



**DEPARTMENT OF DEFENSE
 DEFENSE LEGAL SERVICES AGENCY
 DEFENSE OFFICE OF HEARINGS AND APPEALS
 APPEAL BOARD
 POST OFFICE BOX 3656
 ARLINGTON, VIRGINIA 22203
 (703) 696-4759**

Date: June 1, 2023

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 In the matter of:)
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)
 Applicant for Security Clearance)
 _____)

ISCR Case No. 22-00058

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 February 18, 2022, DoD issued a statement of reasons (SOR) advising Applicant of the basis of that decision—security concerns raised under Guideline F (Financial Considerations) of the National Security Adjudicative Guidelines (AG) of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (January 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On March 29, 2023, Defense Office of Hearings and Appeals Administrative Judge Eric C. Price denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

On appeal, Applicant represents that he never received the Government’s file of relevant material (FORM) and consequently had no opportunity to object to the Government’s evidence or to provide any response for the Judge’s consideration. However, Applicant signed a document acknowledging receipt of the FORM. The record establishes that the FORM was delivered to Applicant via his employer’s Facility Security Officer on August 25, 2022, that he was advised to

submit any response within 30 days of receipt, that he failed to submit any response, and that the record was forwarded to the Judge for decision on November 10, 2022. Applicant has not made a *prima facie* showing that he was denied an opportunity to respond to the FORM or otherwise denied the rights due him under the Directive. *See, e.g.*, ISCR Case No. 16-01237 at 2 (App. Bd. Dec. 5, 2017).

Applicant's appeal brief makes no other assertion of harmful error on the part of the Judge. The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). *See also* AG ¶ 2(b): "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

Order

The decision is **AFFIRMED**.

Signed: James F. Duffy

James F. Duffy
Administrative Judge
Chair, Appeal Board

Signed: Moira Modzelewski

Moira Modzelewski
Administrative Judge
Member, Appeal Board

Signed: Gregg A. Cervi

Gregg A. Cervi
Administrative Judge
Member, Appeal Board