

KEYWORD: Guideline F

DIGEST: Applicant timely submitted seven documents that were not forwarded to the Judge. Adverse decision remanded.

CASENO: 12-06978.a1

DATE: 01/21/2016

DATE: January 21, 2016

In Re:)
)
)
 -----) ISCR Case No. 12-06978
)
)
 Applicant for Security Clearance)
)
)

APPEAL BOARD SUMMARY REMAND

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On January 3, 2015, 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 hearing. On November 21, 2015, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Michael H. Leonard denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant has raised an issue of due process. She contends that she submitted additional documents to the Judge that were not included in the record. Applicant’s argument contains new evidence, which we generally cannot consider. However, we will consider new evidence that bears upon threshold issues of due process or jurisdiction. *See, e.g.*, ISCR Case No. 14-04130 at 2 (App. Bd. Dec. 11, 2015). The record shows that the Judge gave Applicant two weeks following the hearing in which to submit additional evidence. Tr. at 67. Department Counsel states in the Reply Brief that Applicant did make a timely submission of seven documents that were not forwarded to the Judge. Department Counsel contends that remand is the appropriate remedy. We concur with this recommendation. Accordingly, the case is remanded to the Judge to consider the documents that Applicant submitted but that were not included in the record and then to issue a new decision in accordance with the Directive.

Order

The Decision is **REMANDED**.

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

Signed: Jeffrey D. Billett
Jeffrey D. Billett
Administrative Judge
Member, Appeal Board

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