

KEYWORD: Guideline F

DIGEST: . If Applicant wanted the Judge to consider matters in his possession that were not contained in the FORM, it was his obligation to provide that information. To the extent that Applicant is claiming his right to submit matters in mitigation was somehow impaired, we conclude such a contention is without merit. Adverse decision affirmed.

CASENO: 17-00962.a1

DATE: 11/20/2018

DATE: November 20, 2018

In Re:)	
)	
-----)	ISCR Case No. 17-00962
)	
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 April 27, 2017, 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 September 6, 2018, after considering the record, Administrative Judge Richard A. Cefola denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant filed Chapter 7 bankruptcy in 2014. It was later converted to a Chapter 13 bankruptcy and eventually dismissed when he could not keep up with scheduled payments due to a medical issue. He has an outstanding Federal tax lien for about \$11,000. His Offer in Compromise was rejected, and he was informed that he could appeal that decision, but provided nothing further in that regard. The Judge found in favor of Applicant on a state tax lien allegation, but against him on the bankruptcy and Federal tax lien allegations.

Applicant’s brief contains matters that are not contained in the record, including an IRS Installment Agreement dated August 30, 2017. We cannot consider new evidence on appeal. Directive E3.1.29.

Applicant argues that the Judge’s decision was defective because supporting documents were not considered. He asserts that an investigator informed him in January 2017 that additional documents would be obtained from the IRS and notes his “Offer in Compromise” was not considered.¹ His argument is not persuasive. On August 1, 2017, Department Counsel’s File of Relevant Material (FORM) was forwarded to Applicant. He received the FORM on August 7, 2017, and was given 30 days from its receipt to file objections or submit additional matters. The FORM contained 12 exhibits that represented the Government’s evidence. The FORM advised him that, if he did not file objections or submit additional matters, his case would be assigned to a Judge “for a determination based **solely** on this File of Relevant Material.” [Emphasis added.] FORM at 4. Applicant did not submit a response to the FORM. If Applicant wanted the Judge to consider matters in his possession that were not contained in the FORM, it was his obligation to provide that information. To the extent that Applicant is claiming his right to submit matters in mitigation was somehow impaired, we conclude such a contention is without merit. *See, e.g.*, ISCR Case No. 08-07664 at 2-3 (App. Bd. Dec. 29, 2009). Applicant has not established any basis for granting him relief on appeal.

Applicant has failed to establish that the Judge committed any harmful error. 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* Directive, Encl. 2, App A. ¶ 2(b): “Any doubt concerning

¹ Applicant apparently means his IRS Installment Agreement when he refers to his Offer in Compromise. The first payment on his installment agreement was due in October 2017.

personnel being considered for national security eligibility will be resolved in favor of the national security.”

Order

The Decision is **AFFIRMED**.

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

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

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