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**United States Department of Energy  
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing )  
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Filing Date: November 7, 2024 )  
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Case No.: PSH-25-0024

Issued: April 24, 2025

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**Administrative Judge Decision**

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James P. Thompson III, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position."<sup>1</sup> As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should not be restored.

**I. BACKGROUND**

The Individual is employed by the DOE in a position that requires a security clearance. In February 2023, the Individual's management chain completed a management inquiry regarding the Individual's work-related travel. The results of that inquiry were reported to the DOE Local Security Office (LSO), which then asked the Individual to complete a Letter of Interrogatory (LOI). The Individual completed the LOI in April 2024. Based on the information gathered by the LSO, the LSO informed the Individual by letter (Notification Letter) that it possessed reliable information that created substantial doubt regarding her eligibility to possess a security clearance. In an attachment to the Notification Letter, entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information raised security concerns under Guidelines E and F of the Adjudicative Guidelines.

The Individual exercised her right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. The Director of the Office of Hearings and Appeals (OHA) appointed me as the

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<sup>1</sup> The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as access authorization or security clearance.

Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. At the hearing, the Individual testified on her own behalf and presented the testimony of one other witness. The LSO did not present any witnesses. The Individual submitted 126 exhibits, marked Exhibits A through VVVVV.<sup>2</sup> The LSO submitted twelve exhibits, marked Exhibits 1 through 12.<sup>3</sup>

## II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the LSO cited Guideline E (Personal Conduct) and Guideline F (Financial Conduct) of the Adjudicative Guidelines as the bases for concern regarding the Individual's eligibility to possess a security clearance. Exhibit (Ex.) 1.

Guideline E provides that “[c]onduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information.” Adjudicative Guidelines at ¶ 15. “Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.” *Id.* Conditions that could raise a security concern include:

...

- (b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative;

...

- (d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of: . . . a pattern of

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<sup>2</sup> The Individual's exhibits were submitted in several .pdf workbooks that are titled based on the range of exhibits included therein (one document title, *e.g.*, contains “Exhibits AAA-ZZZ” in its file name.). This Decision therefore cites to the exhibit letter and the page number of the .pdf workbook where the information is located. Additionally, at the prehearing conference, DOE Counsel objected to thirty-seven of the Individual's exhibits, arguing that each of the exhibits, or portions of them, were unrelated to the issues listed in the SSC. Based on further review of the exhibits, I did not consider the following exhibits in this Decision: Q, R, S, T, U, W, X, Z, RRR, SSS, VVV, WWW, AAAA, BBBB, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, LLLL, MMMM, NNNN, OOOO, SSSS, and ZZZZ. These exhibits have no relevance to the issues presented in the SSC or the Individual's overall character, and, as such, I have excluded them from the record.

<sup>3</sup> References to the LSO exhibits are to the exhibit number and the Bates number located in the top right corner of each exhibit page.

dishonesty or rule violations . . . [and] evidence of significant misuse of Government or other employer's time or resources[.]

*Id.* at ¶ 16.

The SSC recounts the following information. In April 2023, the Individual charged, and was reimbursed for, one night of lodging on her government travel card while on personal leave. Ex. 1 at 5. The Individual claimed three hours of compensatory travel time for July 14, 2023, without receipts to validate the claim, and, when questioned about it, she attempted to justify the request by reference to work performed on a different date. *Id.* And the Individual claimed fifteen hours of compensatory travel time for travel on July 22, 2023; however, her return flight occurred on July 21, 2023, and she was unable to provide a plausible explanation as to why she claimed the compensatory travel time on July 22. *Id.* The allegation regarding the Individual's April 2023 reimbursement for one night of lodging is explicitly covered under Guideline F and is therefore not appropriately raised as a security concern under ¶ 16(d). Since the LSO also cited the April 2023 reimbursement under Guideline F, it is addressed thereunder below. With regard to the remaining allegations under Guideline E, I conclude that the information in the record does not justify the LSO's invocation of Guideline E. My rationale is contained in the analysis section below.

Guideline F provides that an individual's "[f]ailure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information." Adjudicative Guidelines at ¶ 18. Conditions that could raise a security concern include an individual's "deceptive or illegal financial practices such as, . . . employee theft . . . and other intentional financial breaches of trust . . ." *Id.* at ¶ 19(d). The SSC cites the following information. Between August 2022 and July 2023, the Individual made twenty-three inaccurate travel claims that cost the federal government \$960. Ex. 1 at 6. During that same period, the Individual filed thirteen inaccurate time and attendance records, which cost the federal government \$3,400. *Id.* And in April 2023 the Individual charged and received reimbursement for one night of lodging to her government travel card while on personal leave. *Id.* The cited information justifies the LSO's invocation of Guideline F.

### III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all of the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The Individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The Individual is afforded a full opportunity to present evidence supporting his or her eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

#### IV. FINDINGS OF FACT

The Individual began working as a federal employee for the DOE in 2018. Ex. A at 2. In June 2022, the Individual began to work with a new office in a position that involved regular work-related travel. Hearing Transcript, OHA Case No. PSH-25-0024 (Tr.) at 40, 49. She testified that this position was her first civil position that required travel, and the only formal training she received regarding travel authorizations was computer-based training on the proper use of government travel cards.<sup>4</sup> *Id.* at 49–50. She testified that she was told to direct any travel questions to her office’s deputy chief of staff. *Id.* The Individual stated that she asked the deputy chief of staff or her direct supervisor questions on each occasion that she planned work-related travel during the time period referenced in the management inquiry. *Id.* at 52. The Individual said that the deputy chief of staff told her that the best practice was for the employee to prepare for their trip by entering all potential expenses in the authorization prior to travel, and then, after completing their travel, it was expected that the employee would go back into the system and either eliminate unrealized expenses or revise the estimates down in order to ensure that the trip came in under budget. *Id.* at 53.

In 2023, the management inquiry at issue in this case was initiated to review the Individual’s travel expenses and compensatory leave.<sup>5</sup> Ex. P at 88. The management inquiry, which was completed in October 2023, reviewed the Individual’s travel expenditures and earned compensatory time between August 20, 2022, and July 22, 2023, and the responses she provided to questions regarding her travel. Ex. Y at 13. In late 2023 and early 2024, the LSO received two separate incident reports that provided the basis for the information contained in the SSC. Ex. 7; Ex. 8. The information

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<sup>4</sup> During the relevant period, she was on a maxiflex work schedule which meant that she could flex or extend her hours on a particular day in order to meet the needs of the job and then reduce her hours on a different day. Tr. at 55–56. She testified that she was instructed not to flex on the weekends and that “comp travel time” was required for weekend travel. *Id.* at 56. The Individual testified that it was easier for her to fly out on Saturday because her service dog benefited from the increased flight selection and better layovers and flights “were cheaper . . . on Saturday rather than Sunday.” *Id.* at 60–61.

<sup>5</sup> The Individual consistently asserted that the management inquiry was initiated in retaliation for making a reasonable accommodation request. *See* Ex. 2 at 631 (stating the Individual “believes that the management inquiry was initiated in retaliation for her request for reasonable accommodation associated with her disability”). However, the truth of that assertion is not relevant under Part 710 as to whether the findings of the inquiry or the information she provided throughout that process present a security concern as alleged in the SSC. Therefore, the issue of retaliation will not be addressed further in this Decision.

below is ordered based on the organization of the allegations contained in the SSC, starting with the allegations related to personal conduct before turning to allegations regarding financial conduct.

### **A. Personal Conduct**

The SSC first referenced the information the Individual provided during the management inquiry regarding fifteen hours of compensatory travel time that she claimed on July 22, 2023, for work on official business in City One. Ex. 1 at 5. The February 2024 incident report asserts that, when first questioned about the hours, the Individual stated that she had calculated the wrong amount. Ex. 7 at 622. The incident report also alleges that the Individual later said that the compensatory time amount was accurate and accounted for her driving colleagues to the airport on that date. *Id.* The inquiry determined that the Individual took a flight out of City One on July 21, 2023, and therefore could not have been driving her colleagues to the airport the following day. *Id.* Thus, it appears that the Individual provided conflicting explanations when questioned about her request for compensatory time.

There is no dispute that the Individual incorrectly indicated in her time keeping records that she travelled solely on July 22. Tr. at 197. In her LOI response, the Individual stated that she followed her supervisor's instruction to put all of the travel time for her overnight flight on the day of her arrival. Ex. 9 at 627–28. She also confirmed that she should have claimed part of the fifteen hours on July 21, 2023, rather than all on July 22, 2023. Tr. at 192, 227; *see also* Ex. 2 at 27.

Friday, July 21, was the last day of her official training, which was the purpose for her travel that day. Tr. at 202. She explained that that morning she drove two colleagues from City One to City Two in significant traffic before dropping each one of them off at the airport for their separate flights. Ex. 9 at 627–28. She then returned her rental car at 9:43 p.m. before her late-night flight that evening. *Id.* Her air travel included a transfer to a connecting flight, and that connecting flight was delayed. Ex. Y at 272 (screenshot from the airline application). She landed at 11:22 a.m. on July 22 in City Three. Ex. 9 at 627–28. She explained that, after she landed, it took at least an hour to disembark and get her luggage, which also arrived late. *Id.*; *see also* Tr. at 191.

In a January 30, 2024, written response to questions regarding this matter, the Individual explained that after dropping her colleagues off at the airport on the morning of July 21, she spent time with some of her remaining colleagues in City Two, and she did not include any of that time in her request for fifteen hours of compensatory time. Ex. 2 at 270.

In addition to the compensatory time for her travel, the Individual confirmed during the hearing that she had reported working nine hours of regular time on her July 21 timecard. Tr. at 201–02. However, she testified that she meant to take annual leave for part of that day because she did not work the entire day.<sup>6</sup> *Id.* at 201–03. The record also indicates that she denied the allegation that she had changed her explanation for her compensatory time request from poor math to transporting her colleagues, and she said she provided her best answers based on the information she had at the time of the questioning. Ex. 2 at 27–28. She also denied providing false information in making her request for compensatory travel time. Tr. at 192.

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<sup>6</sup> The Individual testified that she came to this realization for the first time at the hearing. Tr. at 200–01.

The next allegation in the SSC is that the management inquiry concluded that the Individual claimed three hours of compensatory time for travel on July 14, 2023, which was unsubstantiated by her receipts and which the Individual attempted to attribute to work performed on July 16, 2023. Ex. 1 at 5; Ex 8 at 622.

When questioned about her travel on July 14 during the management inquiry, the Individual submitted a screenshot of a timekeeping screen entitled “Premium Request” which indicates the Individual requested three hours of “comp time accrued” because she worked extended hours past her normal work day. Ex. Y at 269. The only date on that screenshot indicates she made the request for the July 16, 2023, “Pay Period.” *Id.* at 269. The screenshot also indicates the request was approved. *Id.* However, the explanation she provided when providing that screenshot states that she “worked TDY [temporary duty] on July 16, 2023, and even worked 3 hours [of] overtime on July 16, 2023.” *Id.* at 268. By contrast, in the LOI, she claimed that July 14 was an extended travel day that resulted in nine hours of regular time and three hours of compensatory time for travel and she had to complete a report before her return to her duty station. Ex. 9 at 642. Thus, the record corroborates the allegation that she inconsistently imputed the three hours to July 16 and July 14 when attempting to justify her request for compensatory time.

However, the record also includes a separate form she used to request compensatory travel time; it is entitled “Request for Premium Time,” and indicates it too is for the July 16, 2023, “Pay Period.” Ex. FFF at 56. Therein she indicated that on July 14 she earned three hours of “Comp[ensatory] travel time” due to an extended travel day. *Id.* (also indicating that she worked nine hours of regular time). This form also indicates her request was approved. *Id.* At the hearing, she explained that this latter form included all the time earned in the July 16 pay period. Tr. at 189–90. The above record could explain why she referenced both July 16 and July 14 when answering questions regarding her claim of compensatory travel time during the management inquiry. She could have mistakenly referenced the July 16 pay period date on the Premium Request form when justifying her compensatory travel time request.

## **B. Financial Conduct**

The SSC alleged that the Individual travelled ten times between August 20, 2022, and July 2023, on TDY, and she reported twenty-three inaccurate travel claims for reimbursement and filed thirteen inaccurate time and attendance (T/A) records during that period. Ex. 1 at 6. The SSC further alleged that the inaccurate travel claims cost the government \$960 in unauthorized travel expenses and the T/A inaccuracies resulted in fifty-six-and-a-half hours of unearned compensatory travel time, which represents approximately \$3,400. *Id.*

The record contains the Individual’s explanation regarding each instance of alleged inaccuracy. Starting with the inaccurate travel claims, the Individual confirmed that she had received reimbursement for expenses that should have been removed from her final voucher. For example, the Individual received a reimbursement for parking on August 20, 2022, because she forgot to remove it from her voucher. Ex. 9 at 641. Another example includes the inaccuracies in her travel claims for her travel between February 10 to February 20, 2023, when she claimed and received over-reimbursement for parking in the amount of \$58 for the period. *Id.* at 639–41. She explained that this over-reimbursement occurred because she changed her travel plans due to caring for a

sick colleague, that she inadvertently forgot to remove the parking costs for two days, and her supervisor did not provide guidance on how her travel change would impact her expense reporting. *Id.* at 639. Another example is a May 2023 claim and reimbursement for a rental car she used on a day when she was on personal leave prior to beginning official travel. *Id.* at 633. The Individual explained that, at the time she sought reimbursement, she believed that when her supervisor authorized her to arrive at her travel destination a day before her official government travel began, he had implicitly authorized her to begin her car rental on that day. *Id.* at 633–34. She further explained that it was an innocent mistake that resulted from a lack of training and oversight. *Id.* One final example is that the Individual claimed and received reimbursement for expenses incurred while on personal leave after the end of her work-related travel in April 2023. Ex. 8 at 625. Specifically, the Individual: claimed and received reimbursement for a rental car on April 15, 2023, even though the Individual was not traveling on official government business that day; she received reimbursement for \$137.53 for lodging and tax on April 14, 2023, even though she was not traveling on official government business; and she received per diem for April 14 and 15, even though she was not on official government business. *Id.* When asked about these charges, the Individual stated that she inadvertently forgot to remove the rental vehicle charge, she accidentally claimed the lodging and tax, and the per diem amounts must have been added automatically due to the voucher system. *Id.* at 637–68. She explained that she mistakenly forgot to remove the day of lodging from her voucher and she would have remedied it had “[her direct supervisor] or anyone else tasked with reviewing [her] voucher notified her that she had submitted inputs without documentation.” Ex. 9 at 630–31. At the hearing, she testified that she thought, at the time, that April 14 constituted a “travel day” and would not have been a “personal stay” at the hotel. Tr. at 206. However, she also testified that an entry for a hotel on a personal day should not have been included in her initial trip authorization, and neither she nor the travel professionals subsequently could explain how it was included in her authorization when she had already received approval for leave. *Id.* at 249. She also blamed her mistakes on lack of training and oversight. *Id.* At the hearing, she testified that she “didn’t have all the knowledge” and “should have double-checked things” and asked questions of the “proper office” instead of relying upon “poor guidance” from her leadership when completing her travel vouchers. *Id.* at 255–56.

Turning to the alleged inaccuracies in reporting compensatory travel time, the Individual generally denied that she had earned unjustified compensatory travel time, but she did admit to instances of submitting technically inaccurate requests based on the instruction of her supervisor. For example, the management inquiry determined that she had claimed eleven hours of compensatory travel time on August 21, 2022, even though records demonstrated she was not travelling that day. Ex. 9 at 647. In response, the Individual explained that she actually travelled on August 20 and reported it on August 21 due to her supervisor’s instruction to report travel time on the “designated travel day.” *Id.* Another example is for the compensatory travel time she requested for February 12, 2023, despite the allegation that she did not travel that day. *Id.* at 646. She explained that she actually travelled on Friday, February 10, and her supervisor instructed her to report the five hours of compensatory travel time on February 12 since she had already worked a full day on February 10. *Id.* At the hearing, the Individual further explained that her direct supervisor told her that the day that she reported her official travel on did not matter, and she was instructed to “pick a day.” Tr. at 54; *see also id.* at 59 (stating that she was also instructed, for overnight flights, to list all of the compensatory travel on one day).

In other instances, the Individual completely denied the allegation that she claimed unjustified compensatory travel time. For example, in response to the allegation that she inappropriately claimed four hours of compensatory travel time beyond her regular nine hours on September 30, 2022, the Individual explained that she “departed” from the airport of the TDY location at 6:15 a.m. EST and her flight “landed” in her home state at 5:35 p.m. EST and “it [was] not unreasonable” for her to claim two additional hours traveling to and from the airport. Ex. 9 at 647. However, a review of the receipts attached to the management inquiry indicate that her flight was scheduled to depart at 6:15 a.m. PST instead of EST. Ex. Y at 117 (providing the departure time in relation to the city and state of departure located in the Pacific time zone); *see also* Ex. Y at 119 (ride share receipt showing an airport arrival time of 5:15 a.m. in the same city and state of departure). Another example is the Individual’s response to the allegation that she claimed ten hours of compensatory travel time on December 10, 2022, despite not travelling for business for ten hours that day. Ex. 9 at 646. The Individual stated she travelled from 8:00 a.m. to 3:47 p.m., approximately eight hours, and there is “zero evidence that the additional two hours . . . were not part of her official travel time getting to the airport, through security, and checking and retrieving luggage.” *Id.* However, the print records of her flight details indicate that the Individual’s location of departure was in the Mountain time zone while her arrival location was in the Eastern time zone; thus the record indicates she travelled from 10 a.m. to 3:47 p.m. or approximately six hours. Ex. Y at 131.

She also asserted in many instances that even if she had made an error, they were the product of lack of training and oversight. *See, e.g.*, Ex. 9 at 645–47. She also explained that delays and time zone changes complicated the recording of compensatory travel time. Tr. at 59. She testified that when she expected to accumulate compensatory time, she would have a discussion with her team lead and direct supervisor regarding the expectation to receive approval. *Id.* at 57; *see* Ex. PPP at 84 (messages demonstrating that she told her supervisor that a flight option would result in thirteen hours of compensatory time and received his approval). She testified that her supervisor told her to “lump [her compensatory time] all together and just put notes in the justification.” Tr. at 189–90. The Individual testified that she has taken training on how to properly report travel since the end of the management inquiry. *Id.* at 180.

The Individual also explained that when she was interviewed during the management inquiry, she felt very pressured to provide answers without the ability to consult her records before responding. *Id.* at 155. The Individual confirmed, generally, that in an attempt to answer the questions asked of her she may have provided answers that were inconsistent. *Id.* at 185. She also testified that while she made mistakes in her travel, they were not intentional, and she was “eager to make amends to the agency and do what’s right, make the payments, do the self-training, . . . and do everything to [her] ability to rectify the situation.” *Id.* at 186. The Individual testified that she had never been told about mistakes in her travel vouchers prior to their approval. *Id.* at 67. However, the record includes screenshots of a May 2023 written discussion with her then-supervisor where he questioned an error in her post-trip voucher regarding hotel tax and a gas receipt. Ex. PPP at 81. The Individual testified that she spoke with this same supervisor regarding the management inquiry’s allegations that she had inaccurately reported compensatory travel time, and he told her that it “looks fine” and she “did as [he] directed.” Tr. at 243. However, she testified that she was fifty-percent responsible for her inaccurate reporting. *Id.* at 253.

After being notified of the results of the management inquiry, the Individual requested that a member of her organization's travel team complete a "soft audit" of her travel expenditures between December 2022 and July 2023. *Id.* at 211. That soft audit found that she had eighteen inaccuracies in her travel where she owed the Department for her expenditures. Ex. LL (also identifying two inaccuracies that went in favor of the Individual and reduced the total amount owed to the Department); *see also* Tr. at 211 (the Individual stating that she only counted sixteen inaccuracies in the soft audit). The Individual also requested a "hard audit" from the Office of Travel Management. Tr. at 179, 229. The hard audit, as compared to the soft audit, demonstrated the Individual was liable for a greater reimbursement in five of the six trips audited by both entities. For example, regarding the Individual's travel from July 10 to July 22, 2023, the soft audit found that the Individual owed \$130.58 while the hard audit determined she owed \$409.66. *Compare* Ex. LL at 115 *with* Ex. PPPPP at 5. The Individual testified that she had made payments to reimburse the government based on the results of the hard audit. Tr. at 221. The record includes payment confirmation for only six of the seven trips for which the hard audit concluded the Individual received an overpayment. Ex. PPPPP–VVVVV. The Individual testified that she had also made multiple requests to forfeit her compensatory leave, but despite forfeiting some, she has tens of hours that she has not yet been allowed to forfeit back. Tr. at 177.

Around April 2024, the Individual transferred to a new office. Ex. DD. At the hearing, the Individual's current supervisor testified on her behalf. Tr. at 88. The current supervisor explained that when the Individual first started in her office, the Individual was nervous about being required to travel because of her past experiences. *Id.* at 93–94. As a result, the current supervisor procured additional training for the Individual to help reduce the Individual's apprehension. *Id.* The supervisor also stated that the Individual had created a "step-by-step plan to be sure she . . . was doing travel correctly . . . ." *Id.* at 93–94, 98; Ex. II. The current supervisor testified that, to her knowledge, the Individual has not made any errors in reporting her travel time while in the new office. Tr. at 105. She also testified that in her experience the Individual is trustworthy and reliable. *Id.* at 109.

## **V. ANALYSIS**

### **A. Guideline E Considerations**

Conditions that can mitigate security concerns based on personal conduct include the following:

- (a) The individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) The refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) The offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to

recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

- (d) The individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) The individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- (f) The information was unsubstantiated or from a source of questionable reliability; and
- (g) Association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17.

I conclude that the record demonstrates the absence of Guideline E concerns for the following reasons. I first note that the allegations contained under Guideline E relate to the responses the Individual provided to the questions presented during the management inquiry and the LOI regarding her compensatory travel time requests for July 14 and July 22, 2023. Thus, it is not the requests themselves that form the basis of concern, but rather the Individual providing false or misleading information in response to the questions about those requests. Accordingly, I make the following findings.

The record establishes that the Individual's conduct was likely the product of unintentional confusion on the part of the Individual and therefore her conduct does not demonstrate she intentionally provided misleading or false information. As indicated above in Section II, the allegations in the SSC regarding the explanations the Individual provided do not indicate that she intentionally provided misleading information during the management inquiry and in response to the LOI in an attempt to avoid the consequences that could result from failing to justify her compensatory travel time requests. I find that the explanations she provided for that behavior are consistent with the evidence in the record. For example, the evidence demonstrates that she consistently reported her compensatory travel time on a single day of travel, which accounts for why her actual travel dates for her overnight flight from July 21 to July 22 did not match. Furthermore, she established how she could have transported her coworkers as part of her true travel timeline and she admitted that she had referenced the wrong day when originally explaining how she accumulated the fifteen hours of compensatory time. With respect to her July 14 travel, the fact that the records support the LSO's allegation that the Individual referenced two separate days when attempting to justify the three hours of compensatory time she claimed—pointing to both July 14 and July 16—does not outweigh my consideration of the following evidence she cited in explanation. Again, the record demonstrates that her inconsistent answers could be explained by her reference to the different records of her timekeeping, which could be read to justify the time

on both dates. Her timecards demonstrate that she requested compensatory time for the July 16 time period and, in one breakdown, explained that although she was requesting it for the July 16 pay period, the time was actually accumulated on July 14. Thus, it is reasonable to conclude that she mistakenly referred to the wrong date when justifying the three hours she earned.

Beyond her explanations, she testified that she obtained training to ensure that she does not incorrectly account for her compensatory travel time in the future and that she now understands she must report her travel time on the actual day accrued. Accordingly, it is not likely that she will again provide contradictory information when describing her request for compensatory time. Lastly, the disclosure she made during the hearing regarding the inaccuracy in her request for regular time, as opposed to compensatory time or annual leave, on July 21 does not weigh against my conclusion. That inaccuracy was based on her previous accounting of her time, and she was responding to records she previously created to justify her past time requests. Therefore, it does not indicate that she is likely to make the same mistake in the future. Accordingly, I conclude that the Individual's above conduct does not support an inference she intentionally provided misleading or false information and that it is unlikely to recur and does not cast doubt on the Individual's reliability, trustworthiness, or good judgment.

## **B. Guideline F Considerations**

Under Guideline F, the following conditions could mitigate security concerns based on financial considerations:

- (a) The behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) The conditions that resulted in the financial problem were largely beyond the person's control (*e.g.*, loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) The individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;
- (d) The individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;
- (e) The individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue;
- (f) The affluence resulted from a legal source of income; and

- (g) The individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Adjudicative Guidelines at ¶ 20.

I find that none of the above conditions apply to resolve the Guideline F concerns. Unlike the Individual's alleged untruthfulness under Guideline E, which pertained to two discrepancies for which the Individual had reasonable explanations, I find that the significant number of mistakes, many of which should have been obvious to the Individual even without the training she has subsequently received and which benefited the Individual in her expenditure reporting, provides an inference that the inaccuracies were intentional. Paragraph 20(a) does not apply because the Individual's behavior was relatively recent and frequent. Only a year and a half has passed since the period covered by the management inquiry ended. And the Individual admitted, and both audits confirmed, several errors in the travel vouchers between August 2022 and July 2023. Furthermore, both audits corroborated the management inquiry's findings that the reported expenditure inaccuracies were in favor of the Individual and therefore at the expense of the Department. Thus, when viewed together, the passage of approximately nineteen months does not outweigh the persistent financial errors represented in almost every trip taken by the Individual. I would reach the same conclusion even if I only considered the errors to which the Individual has admitted. Lastly, I conclude that the circumstances under which the travel expenditure issues occurred do not provide a basis to find that the Individual has resolved them. I agree with the Individual's acknowledgement that, despite the asserted lack of training and oversight, she bears responsibility for the concerning conduct. Many of the inaccuracies that she admitted resulted from her own failure to ensure that she accurately reported her reimbursable expenses. For example, she failed to remove several receipts despite specific instructions to do so, and therefore training cannot be said to rehabilitate that concerning tendency. Following the same rationale, I conclude that she has not resolved the concern stemming from her reimbursement for the \$137.53 for lodging while on personal leave, which was specifically referenced in the SSC. The Individual did not adequately explain why she should not be held responsible for this item being included on her authorization given that she had already obtained approval to be on personal leave on that day, and therefore she also failed to adequately explain why she neglected to remove it after her trip concluded.

My conclusion is the same for the Individual's calculation of compensatory time. I first note that for some of the issues regarding compensatory time, the Individual does provide a plausible explanation that she followed her supervisor's instruction to report the time on her scheduled travel date as opposed to the date she actually traveled. That rationale reasonably explains the inaccuracies based only on travel occurring on a different day than her official travel date. It does not address the allegations that she did not justify the claimed time as compared to what would be reasonable based on her authorized schedule. Thus, the above explanation does not account for those latter instances, including the July 21–22 travel, when she revealed that she had inaccurately reported having worked regular time for July 21 when she was on personal leave in addition to compensatory travel time. The Individual's assertion that the LSO cannot "prove" she did not earn the compensatory travel time she requested misunderstands the Individual's burden under Part 710. The Individual must demonstrate that the properly invoked concerns are mitigated. In this case, she has failed to do so under ¶ 20(a).

I also find that ¶ 20(b) does not apply because the financial concerns at issue here were entirely within the Individual's control since they are based on the information that she provided when requesting compensatory time and travel reimbursement.

Next, I find that ¶ 20(c) does not apply because the Individual has not received and is not receiving financial counseling from any source.

Turning to ¶ 20(d) and (e), those provisions do not apply because the Individual is not alleged to owe any past due debt or have any creditors.

Paragraphs 20(f) and (g) are inapplicable because the concerns outlined in the SSC are not based on unexplained affluence or unpaid taxes.

## **VI. CONCLUSION**

In the above analysis, I found that there was insufficient derogatory information in the possession of the DOE to raise a security concern under Guideline E of the Adjudicative Guidelines, and there was sufficient derogatory information to raise a security concern under Guideline F. After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the Guideline F security concerns. Accordingly, I have determined that the Individual's access authorization should not be restored.

This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

James P. Thompson III  
Administrative Judge  
Office of Hearings and Appeals