

KEYWORD: Guideline F

DIGEST: Applicant is serving overseas and states that he submitted documents which were not received at DOHA. Adverse decision remanded.

CASENO: 14-06095.a1

DATE: 05/10/2016

DATE: May 10, 2016

In Re:)	
)	
-----)	ISCR Case No. 14-06095
)	
Applicant for Security Clearance)	
)	

APPEAL BOARD DECISION

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 April 23, 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 decision on the written record. On February 19, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Carol G. Ricciardello denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant’s appeal brief contains new evidence, which, as a general rule, we 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. 14-04959 at 1-2 (App. Bd. Apr. 6, 2016). Applicant asserts that he sent documents in response to the File of Relevant Material (FORM) both by email and by regular mail, yet they did not make it into the record. He states that he did so because he was serving overseas in the Middle East and was advised that there might be problems with the mail. Under the circumstances of this case, we conclude that the best resolution is to remand the case to the Judge to determine whether or not to admit the evidence that Applicant attempted to present and then to issue a new decision in accordance with the Directive. Accordingly, the case 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