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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: May 13, 2025)	Case No.: PSH-25-0118
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Issued: September 22, 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 not be restored.

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 January 2025, 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 tax years 2019, 2020, 2021, and 2022. Ex. 6 at 54–56. 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 February 2025. 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 thirteen exhibits (Ex. A–M). The Individual testified on his own behalf. Hearing Transcript, OHA Case No. PSH-25-0118 (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 tax returns for the 2019, 2020, 2021, and 2022 tax years. 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 . . . tax returns” may 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

When the Individual was supposed to file his federal tax return for 2019 in early 2020, he forgot due to the chaos related to the COVID-19 pandemic. Tr. at 9. The next year, when he realized he had not filed his 2019 tax return, the Individual did not file his 2019 or 2020 tax returns because it was his understanding that he was not legally required to file a federal tax return if he would be owed a tax refund. *Id.* He thought that failing to file his federal tax return just meant that he was “forfeiting” his refund. *Id.* When it came time to file his 2023 federal tax return, the Individual filed because he knew he would owe money because his wife began taking her Social Security benefits. *Id.* at 10; Ex. G (tax compliance report showing that the Individual’s 2023 federal tax return was timely filed). The Individual also filed his 2024 federal tax return in a timely fashion. Ex. G (tax compliance report showing that the Individual’s 2024 federal tax return was timely filed).

The Individual did not learn that he had a legal obligation to file a federal tax return each year until he received notice that his security clearance was suspended on or about March 3, 2025. Tr. at 10. The notice that his security clearance was suspended did not contain any information about why his security clearance was suspended, but he decided to check the IRS website to confirm his understanding about his federal tax obligations. *Id.* at 10–11. When he looked at the IRS website, he learned that “any earnings over \$15,000 and change per year requires [] filing federal income tax [returns].” *Id.* at 11. He now understands that he has a legal obligation to file a federal tax return if he earns more than that amount. *Id.*

After the Individual became aware of this obligation, he bought tax software that would help him to file his federal tax returns for 2019, 2020, 2021, and 2022. *Id.* at 11–12. The Individual testified that he completed his federal tax returns and sent them to the IRS via certified mail on March 11, 2025. *Id.* at 12; Ex. A (completed 2019 federal tax return forms); Ex. B (completed 2020 federal tax return forms); Ex. C (completed 2021 federal tax return forms); Ex. D (completed 2022 federal tax return forms); Ex. E (certified mail receipt). Each of these federal tax returns was signed by the Individual and his wife on March 10, 2025, and indicated that he did not owe any money to the IRS. Ex. A; Ex. B; Ex. C; Ex. D. The tracking on the certified mail showed that the package that the Individual indicated contained the federal tax returns was delivered to the IRS on March 15, 2025. Ex. F. The Individual submitted a tax compliance report from the IRS generated in August 2025 that showed that he had properly filed his federal tax returns for tax years 2023 and 2024, that his 2022 federal tax return had been filed late, and that his 2021 federal tax return was not on file. Ex. G.

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.

With regard to mitigating factor (a), the Individual has not mitigated the security concerns here because he has not presented sufficient evidence that he actually filed his 2019 and 2020 federal tax returns. While he provided copies of his completed tax returns for those two years, he did not provide any kind of proof, for example tax transcripts, showing that the IRS received and processed them. Without some kind of proof of those filings, I cannot conclude that the behavior alleged in the SSC happened so long ago, was infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on his current reliability, trustworthiness, or good judgment. Therefore, the Individual has not mitigated the security concerns pursuant to mitigating factor (a).

Even if I were to accept the Individual's testimony that he did not file his federal tax return for 2019 in a timely fashion due to the COVID-19 pandemic, which was a condition beyond his control, I cannot say his subsequent failure to file for nearly five years was responsible behavior under the circumstances. Additionally, I cannot say that the Individual's lack of knowledge about his federal tax obligations was a situation beyond his control that would excuse his failure to file tax returns for four consecutive years. As such, the Individual has not mitigated the security concerns pursuant to mitigating factor (b).

There is no indication that the Individual is receiving any kind of financial counseling, and, therefore, mitigating factor (c) is inapplicable.

Mitigating factors (d), (e), and (f) do not apply here because there has not been any allegation that the Individual had any kind of debt or unexplained affluence.

As I mentioned above, the Individual did not provide any evidence that the IRS received and processed his federal tax returns for 2019 or 2020. Without some kind of documentation for these years, I cannot find that the Individual has made arrangements to file his federal tax returns with the appropriate authority. Therefore, the Individual has not 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 restored. 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