

KEYWORD: Guideline F

DIGEST: In his Answer to the SOR, Applicant stated “See payment plan attached” in responding to the allegations. The Judge acknowledged Applicant’s statements about having a payment plan for both of those debts, but noted no documents were attached to his answer. In his appeal brief, Applicant provided a copy of a payment plan that predates the SOR and contends that he provided it with his SOR Answer. Adverse decision remanded.

CASENO: 16-01238.a1

DATE: 09/28/2017

DATE: September 28, 2017

In Re:)	
)	
-----)	ISCR Case No. 16-01238
)	
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 June 20, 2016, 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 July 14, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Leroy F. Foreman 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 claims that he submitted documentary evidence to the Judge that did not make it into the record. Although his assertions constitute new evidence, which we are generally not permitted to consider, we will consider such evidence on threshold issues such as due process. *See, e.g.*, ISCR Case No.14-00812 at 2 (App. Bd. Jul. 8, 2015).

In his Answer to the SOR, Applicant stated “See payment plan attached” in responding to the allegations in SOR ¶¶ 1.a and 1.b. In the decision, the Judge acknowledged Applicant’s statements about having a payment plan for both of those debts, but noted no documents were attached to his answer. In his appeal brief, Applicant provided a copy of a payment plan that predates the SOR and contends that he provided it with his SOR Answer. In the reply brief, Department Counsel concedes that Applicant’s brief contains “a reasonable proffer of the possibility that Applicant had sent amplifying documents that may have been misplaced . . .” and indicates that he does not oppose a remand. Given these circumstances, we conclude the best resolution of this appeal is to remand the case to the Judge for him to reopen the record and collect from the parties and consider as appropriate the documents which Applicant claims to have submitted. Such consideration would, of course, include soliciting the arguments of the parties. Other issues raised by Applicant’s brief are not ripe for adjudication at this time.

Order

The Decision is **REMANDED**.

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

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

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