

KEYWORD: Guideline F

DIGEST: In his appeal brief, Applicant claims that he emailed information to the Judge on September 11, 2017, including bankruptcy documents listing the delinquent debts, an updated credit report, a credit counseling certificate, a pay stub showing bankruptcy payment, and a Chapter 13 trustee document showing compliance with the repayment plan. The Appeal Board does not have fact-finding power. We conclude the best resolution is to remand the case to the Judge to determine whether Applicant timely submitted evidence that did not make it into the record and, if so, to take further action. Adverse decision remanded.

CASENO: 16-00090.a1

DATE: 01/16/2018

DATE: January 16, 2018

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In Re: )	
)	
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)	
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 4, 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 October 13, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Eric H. Borgstrom denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant claims that he submitted documentary evidence to the Judge that did not make it into the record. On September 7, 2017, the Judge sent Applicant a copy of the adjudicative guidelines that became effective on June 8, 2017, and reopened the record until September 25, 2017, to provide the parties an opportunity to submit additional evidence. On September 7, 2017, Applicant sent an email to the Judge stating, in part, that he filed Chapter 13 bankruptcy in January 2017 and that he was making payments on a 5-year repayment plan. The Judge responded by advising that he was not allowed to contact the bankruptcy court, and Applicant would need to provide any documentation about the bankruptcy. Applicant responded by stating, “Sounds Good. I will get that information over to you.” Applicant’s Exhibit A. The record contains no further communications from Applicant. In the decision, the Judge noted that Applicant did not provide documentary evidence about which debts were included in the bankruptcy or what payments have been made.

In his appeal brief, Applicant claims that he emailed information to the Judge on September 11, 2017, including bankruptcy documents listing the delinquent debts, an updated credit report, a credit counseling certificate, a pay stub showing bankruptcy payment, and a Chapter 13 trustee document showing compliance with the repayment plan. The Appeal Board does not have fact-finding power. *See, e.g.*, ISCR Case No. 14-02394 at 3 (App. Bd. Aug. 17, 2015). Given these circumstances, we conclude the best resolution is to remand the case to the Judge for him to determine whether Applicant timely submitted evidence that did not make it into the record and, if so, to take further action consistent with the Directive. 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: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board

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