

KEYWORD: Guideline F

DIGEST: Considering the record as a whole, we conclude that Applicant has made a *prima facie* showing that he submitted some evidence that the Judge did not include in the record. Accordingly, we conclude that the best resolution of this case is to remand it to the Judge for a new decision. Adverse decision remanded.

CASENO: 16-03068.a1

DATE: 05/16/2018

DATE: May 16, 2018

_____)	
In Re:)	
)	
-----)	ISCR Case No. 16-03068
)	
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 December 2, 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 hearing. On January 25, 2018, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Robert E. Coacher denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant contends that he submitted evidence to the Judge that did not make it into the record. Although this is new evidence, we will consider it on the limited issue of due process. *See, e.g.,* ISCR Case No. 14-05302 at 2 (App. Bd. Sep. 29, 2017). A significant portion of the documents that Applicant has attached to his brief post-date the Judge’s decision and, therefore, could not have been submitted during the pendency of the record. However, considering the record as a whole, we conclude that Applicant has made a *prima facie* showing that he submitted some evidence that the Judge did not include in the record.

Accordingly, we conclude that the best resolution of this case is to remand it to the Judge for a new decision. Department Counsel states that he has no objection to a remand under the facts of this case. Accordingly, we remand the case to the Judge to consider the evidence that Applicant attempted to submit prior to the close of the record. Other issues raised by Applicant in his brief are not ripe for consideration at this time.

Order

The Decision is **REMANDED**.

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

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

Signed: Charles C. Hale
Charles C. Hale
Administrative Judge
Member, Appeal Board