

KEYWORD: Guideline F

DIGEST: The parties agree that Applicant submitted evidence to DOHA which never reached the Judge. Adverse decision affirmed

CASENO: 12-01038.a1

DATE: 03/22/2013

DATE: March 22, 2013

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In Re: )  
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 ----- ) ISCR Case No. 12-01038  
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 )  
 Applicant for Security Clearance )  
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 )

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**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

Braden M. Murphy, Esq., Department Counsel

**FOR APPLICANT**

*Pro se*

The Department of Defense (DoD) declined to grant Applicant a security clearance. On June 15, 2012, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) of Department of

Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On January 29, 2013, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Mark Harvey denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

As a preliminary matter, Applicant asserts matters from outside the record, as does Department Counsel. The gist of these assertions is that Applicant provided documents to the Judge that were not incorporated into the record. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. However, we have considered new evidence insofar as it bears upon questions of jurisdiction or due process. *See, e.g.*, ISCR Case No. 12-07667 at 2 (App. Bd. Mar. 11, 2013). In the case before us, Department Counsel acknowledges that Applicant submitted evidence that was received at DOHA but not forwarded to Department Counsel nor, consequently, to the Judge for inclusion in the record. Department Counsel states, and we agree, that the best resolution of this matter is to remand the case to the Judge for further processing. Other issues raised by Applicant's appeal brief are not ripe for our consideration.

### **Order**

The case is **REMANDED**.

Signed: Michael Y. Ra'anan  
Michael Y. Ra'anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody  
James E. Moody  
Administrative Judge  
Member, Appeal Board