

KEYWORD: Guideline F

DIGEST: Applicant indicates that he was notified by Department Counsel after the decision was issued that the Judge had not reviewed evidence Applicant submitted after the hearing. Adverse decision remanded.

CASENO: 11-15005.a1

DATE: 01/24/2014

DATE: January 24, 2014

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In Re: )  
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 ----- ) ISCR Case No. 11-15005  
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 )  
 Applicant for Security Clearance )  
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**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 10, 2013, 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 November 12, 2013, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Juan J. Rivera denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge considered all of the evidence. Consistent with the following, we remand the case to the Judge.

Applicant has presented matters from outside the record, the gist of which is that he was notified by Department Counsel after the decision was issued that the Judge had not reviewed evidence Applicant submitted after the hearing.<sup>1</sup> As a general rule, we cannot consider new evidence on appeal. Directive ¶ E3.1.29. However, in the past we have considered new evidence insofar as it raises questions of due process or jurisdiction. *See, e.g.*, ISCR Case No. 12-01038 (App. Bd. Mar. 22, 2013). We conclude that the best resolution of this matter is to remand the case to the Judge for further processing.

### Order

The case is **REMANDED**.

Signed: Michael Y. Ra’anan  
Michael Y. 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

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<sup>1</sup>Department Counsel did not file a brief in this case.

