

KEYWORD: Guideline F

DIGEST: We will consider new evidence on matters of due process or jurisdiction. Applicant submitted evidence that did not make it into the record. Adverse decision remanded.

CASE NO: 14-01239.a1

DATE: 10/23/2014

DATE: October 23, 2014

In Re:)	
)	
-----)	ISCR Case No. 14-01239
)	
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 May 20, 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 Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On October 2, 2014, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Roger C. Wesley denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether he had been denied due process in that he submitted documents that were not included in the record. Consistent with the following, we remand the case to the Judge.

In their respective briefs, both Applicant and Department Counsel assert matters from outside the record regarding Applicant's response to the File of Relevant Material (FORM). Department Counsel states that Applicant submitted matters to DOHA that, through administrative oversight, were not presented to the Judge. As a general matter, we cannot consider new evidence on appeal. Directive ¶ E3.1.29. However, we have considered new evidence that bears upon threshold issues of jurisdiction or due process. *See, e.g.*, ISCR Case No. 12-01038 at 1-2 (App. Bd. Mar. 22, 2013). Department Counsel recommends that we remand the case to the Judge for further processing. We agree with this recommendation.

Order

The Decision is **REMANDED**.

Signed: Michael Ra'anan
Michael 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