

***The original of this document contains information which is subject to withholding from disclosure under 5 U.S. C. § 552. Such material has been deleted from this copy and replaced with XXXXXX's.**

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

In the Matter of: Personnel Security Hearing)
)
Filing Date: April 9, 2025)
)
_____)

Case No.: PSH-25-0100

Issued: September 11, 2025

Administrative Judge Decision

Erin C. Weinstock, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXXXXXX (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."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 not 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 5.² In August 2023, the Individual completed a Questionnaire for National Security Positions (QNSP) in which he disclosed that he had failed to file his federal tax return for each tax year from 2017 to 2023. Ex. 7 at 71–75. He also disclosed that he had failed to file his state tax returns for the same period of time. *Id.* During an enhanced subject interview (ESI) in May 2024, the Individual confirmed this information to an investigator. Ex. 8 at 152. 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 December 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.

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.

Ex. 1 at 6. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline F of the Adjudicative Guidelines. *Id.* at 5.

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 eight exhibits (Ex. 1–8). The Individual submitted twelve exhibits (Ex. A–L). The Individual testified on his own behalf. Hearing Transcript, OHA Case No. PSH-25-0100 (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 tax years 2017 to 2023 Ex. 1 at 5. The information cited by the LSO justifies its invocation of Guideline F. *See* Adjudicative Guidelines at ¶ 19(f) (indicating that “failure to file . . . annual Federal, state, or local income tax returns” can raise a security concern under 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 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

The Individual testified that he is a W-2 employee and receives a W-2 form each year, but he does not “know how to file taxes.” Tr. at 14, 30. He said he never reached out to anyone to ask them to help him file his tax returns. *Id.* at 14.

He has not filed either federal or state tax returns since 2017. *Id.* at 11. He said that he had “[n]o real excuse for as to why [he hasn’t] filed.” *Id.* at 13. When asked if he had ever been told that he needed to file tax returns, the Individual stated that he “didn’t know the timely manner that you have to file taxes in” and said he was “not a tax expert.” *Id.* at 14.

In August 2025, the Individual filed his federal tax returns for 2022, 2023, and 2024 because those were the only tax years for which he could file returns on the IRS website. *Id.* at 11–12; Ex. D; Ex. E; Ex. F. The Individual’s girlfriend filed these tax returns for him. Tr. at 16. For the three federal tax returns that the Individual filed, he owes approximately \$75,000 to the IRS. Ex. D; Ex. E; Ex. F. The Individual is unsure why he owes such a large amount of money to the IRS. Tr. at 17. The Individual contacted the IRS about setting up a payment plan, but he has not received a response. *Id.* The Individual testified that he is unsure what the payment on the payment plan with the IRS is going to be, but he is willing to pay the amount. *Id.* at 22.

The Individual testified that he has filed his state tax returns for 2022, 2023, and 2024. *Id.* at 19; *see also* Ex. J; Ex. K; Ex. L (showing that the Individual completed state tax returns for 2022, 2023, and 2024, but not that the state tax returns were filed). For the three state tax returns that the Individual claimed to have filed, he owes approximately \$13,000 to the tax authority in his state of residence. Ex. J; Ex. K; Ex. L. He stated that he is working with the state tax authorities on getting a payment plan for this debt. Tr. at 21.

The Individual has not reached out to the IRS to determine if he could file tax returns for 2017, 2018, 2019, 2020, or 2021. *Id.* at 12. He testified that he was “doing to the best of [his] knowledge what [he could] do right now,” but he has not reached out to a CPA or other tax professional for assistance. *Id.* at 13.

The Individual testified that he is planning to file his tax returns for tax years prior to 2022 “if [he] can go that far back.” *Id.* at 14–15. He has “been trying to get this taken care of for the past few months,” but he has not found a contact. *Id.* at 15.

When asked why the DOE should trust that the Individual will file his tax returns in the future, he said that he now knows how financially harmful not filing can be, and he does not want to be in that position again. *Id.* at 32. He testified that he has learned he needs to file his taxes in a timely manner and stay on top of all of his financial obligations. *Id.*

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.

The Individual failed to file his taxes in a timely fashion for at least eight years. He did not file his tax returns for tax years 2022 through 2024 until August 2025, and his failure to file tax returns is ongoing as to tax years 2017 to 2021. Therefore, the behavior is both recent and frequent. The Individual has also failed to identify any unusual circumstances that could resolve the doubts as to his reliability presented by his failure to file tax returns for such an extended period of time. As such, I cannot say that he has mitigated the security concerns pursuant to mitigating factor (a).

The Individual admitted at the hearing that he did not have a "real" reason why he had not filed his taxes, so mitigating factor (b) is inapplicable.

The Individual has not alleged that he received or is receiving financial counseling about his tax returns. Therefore, mitigating factor (c) does not apply.

The SSC does not allege that the Individual has any past due debt or creditors, so mitigating factors (d) and (e) are inapplicable.

There is no allegation that the Individual demonstrated unexplained affluence, so mitigating factor (f) does not apply.

At the time of the hearing, the Individual had not taken any action to file his state or federal tax returns from 2017 to 2021. The Individual has shown that he has filed both his state and federal tax returns for 2022, 2023, and 2024. However, the documents submitted by the Individual show that he owes the federal government around \$75,000 and the state government around \$13,000. The Individual testified that he has contacted the IRS and state tax authority about setting up a payment plan, but he had not entered into any kind of plan at the time of the hearing. Because he has not filed his state or federal tax returns for 2017 to 2021 and because he does not yet have an arrangement with federal or state tax authorities to pay the amount he owes, I cannot find that the Individual has mitigated the security concerns pursuant to mitigating factor (g).

Accordingly, I find that the Individual has not 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 not 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 not 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