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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: January 29, 2025)	Case No.: PSH-25-0071
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_____)	

Issued: July 3, 2025

Administrative Judge Decision

Erin C. Weinstock, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (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."¹ 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 be granted.

I. BACKGROUND

The Individual is employed by a DOE contractor in a position that requires him to hold an access authorization. Exhibit (Ex.) 1 at 6.² In March 2024, the Individual completed a Questionnaire for National Security Positions (QNSP), and in August 2024, he underwent an enhanced subject interview (ESI). Ex. 6 at 125–26. During the ESI, the Individual told the investigator that he had not filed his state or federal tax returns for 2022 or 2023. *Id.* at 100. As a result of the Individual's disclosures, the Local Security Office (LSO) issued the Individual a Letter of Interrogatory (LOI), which the Individual completed in November 2024. Ex. 5.

The LSO subsequently issued the Individual a Notification Letter advising him that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. Ex. 1 at 5. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that

¹ 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.

² References to the Local Security Office's (LSO) exhibits are to the exhibit number and the Bates number located in the top right corner of each exhibit page.

the derogatory information raised security concerns under Guideline F of the Adjudicative Guidelines. *Id.*

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I conducted an administrative hearing. The LSO submitted six exhibits (Ex. 1–6). The Individual submitted seven exhibits (Ex. A–G). The Individual testified on his own behalf. Hearing Transcript, OHA Case No. PSH-25-0071 (Tr.).

II. THE SECURITY CONCERNS

Guideline F, under which the LSO raised the security concerns, relates to security risks arising from financial concerns. “Failure 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. In citing Guideline F, the LSO relied upon the Individual’s admission that he had not filed his federal or state tax returns for 2022 and 2023. Ex. 1 at 5. The information cited by the LSO justifies its invocation of Guideline F. *See* Adjudicative Guidelines at ¶ 19(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 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 Dep’t 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).

An 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). An individual is afforded a full opportunity to present evidence supporting their 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.* at § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. FINDINGS OF FACT

In 2022, the Individual worked in State A while he was a resident of State B. Ex. 6 at 100–01. When the Individual attempted to file his federal and state tax returns for 2022, he copied the relevant information from his W2 into tax preparation software, and the software asked him to file tax returns for both State A and State B, which he knew was incorrect. Tr. at 20–21. The tax software would have allowed the Individual to file his taxes, but it would have listed his state of residence incorrectly, and the Individual judged that filing an inaccurate return would have been a bigger issue than filing a delayed return. *Id.* at 14. He knew that he should hire a tax professional to help him fix the issue, but he could not afford to do so at the time. *Id.* at 21–22. The Individual was not aware that he could seek an extension to file his tax returns. *Id.* at 25.

The Individual did not file his 2023 federal or state tax returns because when he attempted to do so the filing software told him that he needed information from his 2022 federal and state tax returns that still had not been filed. *Id.* at 19–20.

The Individual later learned that he was having difficulty filing his 2022 federal and state tax returns because his employer had mistakenly listed State A as his state of residence rather than State B. *Id.* at 14. The Individual discovered this error in 2025 because when he was gathering documents to file his 2022 and 2023 taxes in 2025, he discovered that his employer had filed a second, corrected W2. *Id.* at 18. When the Individual used this W2, he was able to accurately file his taxes. *Id.*

The Individual testified that he filed his federal and state tax returns for 2022 and 2023 in March 2025. *Id.* at 27, 29. He filed his 2024 federal and state tax returns approximately one week later in April 2025. *Id.* at 27. For his 2022 federal tax return, the Individual received a tax refund of \$703. *Id.* at 26. For his 2022 state tax return, the Individual received a tax refund of \$77. *Id.* at 29. For his 2023 federal tax return, the Individual was owed a tax refund of \$159. *Id.* at 30. For his 2023 state tax return, the Individual owed \$494, which he has paid. *Id.* at 31.

To support his claims that he had filed his tax returns, the Individual provided print outs of his federal and state tax returns for 2022, 2023, and 2024. Ex. A; Ex. B; Ex. C. He also submitted copies of federal tax transcripts for 2022, 2023, and 2024 to show that his federal tax returns had been properly filed with the IRS. Ex. D; Ex. E; Ex. F. To show that he had filed his state returns, the Individual provided a copy of his records showing that his 2022 state tax refund had been credited towards the total he owed on his 2023 state taxes and a printout showing that he had paid the remainder of the balance he owed for his 2023 state taxes. Ex. G.

The Individual also explained that when he was married, he and his then-wife had a great deal of trouble saving money. Tr. at 36. Since they have divorced, the Individual has paid off a significant amount of debt and begun to save money. *Id.* at 37. These savings included setting aside money to pay for a tax professional to help him file all of his late tax returns. *Id.* He testified that he intends to file his tax returns in a timely manner in the future. *Id.* at 34–35.

V. ANALYSIS

An individual may be able to mitigate security concerns under Guideline F through the following conditions:

- a) the behavior happened so long ago, was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or 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 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 action to solve the issue;
- f) the affluence resulted from a legal form or income; and
- g) the individual 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.

Here, the security concerns are mitigated pursuant to mitigating condition (g). The Individual has shown that he has filed both his state and federal tax returns for 2022 and 2023 and that he has paid the amount he owed, if any, to each of the appropriate tax authorities. Further, he provided evidence that he has properly filed his federal and state tax returns for 2024 and that intends to file his tax returns in a timely fashion in the future. As such, the security concerns related to his failure to file his tax returns are resolved pursuant to mitigating condition (g).

Accordingly, I find that the Individual has resolved the security concerns asserted by the LSO under Guideline F.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guideline F of the Adjudicative Guidelines. After considering all the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has brought forth sufficient evidence to resolve the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined that the Individual's access authorization should be granted. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Erin C. Weinstock
Administrative Judge
Office of Hearings and Appeals