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United States Department of Energy
Office of Hearings and Appeals

In the Matter of: Personnel Security Hearing	)	
	)	
Filing Date: May 16, 2025	)	Case No.: PSH-25-0121
	)	
	)	

Issued: October 24, 2025

Administrative Judge Decision

Kristin L. Martin, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXX (hereinafter referred to as "the Individual") for access authorization under the Department of Energy's (DOE) regulations set forth at 10 C.F.R. Part 710, entitled, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position."[1] For the reasons set forth below, I conclude that the Individual's security clearance should not be restored.

I. BACKGROUND

The Individual is employed by a DOE Contractor in a position which requires that she hold a security clearance. Derogatory information was discovered regarding the Individual's failure to file taxes, as well as the Individual's outstanding debts owed to federal and state tax authorities. The Local Security Office (LSO) began the present administrative review proceeding by issuing a Notification Letter to the Individual informing her that she was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding her eligibility to continue holding a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), the Individual presented the testimony of two witnesses—her Employee Assistance Program (EAP) counselor and her supervisor—and testified on her own behalf. *See* Transcript of Hearing, OHA Case No. PSH-25-0121 (hereinafter cited as "Tr."). The LSO submitted ten exhibits, marked as Exhibits 1 through 10 (hereinafter cited as "Ex."). The Individual submitted five exhibits, marked as Exhibits A through E.

[1] Under the regulations, "'[a]ccess authorization' means 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). Such authorization will also be referred to in this Decision as a security clearance.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning her eligibility for a security clearance. That information pertains to Guideline F of the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, effective June 8, 2017 (Adjudicative Guidelines). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. 10 C.F.R. § 710.7.

Guideline F states that:

> 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. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

Adjudicative Guidelines at ¶ 18. Conditions that could raise a Guideline F security concern include:

(a) Inability to satisfy debts;

(b) Unwillingness to satisfy debts regardless of the ability to do so;

(c) A history of not meeting financial obligations;

(d) Deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, expense account fraud, mortgage fraud, filing deceptive loan statements and other intentional financial breaches of trust;

(e) Consistent spending beyond one's means or frivolous or irresponsible spending, which may be indicated by excessive indebtedness, significant negative cash flow, a history of late payments or of non-payment, or other negative financial indicators;

(f) Failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required;

(g) Unexplained affluence, as shown by a lifestyle or standard of living, increase in net worth, or money transfers that are inconsistent with known legal sources of income;

(h) Borrowing money or engaging in significant financial transactions to fund gambling or pay gambling debts; and

(i) Concealing gambling losses, family conflict, or other problems caused by gambling.

Id. at ¶ 19.

The LSO alleges that the Individual:

- Failed to file her state personal income taxes for tax year 2019;
- Failed to file her federal and state personal income taxes for tax years 2020, 2021, 2022, and 2023;
- Owes about $30,000.00 of tax to the IRS for tax years 2016, 2017, 2018, and 2019, and owes an unknown amount of tax to her state of residence for the same tax years.

Ex. 1 at 1.[2] As the LSO has alleged that the Individual failed to file and pay state and federal income taxes, the security concerns are properly raised under Guideline F. 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 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 entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." Adjudicative Guidelines ¶ 2(a). The protection of the national security is the paramount consideration. 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 her eligibility for an access authorization. The

[2] DOE Exhibits 1–9 will be referred to by the Bates stamp page number.

Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 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

In a 2019 interview with a security clearance investigator, the Individual acknowledged that she had failed to timely file federal income taxes for tax years 2009 through 2011. Ex. 9 at 147. She added that all her tax returns had been filed and taxes paid by 2012. *Id.* She told the investigator that when she completed her security clearance application in 2017, she had failed to file her state tax returns for the preceding three tax years. *Id.* She stated that she had not contacted the relevant tax authorities to determine what was owed or how to resolve the issue. *Id.* The Individual told the investigator that she had not done so because "she was fearful of [what] she might discover when contacting those agencies." *Id.* The Individual stated that she intended to contact the relevant authorities by the end of the month to resolve the issues. *Id.* The investigator noted in his report that the Individual had a similar issue during her previous security clearance investigation. *Id.*

The Individual was recommended for administrative review in January 2021 due to her failure to file tax returns and pay the resulting taxes owed. Ex. 5 at 18. A letter of interrogatory (LOI) was sent by the LSO and the Individual's responses indicated that she had filed her state and federal tax returns for tax years 2015 through 2019, the most recent tax year for which the filing deadline had passed. Ex. 10 at 1–2. The Individual attached evidence of her agreement to pay the relevant tax authorities a combined total of $450.00 monthly to resolve $24,864.00 in state and federal taxes owed. *Id.* The LSO found that the Individual had mitigated the Guideline F concerns because she "initiated and [was] adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts," and because she had "made arrangements with the appropriate tax authority to file or pay the amount owed and [was] in compliance with those arrangements." *Id.* at 2 (citing Adjudicative Guidelines at ¶ 20(d), (g)). The Administrative Review process was not initiated and the Individual retained her security clearance. *Id.*

In February 2025, in response to an LOI from DOE, the Individual admitted that she had not filed state or federal income tax returns for tax years 2020 through 2023. Ex. 7 at 23–24. She wrote that she had "no excuse for not filing other than procrastination and fear of the unknown amount owed." *Id.* She wrote that she still owed a total of about $30,000.00 of federal tax for tax years 2016 through 2019 and an unknown amount of state tax for those years. *Id.* at 24. She further wrote that payments are deducted[3] from her spouse's paycheck for her state tax debt from those years. *Id.* The Individual concluded by stating:

> I understand that my lack of action has made my situation worse. I plan to get my tax affairs in order over the next several months. While I hold myself responsible and to a high standard in all other areas of life, I have not fulfilled my obligations

[3] Though the text says "detected," context indicates that the Individual meant "deducted." Ex. 7 at 24.

> in this particular area. However, I am committed to rectifying this situation once and for all.

Id. at 25.

At the hearing, the Individual's EAP Counselor testified that she had met with the Individual five times since May 2025. Tr. at 12. She testified that they primarily worked on stress management techniques. *Id.* She was aware that the Individual had failed to file taxes for several years. *Id.* at 13. She testified that the Individual told her that she failed to file due to feeling overwhelmed and because of some changes in her spouse's financial situation. *Id.* at 13–14. She testified that the Individual's treatment was primarily about emotional support during the administrative review process and general family and wellness support. *Id.* at 19. The Counselor testified that the Individual had not worked specifically on decision-making skills, integrity, or learning from past mistakes, but she had touched on those topics as they came up on occasion. *Id.*

The Individual's supervisor had known the Individual for about seven years. Tr. at 23–24. She saw her virtually once or twice per month and in person about once per quarter. *Id.* at 24. They did not have a personal relationship. *Id.* at 27, 34–35. She was unaware of any issues with the Individual's judgment, trustworthiness, and reliability. *Id.* at 24. She testified that the Individual told her she had tax delinquencies and was working to fix the issue. *Id.* She testified that the Individual did not tell her when the issues started or what the current status was. *Id.* at 24–25.

The supervisor testified that the Individual was the best on the team with budgeting, recognizing when certain areas were getting close to going over budget, and anticipating problems. Tr. at 28–29. She testified that the Individual was very good at managing resource loads and that she was surprised that the Individual was having tax issues, given the professionalism she displayed at work. *Id.* at 26–27, 29–30. She testified that the Individual's position had many deadlines and a large volume of work, making it a high-stress position. *Id.* at 31. She testified that the Individual was proactive in asking for help when she needed it. *Id.* at 31–32. She testified that the Individual does not experience paralysis from stress; on the contrary, she meets all deadlines and is very capable under pressure. *Id.* at 32–33.

The Individual testified that she was aware of her obligation to file tax returns because the security clearance application required it. Tr. at 39–40. Around 2016, the Individual's husband lost his job and she changed her withholdings to more dependents than she actually had so she could maximize her take-home pay. *Id.* at 40. She testified that she was shocked to find out she owed tax when she filed for tax year 2016. *Id.* However, she testified, she did not change her withholding back until this year. *Id.* at 41. In February 2025, she changed her withholding herself within the payroll system from five or six dependents to zero dependents. *Id.* at 63–64. She further testified that she had believed her husband being unemployed and deductions for her child being in college would offset her decreased withholdings. *Id.* at 40, 64. But in contrast, she claimed that she did not know what it meant to claim dependents and did not know how it affected tax withholdings. *Id.* at 66.

The Individual testified that she did not file her 2019 tax returns on time, but did file them in 2021. Tr. at 55. She testified that she did not file tax returns for 2020 through 2023 because of avoidance and fear of learning how much she would owe. *Id.* at 55–56. After receiving the LOI in February

2025, she hired a Certified Public Accountant (CPA) to prepare her taxes; she mailed in all her delinquent returns in August or September 2025, including her 2024 tax return, which was, by that point, delinquent. *Id.* at 60–61. The Individual testified that she intended to hire the CPA every year to file her taxes. *Id.* at 65.

She testified that the IRS cancelled her payment plan before the first payment was made on the 2019 back taxes because she was delinquent in filing her 2020 tax return. Tr. at 41–42. She testified that the questions at the hearing made her realize she had been obligated to inform the LSO that the payment plan was cancelled. *Id.* at 59. She received multiple notices from the IRS that a debt was owed. *Id.* at 46. She did not take any action to correct the situation and testified that she had no reason beyond procrastination for taking no action. *Id.* at 44–46. She testified that her failure to file and pay taxes was neither malicious nor intentional. *Id.* at 45. She testified that the difference between her professional and personal lives was that in her professional life she was supported and, until recently, she was not supported in her personal life. *Id.* at 44–45. She testified that hiring a tax professional had helped greatly and that he had helped her face some hard truths. *Id.* She did not know why the risk to her employment posed by the administrative review proceeding did not motivate her to resolve the issue. *Id.* at 45. The Individual testified that she believed she owed at least $30,000.00 in federal taxes from tax years 2016–2019, but she did not know the actual balance because she believed penalties would have accrued over time. *Id.* at 72–73, 76–77.

The Individual testified that no payments were ever made on her federal tax debt and she has no payment plan set up, but the balance of her state tax debt for tax years 2016 through 2019 was fully paid through deductions from her husband's payroll. *Id.* at 45, 48. She had not asked him if the state tax debt was satisfied before answering LOI questions regarding that debt and testified that she did not know why she did not ask him. *Id.* at 49. She testified that her husband had paid a total of $6,000.00 in state taxes through payroll deductions. *Id.* at 50–51. She also testified that the deductions were taken for several years—beginning in 2021 and ending after her February 2025 LOI responses were sent—and had totaled either $500.00 or $1,000.00 per month. *Id.* at 51. She could not explain how such a payment plan could amount to only $6,000.00. *Id.* She later testified that she did not know when her husband had started paying $500.00 per month. *Id.* at 52. The Individual admitted that it was her responsibility to ensure her taxes were paid and acknowledged that she did not know basic facts about her financial situation. *Id.* at 53.

As of the hearing, the Individual testified that she owed the following amounts of currently outstanding tax liability (not including fees and penalties) in addition to her previous federal tax debt:

Year	Federal	State
2020	$7,158	$765
2021	$3,147	$444
2022	$11,146	$345
2023	$13,532	$331
2024	$15,845	$300
Total:	$50,828	$2,187

Tr. at 61–62, 77. The Individual intended to mortgage her home to pay her federal tax debt, but had not begun the process or even approached a lender yet. *Id.* at 70, 78–79. The Individual stated that she could pay the full amount she owed to the state by the end of the year (just over three months from the hearing date). *Id.* at 85. She testified that there was no reason she had not yet made any payments on the balance. *Id.* She then testified that she had covered funeral costs for a loved one recently and "that's probably why I didn't, 'cause I just didn't have all of it upfront." *Id.*

Prior to the hearing, the Individual submitted proof that all of her delinquent tax returns had been mailed. Ex. B. After the hearing, the Individual submitted, to corroborate the amounts read into the record, unsigned copies of her state and federal tax returns for tax years 2020 through 2024. Ex. D. She also submitted documentation from the state tax authority showing that she owed $4,369.87 in state taxes for tax years 2019 through 2024. Ex. E. This documentation is inconsistent with the Individual's testimony about the amount she owed, and in particular, contradicts the Individual's testimony that she had satisfied her state tax debt for 2019. Because the documentation was submitted after the hearing, there was not an opportunity to cross-examine the Individual about these inconsistencies.

V. ANALYSIS

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government places a high degree of trust and confidence in individuals to whom it grants access authorization. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

The issue before me is whether the Individual, at the time of the hearing, presents an unacceptable risk to national security and the common defense. I must consider all the evidence, both favorable and unfavorable, in a commonsense manner. "Any doubt concerning personnel being considered for access for national security eligibility will be resolved in favor of the national security." Adjudicative Guidelines ¶ 2(b). In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Because of the strong presumption against granting or restoring security clearances, I must deny access authorization if I am not convinced that the LSO's security concerns have been mitigated such that restoring the Individual's clearance is not an unacceptable risk to national security.

Conditions that could mitigate Guideline F security concerns 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 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. None of the conditions apply in this case.[4]

The Individual has at long last filed her tax returns, but has not provided sufficient proof that she has paid any of her delinquent taxes. I cannot find that she has made a good faith effort to resolve her debts, that she has made arrangements with appropriate tax authorities, or that the issue is resolved or under control. *Cf.* Adjudicative Guidelines at ¶ 20(c), (d), and (g). The Individual admitted that procrastination and a desire to avoid learning how much she would owe motivated her to set improper withholdings and delay tax filing, so I cannot find that the cause of the issue was beyond her control or that she acted responsibly under circumstances beyond her control. *Cf. id.* at ¶ 20(b). The Individual has been at risk of losing her security clearance for the same issue in the past. However, after resolving the security concerns, she persisted in under-withholding tax from her paychecks and delaying tax filing indefinitely. She did not make a single payment on the federal tax payment plan that had been cited by the LSO as the basis for mitigating the Guideline F concerns in 2021, and she did not file any timely tax returns in the time since. I cannot find that the behavior happened long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur, or no longer casts doubt on the Individual's judgment, trustworthiness, or reliability. *Cf. id.* at ¶ 20(a).

The Individual was unable to give accurate, precise answers to questions concerning her tax situation, such as the total amount owed or the total amount of state tax debt paid. Though she outlined a plan to pay her tax debt by taking a mortgage on her home, she had not yet met with a lender to inquire about the process. Given her failure to follow through on her previous payment plan, there is significant doubt that she would follow through on such an undertaking. The Individual's choices after her previous security clearance issues cast significant doubt on her

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[4] Mitigating conditions (e) and (f) are not relevant to this case.

judgment and trustworthiness; she took no actions, until ultimately filing her delinquent tax returns one or two months before the hearing, to correct her unlawful failure to file and pay taxes. As a result, the Individual finds herself with tens of thousands of dollars of debt which, as of the hearing date, remain outstanding. I cannot find that merely filing her delinquent tax returns on the eve of the hearing is sufficient to resolve the full list of security concerns. Accordingly, I find that the Individual has not mitigated the LSO's concerns under Guideline F.

VI. CONCLUSION

Upon consideration of the entire record in this case, I find that there was evidence that raised concerns regarding the Individual's eligibility for access authorization under Guideline F of the Adjudicative Guidelines. I further find that the Individual has not succeeded in fully resolving those concerns. Therefore, I cannot conclude that restoring DOE access authorization to the Individual "will not endanger the common defense and security and is clearly consistent with the national interest." 10 C.F.R. § 710.7(a). Accordingly, I find that the DOE should not restore access authorization to the Individual.

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

Kristin L. Martin
Administrative Judge
Office of Hearings and Appeals