

KEYWORD: Guideline F

DIGEST: The Judge's decision states that Applicant did not submit a documentary response to the File of Relevant Material. However the file contains a response. Adverse decision remanded.

CASENO: 06-07320.a1

DATE: 07/25/2007

DATE: July 25, 2007

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 Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On June 30, 2006, DOHA issued a statement of reasons 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 January 31, 2007, after considering the record, Administrative Judge Jacqueline T. Williams denied Applicant’s request for a security clearance. Applicant filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

We construe Applicant’s appeal submission as challenging whether he received the due process rights afforded him by the Directive. Finding error, we remand the case to the Judge.

In her decision, the Judge states that, although provided a complete copy of the file of relevant material (FORM), Applicant did not submit a documentary response in accordance with Directive ¶ E3.1.7.<sup>1</sup> She therefore decided the case based on the information provided to her, without input from Applicant. However, the file contains Applicant’s response to the FORM, dated November 17, 2006, which was forwarded to Department Counsel on November 21, 2006.<sup>2</sup> Therefore, we conclude that Applicant’s submission on appeal is meritorious. We conclude that the proper remedy is to remand the case to the Judge for a new decision, one which takes into account Applicant’s submission in response to the FORM.

### **Order**

The Judge’s decision denying Applicant a security clearance is REMANDED.

Signed: Michael Y. Ra’anan

Michael Y. Ra’anan  
Administrative Judge  
Chairman, Appeal Board

Signed: William S. Fields

William S. Fields  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody

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<sup>1</sup>Decision at 2.

<sup>2</sup>See Memorandum for Administrative Judge from the Director, DOHA, dated November 21, 2006 (“The Applicant submitted information within the time period of 30 days after receipt of copy of the file of relevant material. Response was due on 11/30/2006.”)

James E. Moody  
Administrative Judge  
Member, Appeal Board