*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: May 1, 2025	)	Case No.: PSH-25-0112
	)	
	)	

Issued: October 16, 2025

Administrative Judge Decision

Andrew Dam, 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 holds access authorization in conjunction with her employment with a DOE contractor. Exhibit (Ex.) 1 at 6.[2] In August 2023, the Individual submitted a Questionnaire for National Security Positions (QNSP). Ex. 6 at 33–86. In the 2023 QNSP, the Individual indicated that she had not filed federal and state tax returns for tax years 2019, 2020, 2021, and 2022. *Id.* at 76–78. The LSO issued to the Individual a Letter of Interrogatory (LOI) to which she submitted a response in December 2024 (2024 LOI Response); in the 2024 LOI Response, the Individual disclosed that she had also failed to file her 2023 federal and state tax returns. Ex. 5 at 28, 30.

Due to the unresolved security concerns associated with her failure to file her tax returns, the LSO suspended the Individual's clearance and, in January 2024, informed the Individual in a Notification Letter that it possessed reliable information creating substantial doubt regarding her eligibility to hold a security clearance. Ex. 1 at 6–7. In an attachment to the letter entitled Summary

[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.

of Security Concerns (SSC), the LSO explained that the derogatory information raised concerns under Guideline F of the Adjudicative Guidelines. *Id.* at 5.

The Individual exercised her right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2 at 10–18. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. The LSO submitted seven numbered exhibits (Ex. 1–7) into the record. The Individual submitted three exhibits in three separate PDF files (Ex. A, B, and D).[3] The Individual testified on her own behalf. *See* Transcript of Hearing, OHA Case No. PSH-25-0112 at 3 (hereinafter cited as "Tr."). The LSO presented no witnesses.

II. NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline F (Financial Considerations) of the Adjudicative Guidelines as the basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 5. "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 . . . information." Adjudicative Guidelines at ¶ 18. Among the conditions set forth in this guideline that could raise a disqualifying security concern is the "failure to file . . . annual [f]ederal, state, or local income tax returns or failure to pay annual [f]ederal, state, or local income tax as required[.]" *Id*. at ¶ 19(f). The SSC cited the Individual's failure to file federal and state tax returns for tax years 2019, 2020, 2021, 2022, and 2023. Ex. 1 at 5. 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 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 eligibility for 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).

[3] No Exhibit C was ever submitted; references to the Individual's exhibits are to the exhibit letter and the PDF page number.

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 estimated that she has had a clearance since 1999. Ex. 6 at 73. The record includes QNSPs previously submitted in 2009 and 2016 as part of prior clearance investigations. *See* Ex. 7 at 219–67, 318–78. In those QNSPs, the Individual responded, "No" to the question, "**[i]n the past seven (7) years** have you failed to file or pay Federal, state, or other taxes when required by law or ordinance?" *Id.* at 260, 370 (emphasis in original). The Individual testified that she understood that filing her tax returns was a legal obligation regardless of the security clearance process. Tr. at 57–58.

Despite that understanding, the Individual stopped filing her tax returns, starting with tax year 2019 and continuing through tax year 2023. *Id.* at 18. The Individual testified that, when her 2019 tax returns were due in 2020, the "COVID [pandemic] hit"; her "daughter moved out and started college"; and she was "quite overwhelmed with a lot of work." *Id.* at 19. The Individual also explained that she typically had an accountant prepare and file her tax returns. *Id.* at 18. According to the Individual, the accountant developed a "critical illness" in either 2020 or 2021, which in part contributed to her not filing the returns. *Id.* at 18, 20. The Individual testified that she "didn't want anyone else to do them [her tax returns] because [she] was so used to taking [her] stuff to [the accountant] . . . ." *Id.* at 21. The Individual also explained that other matters felt "more important than . . . taking care of [her] own situation . . . ." *Id.* at 19. For example, in 2022, the Individual's elderly father underwent lung surgery. *Id.* at 44. Then, in 2023, the Individual's daughter was in a life-threatening accident, requiring ongoing medical treatment. *Id.* at 19.

When the Individual was subject to re-investigation in 2023, she "knew that [she] was going to have to be honest" regarding the status of her tax filings. *Id.* at 21–22. Accordingly, she disclosed in the August 2023 QNSP, her failure to file her tax returns for tax years 2019, 2020, 2021, and 2022: "I am behind from filing 2019 through 2022 and plan to get caught up within the next year. I typically never owe. I believe I have filed the proper extensions forms. I am working with my accountant to get this completed as I fill this out." Ex. 6 at 76.

Over a year later, in October 2024, the Individual underwent an enhanced subject interview (ESI) with an investigator regarding her delinquent tax returns. Ex. 7 at 155. The investigator's notes reflect that, at the time, the Individual's tax returns remained delinquent:

> [The Individual] believes what has been withdrawn from her pay will be more than what she owes [with respect to tax liability]. [The Individual] is working with an accountant currently to file no later than 02/2025. [The Individual] did not file 2019 tax year due to COVID, then has not filed since as she has had problems getting the documents needed to file.

Id. at 160.

Two months later, in December 2024, the Individual indicated in her 2024 LOI Response that her tax returns for tax years 2019, 2020, 2021, and 2022 remained delinquent, again providing her excuse as "COVID and life events" and further delaying the date she anticipated resolving the issues to "3/30/25 if not sooner." Ex. 5 at 26–30. The Individual also disclosed that she failed to file her 2023 federal and state tax returns. *Id.* at 28, 30.

At the hearing, the Individual explained that, in November 2024, she had collected her receipts and documentation in different boxes for the accountant and brought them to her for processing. Tr. at 24–25. The Individual recounted that her accountant "could barely get them done." *Id.* at 20. In particular, she testified that her accountant's health had visibly deteriorated: "She got them [the tax returns] done, but you can tell, she's lost some hair[.] [S]he's . . . not doing too well at all." *Id.*

The Individual submitted photos of ten envelopes, five addressed to the federal Department of Treasury's Internal Revenue Service (IRS) and five addressed to the state tax authority. Ex. 2 at 11, 13, 14. The file names of the photos read as "2019 thru 2020 Tax Mail Out.pdf" and "2021 thru 2023 Tax Mail Out.pdf[,]" and the Individual also included photos of ten certified mail receipts stamped on April 19, 2025—evincing that the Individual mailed the 2019 through 2023 federal and state tax returns in April 2025. *Id.* at 10, 12, 15.

The Individual submitted correspondence from the state tax authority reflecting that she submitted her state tax returns for tax years 2019, 2020, and 2021. Ex. B at 2–4. She also submitted a screenshot from the state tax authority's website reflecting that her returns for tax years 2019, 2020, 2021, 2022, 2023, and 2024 were filed—albeit most are noted as "[l]ate"—including the 2024 tax return. *Id.* at 6.

The Individual submitted screenshots from the IRS website reflecting that her federal tax returns for 2020, 2021, 2022, 2023, and 2024 were filed. Ex. A at 5–9. The Individual testified that she could not submit the same screenshot for tax year 2019 given the number of years that have elapsed since that tax year. Tr. at 38; *see also* Ex. A at 4 (IRS website indicating that the "Return summary" feature only allowed users to "[v]iew key information for [ ] available tax returns as originally filed *for the past 5 years*" and with a drop-down menu that displayed 2020 as the earliest tax year for this feature) (emphasis added).

However, the Individual also submitted another screenshot from the IRS website "list[ing] the [tax] transcripts available online . . . ." Ex. A at 3. The website also explained that "[t]hese transcripts show changes [the filer] or the IRS made after the original return was filed" and displaying that a "2019 Account Transcript" PDF is available for the Individual to download. *Id.* at 3 (emphasis added). During the hearing, the Individual and her attorney represented that they would, after the conclusion of the hearing, download and submit the 2019 tax account transcript to further confirm that the 2019 tax return had been received and filed with the IRS. Tr. at 39–41, 65–66. However, no such document was submitted into the record. Regardless, the weight of the evidence leads me to find that the Individual filed her 2019 federal tax return, given that she provided proof that she mailed it to the IRS, that she filed her 2019 state tax return, and that she filed all her other federal tax returns.

The Individual acknowledged that her delinquent tax returns reflected poorly on her judgment and reliability. *Id.* at 52. Regarding her future intention to file tax returns, the Individual indicated that she was "not going to let [her] work take over [her] life anymore." *Id.* at 51. She indicated that she's already started collecting documents for her accountant "in an orderly fashion" so that, "come January" of next year, her accountant "has [the] stuff that she needs to execute" the Individual's tax filings. *Id.* at 51–52. She indicated that she was motivated to continue filing on time upon realizing that she had forfeited tax refunds by failing to timely file. *Id.* at 52; *see, e.g.*, Ex. B at 2 (denying the Individual's 2019 refund from the state tax authority for filing more than three years after the state tax return due date).[4] She also indicated that it was her intention to use the same accountant who has been ill; however, "if she's unable to" file her tax returns, the Individual "definitely will go to someone else for sure . . . ." Tr. at 35.

V. ANALYSIS

Conditions that could mitigate a security concern under Guideline F include:

> (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 judgment;
>
> (b) the conditions that resulted in the financial problem were largely beyond the person's control . . . 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 . . . ; 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;
>
> (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.

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[4] The Individual testified that she "always overpa[id] her taxes" and that she never owed taxes in the tax years in question because her employer "withheld from [her] paycheck[.]" Tr. at 18, 30. The documentation submitted generally reflects that the Individual had withheld more than she owed and was owed refunds by both the IRS and the state tax authority. *See* Ex. A at 5–9 (IRS website screenshots reflecting refund amounts for $2,758 in tax year 2020; $7,472 in tax year 2021; $12,345 in tax year 2022; $7,444 in tax year 2023; $9,723 in tax year 2024); Ex. B at 2–3 (state tax authority's letters reflecting refund amounts for $1,050 in tax year 2019 and $546 in tax year 2020).

As a preliminary matter, the cited security concerns are for the Individual's failure to file her federal and state tax returns for tax years 2019, 2020, 2021, 2022, and 2023. Accordingly, mitigating conditions (d), (e), and (f) lack application since the cited security concerns do not involve overdue or unresolved debts or unexplained affluence.

Regarding mitigating condition (a), the behavior—taking no action to file her tax returns from tax years 2019 through 2023—occurred regularly for several years. Furthermore, the Individual only filed these tax returns in April 2025, five months before the hearing. Accordingly, I cannot find that the behavior occurred "infrequently" or "so long ago." Furthermore, the Individual cited various circumstances that resulted in her late filing—from being busy at work, to the COVID pandemic, to the serious medical needs of her daughter and father, and the illness of her accountant. Some of the circumstances were not unique to this Individual, and some have not yet been resolved. For example, while the Individual generally cites the COVID pandemic, everyone experienced this circumstance, and I have no indication that the pandemic had any effect on the Individual that would make her situation so exceptional that it would excuse her from filing her tax returns. The Individual also cites (1) her workload and (2) a number of medical hardships that her family members and accountant experienced, all occurring at various points in the past or in the present. While I am sympathetic, her daughter's illness remains ongoing, and the Individual's workload could conceivably increase once again. As such, I am not convinced that these same circumstances would not result in the Individual failing to file her tax returns in the future. Furthermore, the Individual acknowledged that she understood that filing her tax returns was a legal obligation. That she chose not to satisfy those legal obligations over several years and that she continued to leave those obligations unresolved until only five months before the hearing cast doubt as to her current judgment and reliability. Mitigating condition (a) does not apply.

Regarding mitigating condition (b), the Individual cited several circumstances beyond her control that led to the delinquent tax returns, as described in the prior paragraph. If her delinquencies had not come up in the course of her clearance reinvestigation, I have no indication she would have taken steps to address them: steps were only taken after the submission of her 2023 QNSP and October 2024 ESI. She also allowed the delinquencies to occur repeatedly over a number of years. I simply cannot find that she acted responsibly under the circumstances. Mitigating condition (b) does not apply.

No evidence was put forth regarding financial counseling, and I cannot find that mitigating condition (c) applies.

Regarding mitigating condition (g), the Individual has submitted proof that she has filed the tax returns at issue with the appropriate tax authorities. I have corroborating documentation that the federal and state tax authorities have received all the tax returns at issue and that the returns are considered filed—except for the 2019 federal tax return. However, as explained above, I have credited that the Individual filed her 2019 federal tax return. I also have her testimony and some supporting documentation that she generally overpaid for the tax years in question and does not owe tax liability.

Although the Individual has established the applicability of mitigating condition (g), the Adjudicative Guidelines provide that the mitigating conditions "could" mitigate security concerns under Guideline G, not that they necessarily do so in every case. *Id.* at ¶ 23 (formatting omitted). In applying the mitigating conditions, I have been guided by regulatory considerations set forth at 10 C.F.R. § 710.7(c), including "the age and maturity of the individual at the time of the conduct," "the frequency and recency of the conduct," and "the likelihood of continuation or recurrence."

The Individual's maturity during the events cited in the SSC does not weigh in her favor. I consider that the Individual has held a clearance since 1999 and completed prior QNSPs alerting her of the importance of complying with tax obligations as a clearance holder. Since becoming a clearance holder in 1999, she filed tax returns without issue until tax year 2019. The Individual clearly understood that she was required to file her tax returns and allowed the issue to remain unresolved for several years until only five months before the hearing. That the Individual disregarded her tax filing obligations despite longstanding knowledge of them reflects the very "lack of judgment" and "unwillingness to abide by rules and regulations" cited in Guideline F. *Id.* at ¶ 18. Furthermore, the frequency and lengthy duration over which the matter remained unresolved provide me with little assurance that these issues are unlikely to recur. Weighed against these considerations, I find that the Individual's filing of her delinquent tax returns, only five months before the hearing, is insufficient to resolve the security concerns asserted by the LSO under Guideline F.

As such, I find that the Individual has not resolved the security concerns raised under Guideline F.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised 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.

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.

Andrew Dam
Administrative Judge
Office of Hearings and Appeals