

KEYWORD: Guideline F

DIGEST: Applicant received the due process afforded by the Directive and his failure to make a more detailed response to the FORM cannot fairly be attributed to inadequate notice of his right to do so. Adverse decision affirmed.

CASENO: 15-08755.a1

DATE: 02/27/2018

DATE: February 27, 2018

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 May 19, 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 24, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Jennifer I. Goldstein denied Applicant’s request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant requested that his case be decided on the written record and then filed a short response to the government’s File of Relevant Material (FORM), only one sentence of which addressed his financial situation. The Judge based her adverse decision in the case in large measure on the fact that Applicant did not provide documentary evidence as to financial counseling or his budget; character and trustworthiness; or professional performance or track record with respect to handling sensitive information and observing security procedures. Decision at 3. On appeal, Applicant offers new evidence in the form of a narrative statement describing his financial situation along with documents providing account details of SOR debts and his credit score. The Board cannot consider new evidence on appeal. *See* Directive ¶ E3.1.29.

Applicant also asserts that he did not comprehend “the full gravity of this review” and what information he needed to provide, and requests that he be given a new hearing in person. “New hearings are only granted when there has been a showing that a party was prejudiced by a significant defect in the prior proceeding, such as a denial of a fundamental right.” ISCR Case No. 10-05756 at 2, n.1 (App. Bd. Apr. 26, 2012). Applicant has not demonstrated a justification for such a remedy. A review of the record indicates that Applicant submitted two documents in which he declined a hearing (one in June 2016 and another in September 2016). He received a copy of the FORM, accompanied by a DOHA cover letter, in October 2016. The cover letter in particular stated that Applicant could submit “any material you wish the Administrative Judge to consider[.]” Cover Letter, dated October 17, 2016. The FORM itself advised Applicant that his response could set forth “objections, rebuttal, extenuation, mitigation, or explanation as appropriate.” Accordingly, Applicant received the due process afforded by the Directive and his failure to make a more detailed response to the FORM cannot fairly be attributed to inadequate notice of his right to do so. *See, e.g.*, ISCR Case No. 14-05094 at 2, n.1 (App. Bd. Nov. 22, 2016).

The Board does not review a case *de novo*. Applicant has not established any harmful error on the part of the Judge. Therefore, the decision of the Judge is AFFIRMED.

Signed: Michael Ra’anan  
Michael Ra’anan  
Administrative Judge  
Chairperson, Appeal Board

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

Signed: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board