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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 23, 2025)
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Case No.: PSH-25-0128

Issued: November 18, 2025

Administrative Judge Decision

Diane L. Miles, Administrative Judge:

This Decision concerns the eligibility of XXXXX (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 denied.

I. BACKGROUND

The Individual is employed by a DOE contractor in a position that requires him to hold a security clearance. In March 2024, the Individual completed a Questionnaire for National Security Positions (QNSP). Exhibit (Ex.) 7.² In the section titled “Financial Record,” the Individual answered “yes” when asked whether, in the last seven years, he failed to file or pay federal, state, or other taxes when required by law. *Id.* at 71. The Individual reported that he failed to file his federal and state personal income tax returns for tax year 2022. *Id.* at 71–72. The Individual also reported that, in the last seven years, he had one charge account that was more than 120 days delinquent and had been turned over to a collection agency, and he had four charge accounts that were closed for failing to repay as agreed. *Id.* at 72–78. In January 2025, the Local Security Office (LSO) issued a Letter of Interrogatory (LOI) to the Individual, which sought additional information

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 The DOE's exhibits were combined and submitted in a single, 203-page PDF workbook. Many of the exhibits are marked with page numbering that is inconsistent with their location in the combined workbook. This Decision will cite to the DOE's exhibits by reference to the exhibit and page number within the combined workbook regardless of any internal pagination.

related to his failure to file taxes and his delinquent accounts. Ex. 5. In his response to the LOI, the Individual reported that he failed to file his federal and state personal income taxes for tax years 2022 and 2023, and that he believed he had four credit card accounts in collections. *Id.* at 25.

In April 2025, the LSO informed the Individual, in a Notification Letter, that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. Ex. 1 at 6–8. In a Summary of Security Concerns (SSC) attachment to the letter, the LSO explained that the derogatory information raised security concerns under Guideline F of the Adjudicative Guidelines. *Id.* at 5.

In May 2025, 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. In October 2025, I convened a hearing, pursuant to 10 C.F.R. § 710.25(d), (e), and (g), at which I took testimony from the Individual. *See* Transcript of Hearing, OHA Case No. PSH-25-0128 (Tr.). Counsel for the DOE submitted nine exhibits, marked as Exhibits 1 through 9. The Individual submitted eight exhibits, marked as Exhibits A through H.

II. 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 substantial doubt concerning his eligibility for a security clearance, under Guideline F (Financial Considerations) of the Adjudicative Guidelines. Ex. 1. Guideline F states that a “[f]ailure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or [an] 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 under Guideline F that could raise a disqualifying security concern are the failure to file or pay annual federal, state, or local income taxes as required, and an “inability to satisfy debts.” *Id.* at ¶ 19(a), (f).

In citing Guideline F, the LSO noted that the Individual had the following delinquent accounts:

- Creditor A, with a balance of \$3,817
- Creditor B, with a balance of \$1,559;
- Creditor C, with a balance of \$1,053; and
- Creditor D, with a balance of \$4,271.

Ex. 1 at 5. The LSO also relied upon the Individual’s admissions in his March 2024 QNSP and January 2025 LOI that he had not filed his state or federal personal income tax returns for tax years 2022 and 2023. *Id.* 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 or her 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). 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

During the hearing, the Individual testified that in 2021, the company he worked for was going out of business. Tr. at 24–25. While the company wound down its operations, his hours "kept shrinking," to a point where he was no longer working 40 hours per week and he was working part-time. *Id.* at 25. He tried to make up for his loss of income by working on a contract basis, and by withdrawing money from his retirement account to cover his family's living expenses. *Id.* In 2023, the Individual delayed filing his 2022 state and federal income tax returns, because he believed he would owe taxes, and he did not want to face more financial obligations that he knew he could not pay. *Id.* at 26. He explained that in 2023, things were "a little bit worse" for him financially, he had not yet found a full-time job, he was running out of money in his retirement account, and he had to borrow money from a family member to help pay for his expenses. *Id.* at 27, 55. He fell behind on his bills, received public assistance benefits, and increased his reliance on credit cards to meet his living expenses. Tr. at 27; Ex. 2 at 10. Like his 2022 income tax returns, he delayed filing his 2023 state and federal income tax returns because he knew he would owe taxes that he could not afford to pay. Tr. at 26, 35, 38. He explained that he intended to file his 2022 and 2023 state and federal income tax returns and, up until a few years ago, he had a good financial history. *Id.* at 26–27. But, he was more concerned about his living situation and his children, so he delayed filing his tax returns. *Id.* at 27.

In October 2023, the Individual received a call from his current employer, a DOE contractor, about a job opportunity. Tr. at 28. After undergoing several rounds of interviews, he was offered the job

with a DOE contractor, but the job was not set to begin until January 2024. *Id.* By the end of 2023, the Individual fell behind on his rent, and he was at risk of getting evicted from his apartment. *Id.* at 35, 37. In January 2024, he began employment with the DOE contractor, and he received a steady form of income. *Id.* at 54. In early 2024, he appeared in court to settle an eviction proceeding with his landlord. *Id.* at 35–37. The Individual submitted a copy of the terms of a payment agreement he entered into with his landlord, in February 2024, to stay in his apartment. *Id.* at 35–37; Ex. F. Since starting his job with the DOE contractor in January 2024, he made all of the payments required by the February 2024 agreement with his landlord and he has paid his rent timely. Tr. at 38–40.

As for the Individual’s credit card debt, the Individual submitted three letters from a collection agency to support his testimony that on October 9, 2025, he entered into a payment agreement with the collection agency to resolve his debts with Creditor A, Creditor B, and Creditor C. Tr. at 40–44; Ex. C.³ The Individual explained that he arranged with the collection agency to submit payments in amounts that he could afford to pay. Tr. at 43, 45. As for Creditor A, the Individual agreed to pay \$148.00 on October 9, 2025, and \$80.59 monthly thereafter, until 2029, to resolve this debt. Tr. at 44–45; Ex. C at 5–6. As for Creditor B, the Individual agreed to pay \$153.12 on October 9, 2025, and \$153.12 monthly thereafter, until March 2026. Tr. at 45; Ex. C at 3–4. As for Creditor C, the Individual agreed to pay \$148.00 on October 9, 2025, and \$25.81 monthly thereafter, until June 2027. Tr. at 45; Ex. C at 1–2. The Individual submitted account notices for each Creditor to support his testimony that he submitted his initial payments toward resolving his debts with Creditor A, Creditor B, and Creditor C, as agreed. Tr. at 48–49; Ex. G at 22–24. Each account notice indicates the Individual submitted payments to each creditor in the amounts required by each creditor’s payment agreement. Ex. G at 22–24. As to Creditor D, the Individual submitted a letter from a different collection agency to support his testimony that he entered into an agreement with the agency to pay \$75.00 on October 10, 2025, and \$75.00 monthly thereafter, until March 2026, to resolve this debt. Tr. at 46–47; Ex. C at 7–8. The Individual submitted a transaction receipt from Creditor D’s collection agency, which indicated the Individual submitted his first payment of \$75.00, as agreed. Ex. D at 21.

As for the Individual’s 2022 and 2023 state and federal income tax returns, the Individual testified that in September 2025, he filed his state and federal income tax returns for both years. Tr. at 9–11. As for his 2022 federal income tax return, the Individual submitted a copy of his 2022 Internal Revenue Service (IRS) Tax Return Transcript and a letter from the IRS to support his testimony that his 2022 federal income tax return was filed, and that he owed approximately \$16,000 to the IRS after the IRS agreed to waive penalties and fees it assessed against him for filing his 2022 tax return late. Tr. at 10–14; Ex. B at 5; Ex. E at 5; Ex. G at 4. The Individual submitted a notice from the IRS to support his testimony that the IRS notified him that the taxes must be paid by October 20, 2025. Tr. at 13; Ex. G at 13; *see also* Ex. G at 5 (IRS Tax Account Transcript indicating that the Individual was assessed a penalty for “late payment of tax” on October 27, 2025). He explained that, as of the night before the hearing, he was unable to request a payment arrangement for his 2022 taxes using the IRS website, but he intended to enter into a payment arrangement with the

³ The Individual submitted a portion of his credit report to support that he is current on his other recurring financial obligations. Tr. at 60–61; Ex. D at 1–20.

IRS to resolve this debt. Tr. at 14–15. He believed that he could pay between \$100 and \$150 per month toward his federal 2022 taxes. *Id.* at 14.

As for his 2023 federal income tax return, the Individual submitted a copy of his 2023 IRS Tax Return Transcript reflecting the information that he provided on the tax return received by the IRS and two IRS documents reflecting his account balance, to support his testimony that his 2023 federal income tax return was filed, and that he does not owe federal taxes for tax year 2023. Tr. at 12, 18; Ex. B at 13, 37–38. However, the Individual did not submit an IRS Tax Account Transcript for the 2023 tax year, as he did for the 2022 tax year, which would have shown whether the IRS had verified and approved the information in his tax return. The Individual submitted a copy of a notice from an electronic filing company, which indicated that he filed his 2024 federal income tax return on October 17, 2025. Ex. B at 17–18; Ex. G at 26. He explained that he expects to receive a federal tax refund of just over \$7,000, which would be applied to the balance he owed for tax year 2022 and decrease the amount he owes the IRS. Tr. at 14–18; Ex. B at 17–18.

As for the Individual's 2022 and 2023 state income tax returns, the Individual submitted two notices from his state tax authority to support his testimony that he filed his 2022 and 2023 state income tax returns in September 2025. Tr. at 18; Ex. A at 25, 40. The Individual submitted an Account Summary from his state tax authority, which showed that he owed \$6,746.67 in taxes for years 2022 and 2023. Ex. A at 41. He also submitted documentation of an Electronic Payment Plan from his state tax authority, indicating that on October 10, 2025, he entered into a payment agreement with his state tax authority, the terms of which require that he pay \$112.44 monthly, for 60 months, to resolve his tax debt for years 2022 and 2023. Tr. at 42–45; Ex. A at 42–45. The Individual submitted a copy of a Payment History notice from his state tax authority, to support his testimony that he made his first payment toward his state tax debts on October 10, 2025. Tr. at 21; Ex. H. The Individual also submitted a notice from an electronic tax filing system, which indicated that he filed his 2024 state income tax return. Ex. G at 25. The Individual submitted a copy of a spreadsheet he used as a budget to track his expenses, he stated that he limits the amount of money he spends taking his children out to eat, and he stated that he takes his own lunch to work to save money. Tr. at 52–53; Ex. G at 1. The Individual's budget shows that he receives a monthly income of approximately \$7,300 and must spend \$447.52 per month to repay his creditors and resolve his tax debts, other than his federal tax debts for which he has not yet entered into a payment arrangement. Ex. G at 1. The Individual's budget also shows that after deducting the expenses necessary to resolve his debts, and his monthly living expenses, he has over \$1,200 available in his monthly budget. *Id.*

V. ANALYSIS

The Adjudicative Guidelines provide that 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.

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witness presented at the hearing. After due deliberation, I have determined that the Individual has not mitigated the security concerns raised by his four delinquent debts and his delinquent tax returns.

As for factor (b), there is no evidence that the Individual's employer's winding down of its business operations was due to circumstances within the Individual's control. However, even if I accepted that the Individual's actions related to his financial obligations were responsible during the period of his unemployment, he did not act promptly to address his financial obligations after he regained employment. After obtaining full time employment with a DOE contractor in January 2024, the Individual delayed filing his tax returns and resolving his four delinquent debts for a year and nine months. The Individual did not file his 2022 and 2023 state and federal income tax returns, and he did not enter into payment arrangements to resolve his four delinquent debts, until a week before his administrative hearing. Therefore, I cannot conclude that the Individual acted responsibly under the circumstances, and he has not mitigated the security concerns under ¶ 20(b) of the Adjudicative Guidelines.

As to factor (d), the Individual testified that in 2021, he experienced a decrease in income when his employer gradually went out of business. From 2021, until he found full-time employment with a DOE contractor in January 2024, the Individual tried to meet his living expenses by

withdrawing money from his retirement account, relying on public assistance, and borrowing money from his family. The Individual also increased his reliance on credit cards to meet his living expenses and became delinquent on several accounts. The Individual provided documentation to support his testimony that he entered into repayment agreements with two collection agencies to resolve his debts with Creditor A, Creditor B, Creditor C, and Creditor D, by 2029. However, despite having received a steady form of income since January 2024, and despite knowing that security concerns existed related to his delinquent debts in mid-2025, the Individual failed to take any action to resolve his delinquent debts until one week before the administrative hearing. Furthermore, as of the hearing, the Individual had made a single payment to the collections agencies to resolve his debts. Although he submitted a monthly budget, which showed that he has sufficient income to meet his expenses, he has not yet shown that he can adhere to his payment arrangements. Therefore, I am unable to conclude that the Individual has initiated a good-faith effort to resolve his delinquent debts, and he has not mitigated the security concerns under factor ¶ 20(d) of the Adjudicative Guidelines.

As for factor (g), the Individual acknowledged that he delayed filing his state and federal income tax returns for years 2022 and 2023 because he was under financial strain due to a loss of income, he believed he would owe taxes, and he did not want to face an additional financial obligation he could not afford to pay. Like his effort to resolve his delinquent debts, the Individual did not take action to file his 2022 and 2023 federal income tax returns until just before the administrative hearing. He has not yet entered into a payment arrangement with the IRS to repay the taxes he owes from tax year 2022. As for his 2023 federal income tax return, the Individual's IRS Tax Return transcript indicates that his 2023 federal income tax return was filed, but the Individual did not submit evidence that the tax return was accepted by the IRS, nor did he submit evidence establishing that he does not owe penalties and interest due to his late filing. As for his 2022 and 2023 state income tax return, the Individual submitted evidence that these returns were filed in September 2025, but he did not enter into a payment agreement with his state tax authority until a week before the administrative hearing. Because the Individual has submitted just one payment to his state tax authority to resolve his state tax debts, he has not yet shown that he can adhere to this payment arrangement. Therefore, the Individual has not made sufficient payment arrangements with the appropriate tax authority to file his delinquent tax returns and pay the amount of taxes he owes, and he has not mitigated the security concerns under ¶ 20(g) of the Adjudicative Guidelines.⁴ For the reasons cited above, I find that the Individual has not mitigated the Guideline F security concerns raised by his four delinquent debts and his failure to timely file his state and federal tax returns for years 2022 and 2023.

VI. CONCLUSION

⁴ As for the remaining mitigating factors, the Individual's delinquent debts and failure to file his 2022 and 2023 state and federal income tax returns did not occur so long ago and did not occur under such circumstances that are not likely to recur. The Individual's debts and failure to file tax returns were not due to a financial problem financial counseling would resolve. Therefore, I find that the mitigating factors at ¶ 20(a) and (c) are inapplicable to this case. Finally, the Individual did not dispute the legitimacy of his debts, and the security concerns did not involve an allegation of unexplained affluence. So, the mitigating factors at ¶ 20(e) and (f) are also inapplicable to this case.

For the reasons set forth above, I conclude that the LSO properly invoked Guideline F of the Adjudicative Guidelines. After considering all the evidence, both 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 mitigate the concerns set forth in the SSC. Accordingly, the Individual has not demonstrated that granting him a security clearance would not endanger the common defense and security and would be clearly consistent with the national interest. Therefore, I find that the Individual's access authorization should be denied. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Diane L. Miles
Administrative Judge
Office of Hearings and Appeals