



The Department of Defense (DoD) declined to grant Applicant a security clearance. On December 8, 2014, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On March 10, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge David M. White 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. In doing so, he makes assertions from outside the record, which we generally cannot consider. Directive ¶ E3.1.29. However, we will consider new evidence insofar as it bears upon threshold issues such as due process. *See, e.g.*, ISCR Case No. 15-01753 at 1 (App. Bd. Apr. 26, 2016). Specifically, he contends that he submitted documents to the Judge that were not included in the record. The Judge had left the record open for two weeks after the hearing, until August 26, 2015, for him to provide additional evidence. Tr. at 94-95. Applicant notes that, in reference to his opportunity to provide additional documents, he asked the Judge, “How does that work?” and the Judge replied that they would discuss it off the record. Tr. at 95. The contents of any off-record discussions are not summarized, so we cannot say for certain what kind of guidance Applicant may have received concerning the means by which his additional evidence should have been submitted. Be that as it may, Applicant states that he emailed documents to the Judge and attaches to his brief the printout of an email transmittal along with copies of documents that he asserts were the ones that he sent to the Judge. These documents do not appear in the record. Indeed, the Judge stated in the Decision that Applicant was given an opportunity to provide additional evidence but failed to do so. Decision at 2. Under the facts of this case, Applicant has made a *prima facie* showing that he offered relevant evidence that was not admitted and incorporated into the record and, therefore, not considered by the Judge. We conclude that the best resolution of the case is to remand it to the Judge to consider Applicant’s evidence and then issue a Decision in accordance with the Directive. The other issue that Applicant has raised is not ripe for consideration. The Decision is **REMANDED**.

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

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

Signed: James E. Duffy  
James F. Duffy  
Administrative Judge  
Member, Appeal Board