigration to the U.S., and he entered the U.S. legally in 1991 on a temporary two-year Jordanian passport granted to Palestinians to facilitate foreign travel. A travel document only, this passport did not confer any rights or benefits of Jordanian citizenship or authorize a Palestinian to work in Jordan. (3)

After his marriage ended in divorce in September 1993, Applicant elected to remain in the U.S. as he appreciated the freedom and respect enjoyed here. In February 1996, Applicant was issued a five-year Jordanian passport to facilitate his travel back to Jerusalem to see his parents and siblings. From mid-June 1996 to early August 1996, Applicant traveled to Jordan and Israel for pleasure on this Jordanian passport. Applicant stayed with his parents during these visits.

In January 1997, he began his studies for his bachelor of science degree in engineering at a public university in the U.S. In late May 1998, he became a U.S. naturalized citizen, taking an oath to renounce all foreign allegiances, to support and defend the United States Constitution and its laws, and to bear arms or noncombatant service or civilian service on behalf of the United States if required. In June 1998, he was issued his U.S. passport.

From mid-July 1999 to early September 1999, Applicant traveled to Jordan and Israel taking with him his U.S. and Jordanian passports. He entered Jordan using both his U.S. and Jordanian passports, presenting the latter after he was asked at the border whether he had a Jordanian passport. During this trip, Applicant married a 19-year-old Jordanian citizen in Jerusalem. They met at the suggestion of their respective families. Her family had emigrated from Palestine to Jordan during the 1967 war. She entered the U.S. on a spouse visa in February 2000.

While finishing up a research project for his B.S. degree awarded him in May 2000, Applicant went to work in March 2000 as an associate design engineer for a power company. In January 2001, he moved to his present locale where he started work for his defense contractor employer. Needing a secret clearance for his duties, Applicant executed on March 2, 2001, a security clearance application (SF 86) disclosing his birth in Jerusalem but indicating he was a dual

citizen of Jordan and the U.S. He indicated that his parents, residents of Jerusalem, were citizens of Israel. Applicant listed his spouse as a citizen of both Jordan and the U.S., although he also provided her alien registration number in the U.S. Applicant also reported that he held a Jordanian passport that expired in February 2001 ("I had the Jordan passport before I got my citizenship in United States that's why.") and that he traveled to Jordan and Israel in 1996 and 1999 for pleasure.

In June 2001, Applicant and his spouse had a daughter born to them in the U.S. On March 14, 2002, Applicant was interviewed by a special agent of the Defense Security Service about his foreign connections. Applicant indicated that he had no original country of citizenship as Israel will not grant its citizenship to Palestinians, and possession of a Jordanian passport did not confer Jordanian citizenship. He denied any intent to renew the Jordanian passport that expired in February 2001 even though travel in Jordan and Israel was easier on that passport and expressed a willingness to surrender it to officials if it were to become a condition of access. Applicant maintained his loyalty was solely to the U.S., where he intends to reside permanently.

Applicant traveled to Jordan with his family for a vacation in May 2002. He entered Jordan on his U.S. passport, and made no effort to renew his Jordanian passport during his trip. Applicant was fined for overstaying his visa by one day. Applicant intends to use the U.S. passport exclusively for his foreign travels. He has no plans to travel to the Middle East in the near future although a trip to Jordan is possible should his spouse want to see her parents.

In about February 2003, Applicant applied for his mother to become a permanent resident of the U.S. In early March 2004, Applicant's spouse applied for U.S. naturalization. As of late May 2004, Applicant's parents and nine siblings were residents of the eastern (Arab) part of Jerusalem under the civil control of Israeli authorities and in possession of Israeli identification cards. Applicant's father retired in 2003 from his position as an animal control officer for the municipality. His mother has never worked outside the home. None of his siblings have ever worked for a foreign government. Applicant does not contact his siblings but calls his mother once a month. On occasion he sends money to help out his brothers if they need it. Applicant's in-laws (parents and spouse's siblings) are resident citizens of Jordan. His father-in-law owns a restaurant in Jordan while his mother-in-law is a homemaker. None of his spouse's siblings work for the Jordanian government. His spouse contacts her relatives, primarily her parents, once a month.

Applicant registered for the U.S. Selective Service. He has no obligations to Israel or Jordan. He has never served in the military of either country and would be willing to bear arms for the U.S. against Israel and/or Jordan if necessary. As to whether he would bear arms against Palestinians, Applicant would protect his fellow soldiers and the U.S. because of the treatment and respect afforded him here. He has no financial assets outside the U.S. Applicant does not belong to any social organizations in the U.S., but he and his spouse have friends of Middle Eastern (including Palestinian) descent who are U.S. citizens residing in their local area.

POLICIES

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has "the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information." *Id.* at 527. The President has restricted eligibility for access to classified information to United States citizens "whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment, as well as freedom from conflicting allegiances and potential for coercion, and willingness and ability to abide by regulations governing the use, handling, and protection of classified information." Exec. Or. 12968, *Access to Classified Information* § 3.1(b) (Aug. 4, 1995). Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive.

Enclosure 2 of the Directive sets forth personal security guidelines, as well as the disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of

Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that disqualify, or may disqualify, the applicant from being eligible for access to classified information. *See Egan*, 484 U.S. at 531. The Directive presumes a nexus or rational connection between proven conduct under any of the disqualifying conditions listed in the guidelines and an applicant's security suitability. *See ISCR Case No. 95-0611 at 2* (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. *ISCR Case No. 01-20700 at 3* (App. Bd. Dec. 19, 2002); *see Directive ¶ E3.1.15*. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." *ISCR Case No. 01-20700 at 3*.

Considering the evidence as a whole, I find the following adjudicative guidelines to be most pertinent to this case:

Foreign Influence

E2.A2.1.1. The Concern: A security risk may exist when an individual's immediate family, including cohabitants, and other persons to whom he or she may be bound by affection, influence, or obligation are not citizens of the United States or may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation or pressure.

E2.A2.1.2. Conditions that could raise a security concern and may be disqualifying include:

E2.A2.1.2.1. An immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country;

E2.A2.1.2.2. Sharing living quarters with a person or persons, regardless of their citizenship status, if the potential for adverse foreign influence or duress exists;

E2.A2.1.3. Conditions that could mitigate security concerns include:

E2.A2.1.3.1. A determination that the immediate family member(s), (spouse, father, mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States.

Foreign Preference

E2.A3.1.1. The Concern: When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

E2.A3.1.2. Conditions that could raise a security concern and may be disqualifying also include:

E2.A3.1.2.2. Possession and/or use of a foreign passport

E2.A3.1.3. Conditions that could mitigate security concerns include:

None applicable.

CONCLUSIONS

Having considered the evidence in light of the appropriate legal precepts and factors, and having assessed the credibility

of the Applicant, I conclude the following with respect to guidelines B and C:

Under the Foreign Influence guideline, a security concern may exist when an individual's immediate family, including cohabitants, and other persons to whom he or she is bound by affection, influence, or obligation, are not citizens of the U.S. or may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. In determining whether an applicant's family ties in a foreign country pose an unacceptable security risk, the Administrative Judge must consider the record evidence as a whole. Common sense suggests that the stronger the ties of affection or obligation, the more vulnerable a person is to being manipulated if the relative, cohabitant, or close associate is improperly influenced, brought under control, or even used as a hostage by a foreign intelligence or security service.

Applicant, ethnically Palestinian, is married to a Jordanian citizen who was deemed to be a suitable match by their respective families. Of Palestinian descent herself, she was born in Jordan, as her parents had immigrated there well before her birth. All of their parents and siblings reside in the Middle East, an area of considerable political unrest, in large part over the issue of Palestinian sovereignty and territorial authority. Applicant has a close relationship with his parents, especially his mother. He calls her once a month and has applied for her immigration to the U.S. from Jerusalem. On occasion, he has sent some money to his brothers in Jerusalem when they were without work. Applicant's spouse calls her parents as well once a month and she has some contact as well with her siblings in Jordan.

The DOHA Appeal Board has held it reasonable for the Administrative Judge to consider the significance not only of an Applicant's ties but also of his spouse's ties to a foreign country and the possible effect they may have on Applicant's contacts under Guideline B (*see* ISCR 01-02452, November 21, 2002). In determining Applicant's suitability for continued access, disqualifying conditions E2.A2.1.2.1., *an immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country,* and E2.A2.1.2.2., *sharing living quarters with a person or persons, regardless of their citizenship status, if the potential for foreign adverse influence or duress exists,* are clearly pertinent.

The security concerns engendered by the foreign residency and/or citizenship of close family members may be mitigated where it can be determined that the immediate family members are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the applicant to choose between loyalty to the person(s) involved and the U.S. (*see* E2.A2.1.3.1.). Applicant's father had worked as an animal control officer for the local municipality which is under Israeli civilian control, but he is now retired. Applicant's father-in-law owns a restaurant in Jordan. There is no evidence that any family members are, or have ever been, agents of a foreign power. However, Applicant also has the burden of demonstrating that his and his spouse's family members are not in a position to be exploited by a foreign power.

By virtue of their Palestinian ethnicity and east Jerusalem residency, Applicant's parents and nine siblings can claim no country of citizenship. At best, they possess Israeli identification cards and may be eligible for a Jordanian passport that confers no benefits of Jordanian citizenship. Applicant submits that as a result, they have no emotional allegiance to any country or organization, although there is nothing in the record confirmatory from his relations. When asked at his hearing whether his relatives opposed the Intifadah, Applicant admitted he had not discussed the subject with them. (*See* Tr. 89) The absence of any loyalty to Israel or to a Palestinian entity might reduce the likelihood of their succumbing to overt acts of pressure by a foreign entity, but the risk of undue foreign influence must be evaluated in terms of noncoercive means as well. Furthermore, as resident citizens of Jordan, Applicant's in-laws remain subject to laws of Jordan and within physical reach of Jordanian authority.

As conceded by the Government, there is no specific information that Applicant's family members or his in-laws are likely targets of any foreign government or organizations. Yet U.S. government publications chronicle the instability in the region, particularly in Israel because of the status of the Palestinians, Israeli settlements in the West Bank, and Palestinian demands that east Jerusalem (where Applicant's parents reside) be the capital of a Palestinian state. As of April 2004, the U.S. Department of State had warned against travel to Israel, the West Bank, and Gaza, due to the recent killings of two HAMAS leaders by Israel and the threat of revenge against Israel and U.S. interests. Roads in east Jerusalem had been the sites of frequent shooting attacks and roadside explosives. Although not sanctioned by Israel or Jordan, terrorist groups continued to operate within Israel, including the Jerusalem municipality. Applicant testified that

his father and siblings maintain a low profile ("my dad has always warned my brothers that go to work and come back home, that's it, he doesn't want to see anything else." Tr. 89), which may render them less likely to become targets, but it also reflects the current political instability. Not enough is known about the specific situations of his parents and siblings. Applicant has no plans to travel to Israel (including east Jerusalem) in the near future, and his loyalty to the U.S. is not questioned. Applicant has also indicated that in the event of any undue pressure or influence being brought to bear on family members, he would immediately report the contacts to the appropriate authorities. The DOHA Appeal Board has consistently held that a statement of intention about what an applicant will do in the future under some hypothetical set of circumstances is not entitled to much weight, unless there is record evidence that the applicant has acted in an identical or similar manner in the past under identical or similar circumstances. *See* ISCR Case No. 99-0501 (December 19, 2000); ISCR Case No. 01-26893 (October 16, 2002). Through no fault of Applicant, an unacceptable risk of undue Foreign Influence persists because of his significant ties with immediate family members (parents and siblings) of Palestinian descent living in east Jerusalem. Adverse findings are therefore warranted as to subparagraphs 1.a., 1.b., 1.c., and 1.e.

The security risks are less with respect to the potential Foreign Influence concerns raised by the Jordanian citizenship of Applicant's spouse and the Jordanian citizenship and residency of his in-laws. The ongoing violence in Israel, the West Bank, and Gaza continues to have an impact on the security climate in Jordan with pro-Palestinian demonstrations and some evidence of anti-American sentiment occurring periodically throughout Jordan since September 2000. *See* the U.S. Department of State's *Consular Information Sheet* on Jordan (current as of April 28, 2004) However, Jordan, a modern constitutional monarchy with a Western orientation, has been a strong ally of the U.S. in the fight against terrorism, and U.S. aid to Jordan has increased in recent years. Moreover, while there are exceptions, in-law ties are not generally as strong as the bonds between one's own immediate family members. The individuals to whom Applicant is closest, spouse and child,⁽⁴⁾ are in the U.S. His spouse has applied for naturalization, and his daughter is a U.S. citizen from birth. While his spouse remains close to her family in Jordan as evidenced by her once monthly contact, her family members are not likely to become the targets of undue pressure or coercion. Jordan has been a haven for Palestinian refugees in the volatile region, and her parents are Jordanian citizens entitled to the protections afforded all Jordanian citizens. SOR subparagraphs 1.d., 1.f., and 1.g. are found in Applicant's favor as the risk of undue Foreign Influence is minimal with respect to these ties to Jordan.

Guideline C, Foreign Preference, is based on actions taken by an individual that indicate a preference for a foreign country over the U.S. As a Palestinian living in East Jerusalem under Israeli control, Applicant was essentially stateless until he acquired U.S. naturalized citizenship in 1998. To facilitate his foreign travel, Applicant obtained a passport from Jordan. Applicant's acquisition of this travel document before he became a U.S. citizen does not raise issues of Foreign Preference. However, his continued retention of this Jordanian passport after May 1998, and his presentation of that foreign passport to enter Jordan in 1999, is potentially security disqualifying under Guideline C (see E2.A3.1.2.2.). In August 2000, the Assistant Secretary of Defense for Command, Control, Communications and Intelligence (ASDC3I) clarified that possession of a foreign passport could facilitate foreign travel unverifiable by the U.S. and it raises questions of primary allegiance.⁽⁵⁾

Applicant's presentation of his Jordanian passport to a border official to enter Jordan in 1999 was not intended as an act of preference for Jordan to the U.S., as he presented it only after he had shown his U.S. passport and in response to an inquiry from the border official. However, per the ASD3I guidance, clearance cannot be granted to an individual who possesses a foreign passport. Applicant's Jordanian passport expired in February 2001 so it is no longer valid. Expiration does not completely address the security concerns, especially where the foreign passport is subject to renewal. Applicant may well be eligible to renew the Jordanian passport (*see* Ex. A), although the impact of his acquisition of U.S. citizenship on his eligibility is not clear. He has expressed credible intent to not renew it. Applicant presented pages from his U.S. passport confirming that he used his U.S. passport to enter Jordan in 2002. He made no effort to renew his Jordanian passport before traveling to Jordan or during his stay there. Significantly, Applicant's allegiance lies with the U.S., the country that gave him citizenship. He no longer has a need to turn to Jordan to facilitate travel abroad, so he is not likely to renew it.

In ISCR Case No. 01-24306, decided September 30, 2003, the DOHA Appeal Board held that keeping a foreign passport until it expires does not satisfy the surrender required under the ASDC3I policy guidance ("Surrender contemplates returning it to the issuing authority, and merely keeping a foreign passport until it expires does not satisfy

this requirement in the ASDC3I memo."). In that case, the expiration of the foreign passport was recent. Applicant's passport expired in February 2001, well before he knew possession of a foreign passport was of concern to the Department of Defense. Moreover, as a practical matter, an expired passport is not valid for travel. When an individual either is ineligible to renew it or can be counted on to refrain from renewing it, the security concerns cited by the ASD3I no longer exist. SOR subparagraphs 2.a. and 2.b. are resolved in his favor.

FORMAL FINDINGS

Formal Findings as required by Section 3. Paragraph 7 of Enclosure 1 to the Directive are hereby rendered as follows:

Paragraph 1. Guideline B: AGAINST THE APPLICANT

Subparagraph 1.a.: Against the Applicant

Subparagraph 1.b.: Against the Applicant

Subparagraph 1.c.: Against the Applicant

Subparagraph 1.d.: For the Applicant

Subparagraph 1.e.: Against the Applicant

Subparagraph 1.f.: For the Applicant

Subparagraph 1.g.: For the Applicant

Paragraph 2. Guideline C: FOR THE APPLICANT

Subparagraph 2.a.: For the Applicant

Subparagraph 2.b.: For the Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Elizabeth M. Matchinski

Administrative Judge

1. The SOR was issued under the authority of Executive Order 10865 (as amended by Executive Orders 10909, 11328, and 12829) and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992 (as amended by Change 4).

2. As set forth in *Palestinians and Middle East Peace: Issues for the United States* (October 10, 2003), half of the world's almost 8 million Palestinians live in Israel or under Israeli control. About 1 million Palestinian Arabs live in Israel and are Israeli citizens, are eligible to vote and even serve in the Knesset. The Palestinians in the occupied territories such as the West Bank are not Israeli citizens.

3. On his security clearance application completed in March 2001, Applicant indicated he was a dual citizen of Jordan and the U.S. In his subsequent testimony he explained that while he held a Jordanian passport, he was not considered a citizen of Jordan. According to Exhibit A, a Palestinian from the West Bank is eligible for a 5-year Jordanian passport that would serve as a travel document only. The individual would not be able to work or receive any type of social security or public assistance, or be eligible for Jordanian citizenship.

4. As of the hearing Applicant and his spouse were expecting their second child.

5. In his memorandum of August 16, 2000, the Assistant Secretary of Defense for Command, Control, Communications and Intelligence (ASDC3I) stated, in pertinent part:

The purpose of this memorandum is to clarify the application of Guideline C to cases involving an applicant's possession or use of a foreign passport. The Guideline specifically provides that "possession and/or use of a foreign passport" may be a disqualifying condition. It contains no mitigating factor related to the applicant's personal convenience, safety, requirements of foreign law, or the identity of the foreign country. The only applicable mitigating factor addresses the official approval of the United States Government for the possession or use. The security concerns underlying this guideline are that the possession and use of a foreign passport in preference to a U.S. passport raises doubt as to whether the person's allegiance to the United States is paramount and it could also facilitate foreign travel unverifiable by the United States. Therefore, consistent application of the guideline requires that any clearance be denied or revoked unless the applicant surrenders the foreign passport or obtains official approval for its use from the appropriate agency of the United States Government.

The Government did not raise the issue of the ASDC3I policy guidance at the hearing, perhaps because Applicant's foreign passport had expired shortly after he commenced employment with the defense contractor and well before he learned it could pose a problem for his clearance. There is no evidence that Applicant was provided a copy of the ASDC3I memorandum.