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

Issued: February 4, 2026

## 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."<sup>1</sup> 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 a security clearance. During a December 2019 Enhanced Subject Interview (ESI), an investigator, from the Office of Personnel Management (OPM), questioned the Individual about four delinquent charge accounts that appeared on a November 2019 credit report. Exhibit (Ex.) 7 at 50–51; Ex. 10 at 155, 160.<sup>2</sup> During the interview, the Individual admitted that since December 2018, he had four charge accounts that were delinquent and were in collections. Ex. 10 at 160. He reported that he planned to refinance the mortgage on his home and use the money to repay his debts. *Id.* at 160–161.

On February 24, 2025, the Individual completed a Questionnaire for National Security Positions (QNSP). Ex. 8. In the section titled “Financial Record,” the Individual answered “yes” when asked

<sup>1</sup> 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.”

<sup>2</sup> The DOE's exhibits were combined and submitted in a single, 210-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.

whether, in the last seven years, he failed to file or pay federal, state, or other taxes when required by law. *Id.* at 83. The Individual reported that he failed to pay his 2019 federal and state taxes because he had “insufficient funds” to pay the taxes, and that he would pay his taxes within the calendar year. *Id.* The Individual also reported that he had two charge accounts that had been turned over to a collection agency. *Id.* at 85. The Individual also reported that he intended to refinance the mortgage on his home and use the money he would receive to satisfy all his outstanding debts. *Id.* at 85.

In May 2025, the Local Security Office (LSO) issued a Letter of Interrogatory (LOI) to the Individual, which sought additional information related to his taxes and the same four delinquent charge accounts that appeared on his November 2019 credit report, and also appeared on an April 2025 credit report. Ex. 5; Ex. 6 at 38. In his response to the LOI, the Individual admitted that had not filed his federal and state personal income taxes for tax year 2019, due to “financial strain.” Ex. 5 at 27. The Individual also admitted that the four charge accounts that appeared on his November 2019 credit report were still in collections and that he had not taken any steps to resolve the debts. *Id.* at 22–27, 29. He reported that he was waiting to purchase a new home and that once he had done so, he would have the funds to pay his debts in full. *Id.* at 29.

In June 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 July 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 January 2026, 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-25-0173 (Tr.). Counsel for the DOE submitted ten exhibits, marked as Exhibits 1 through 10. The Individual submitted three exhibits, marked as Exhibits A through C.

## **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 \$14,009
- Creditor B, with a balance of \$9,549;
- Creditor C, with a balance of \$6,417; and
- Creditor D, with a balance of \$3,540.

Ex. 1 at 5. The LSO also relied upon the Individual's admissions in his May 2025 LOI that he had not filed his state or federal personal income tax returns for tax year 2019. *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**

At the hearing, the Individual testified that he filed his 2019 state income tax return on February 15, 2025. Tr. at 10–11.<sup>3</sup> He claimed that he prepared the 2019 state income tax return by hand

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<sup>3</sup> At the hearing, the Individual did not explain why, if he filed his 2019 state and federal income tax returns on February 15, 2025, he then reported to the DOE that he had not done so in his February 24, 2025, QNSP and May 2025 LOI. Ex. 5; Ex. 8.

because his state did not permit him to file a return for previous years electronically. *Id.* at 25. He did not know if the return was accepted by his state tax authority. *Id.* at 25. The Individual submitted two pages of a 2019 state tax return, which contained some identification and income information that was digitally entered, but was otherwise was incomplete. Ex. A. The copy of the 2019 state tax return did not contain a signature. *Id.* The Individual explained that he owed state taxes for 2019, and that he mailed a check for the amount he owed with his tax return. Tr. at 11.

As for the 2019 federal income tax return, the Individual testified that he also prepared this return by hand and that he filed this return on February 15, 2025. Tr. at 10–11, 25. He did not know whether this return was accepted by the Internal Revenue Service (IRS). *Id.* at 25. He assumed the return was accepted by the IRS because he mailed a check, representing the amount of federal taxes he believed he owed, with the return, and the check was cashed. *Id.* at 25. The Individual submitted two pages of a 2019 federal income tax return, which contained his identifying information and some income information that was digitally entered. Ex. B. The 2019 federal income tax return did not contain a signature. *Id.* at 3.

As for the Individual’s delinquent accounts, he testified he did not pay his delinquent debts held by Creditor A, Creditor B, or Creditor D, because those debts were “written off,” and he did not need to repay them. Tr. at 12–16. He explained that, after conducting his own research, he learned that when accounts are “written off” they are no longer “in collections” and are removed from your credit report. *Id.* at 27. He also explained that he believed the debts were “written off” because they no longer appeared on his credit report. *Id.* at 12–13. He explained that in early 2019, he intended to resolve his outstanding debts by taking out a second mortgage on a home that he owned at the time, and using the money to pay off the debts. *Id.* at 13–14. But, because of his debts, his credit score was not good enough for him to obtain a second mortgage. *Id.* at 14. At the time, he was working at a store, earning roughly \$30,000 a year. *Id.* In October 2019, the Individual started working for the DOE contractor, his yearly income doubled, and he believed he could save enough money to start paying off some of the debts. *Id.* However, once he saved enough money to pay his delinquent debts, he contacted friends that were “in banking,” who told him that paying off his delinquent debts would damage his credit score. *Id.* at 14, 16. He also read information online about how to rebuild credit. *Id.* at 15. Based on what he read online, he decided that it made more sense for him to maintain his credit score and let his debts get “written off.” *Id.* at 14–16. Even though his yearly income doubled, he did not contact his creditors to resolve his debts because he did not want to damage his credit score. *Id.* at 32.

In December 2022, the Individual sold his previous home and wanted to purchase a new home. Tr. at 26. The Individual explained that he needed to obtain a mortgage to purchase a new home, but his wages were being garnished by Creditor C to pay off the debt. *Id.* at 29. To qualify for a mortgage, he had to show his mortgage lender that the debt with Creditor C was paid in full. *Id.* at 21, 28–30. The Individual submitted a letter, dated October 20, 2025, from a company he identified as a collection agency, which references a payment having been received, and indicates that an account is “now considered paid in full.” Ex. C. The Individual also acknowledged that the letter did not show the amount of payment that was received or contain a reference to Creditor C. *Id.*; Tr. at 33. On December 15, 2025, the Individual used some of the money he received from the sale of his old home, approximately \$250,000, toward the purchase a new home. *Id.* at 26–27. Of the rest of the money from the sale of his home, he testified that he deposited \$100,000 into two

investment accounts, and he had about \$25,000 left over. *Id.* at 20, 26–27. After the Individual purchased his new home, he did not contact his remaining creditors to pay off the debts. *Id.* at 31. He claimed he created a budget to help with his financial issues, but he did not submit it as evidence. *Id.* at 20. He also testified that he did not participate in any form of financial counseling to assist him with his finances. *Id.*<sup>4</sup>

## 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 submitted sufficient evidence to establish that he has

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<sup>4</sup> Before the hearing concluded, I told the Individual that I would hold the record open for him to submit a copy of his credit report, to support his claim that the debts with Creditors A, B, C, and D no longer appeared; documentation establishing that his 2019 state and federal income tax returns were filed and accepted by his state tax authority and the IRS; evidence that he paid the state and federal taxes he owed; and evidence establishing that his debt with Creditor C was paid. Tr. at 33–35. The Individual did not submit any of this evidence.

resolved the Guideline F concerns raised by his failure to file his 2019 state and federal income tax returns and to pay his delinquent debts held by Creditor A, Creditor B, Creditor C, and Creditor D. Therefore, he has not mitigated the security concerns raised by the LSO.

As to factor (a), the Individual's debts and taxes became delinquent in 2018 and 2020, respectively, and he did not present sufficient evidence that he had filed those returns or resolved his delinquent debts as of the date of the hearing. So, the Individual's behavior cannot be said to have occurred so long ago that it no longer poses a security concern. The Individual's behavior was frequent because he had not filed his 2019 state and federal income tax returns for over five years and, as of the hearing, he had still not established that he had done so. He also failed to resolve his outstanding debts, since at least 2018, and the Individual did not submit sufficient evidence to support that his outstanding debts were resolved at the time of the hearing.

Finally, the Individual's behavior did not occur under such circumstances that it is unlikely to recur. The Individual reported to the DOE that he failed to file his 2019 state and federal income tax returns and that he could not do so because he did not have the money to pay the taxes he believed he would owe after filing. Notwithstanding the fact that an inability to pay taxes does not excuse the Individual's failure to file his tax returns, his claimed lack of resources is not credible. During the hearing, the Individual admitted that he did not take steps to file his 2019 tax returns, or resolve his delinquent debts, after his yearly income doubled in October 2019, and after having received approximately \$250,000 from the sale of his home in December 2022. The Individual claimed that he filed his 2019 state and federal tax returns in February 2025, but he did not provide documentation to support that his tax returns were received and accepted by his state and federal tax authorities. He also claimed that his delinquent debts were written off, and no longer appeared on his credit report, but he did not submit a copy of his credit report to support this claim, and he did not provide evidence that his delinquent debts have been resolved. Therefore, I am unable to conclude that the Individual's failure to file his 2019 state and federal income tax returns and resolve his delinquent debts are unlikely to recur and he has not mitigated the security concerns under ¶ 20(a) of the Adjudicative Guidelines.

As for factor (b), there is no evidence that the Individual's failure to file his 2019 state and federal income tax returns, or to resolve his delinquent debts, were due to circumstances beyond the Individual's control. The Individual did not demonstrate why he did not have the means to pay any taxes he believed he would owe for tax year 2019, and how his inability to pay his taxes affected his ability to file his tax returns. Also, as explained above, the Individual's testimony during the hearing established that his income doubled after he obtained employment with a DOE contractor in October 2019, and he received approximately \$250,000 from the sale of his home in December 2022. Despite having additional income available to him, the Individual failed to file his 2019 tax returns. As to his delinquent debts, the Individual admitted that after obtaining employment with a DOE contractor, he saved enough money to pay his debts, but he chose not to because he believed the debts would be "written off" and removed from his credit report. Tr. at 12–16. The Individual did not submit evidence to support his claim that the debts were, in fact, removed from his credit report, or how removal of the debts from his credit report affects his responsibility to repay the debts. I do not believe the Individual has acted responsibly by failing to file his 2019 tax returns for at least five years, despite having the means to do so, and by failing to resolve his delinquent

debts, because he believes resolving them would detrimentally impact his credit rating. Therefore, the Individual has not mitigated the security concerns under ¶ 20(b) of the Adjudicative Guidelines.

As to factor (c), the Individual testified that he did not participate in any form of financial counseling to assist him with his financial issues. In addition, the Individual's testimony during the hearing established that in October 2019, his income from employment doubled, and in December 2022, he received \$250,000 from the sale of his home; a portion of which he could have used to pay any taxes owed for tax year 2019 and resolve his delinquent debts. Therefore, I find that the Individual's debts and failure to file his 2019 tax returns were not due to a financial problem that financial counseling would resolve, and the mitigating factor under ¶ 20(c) of the Adjudicative Guidelines is not applicable to this case.

As to factor (d), I am unable to conclude that the Individual attempted to resolve his debt with Creditor C or resolve his remaining debts. Although the Individual submitted a letter as evidence he resolved his debt with Creditor C, the Individual acknowledged that the letter does not reference Creditor C, does not identify the amount of the debt, and does not identify the amount of the payment received. So, this letter is not sufficient evidence that the Individual has resolved his debt with Creditor C. As to his remaining delinquent debts, with Creditor A, Creditor B, and Creditor D, the Individual admitted that he did not resolve these debts, and that he did not intend to do so, because he believed the debts were removed from his credit report. Therefore, the Individual has not mitigated the security concerns under ¶ 20(d) of the Adjudicative Guidelines.

As for factor (g), I do not find that the Individual has filed his 2019 state and federal income tax returns. The Individual testified that he filed his 2019 returns on February 15, 2025, but I do not find the Individual credible as to this claim, because, if he had done so, he would have reported doing so to the DOE in his February 24, 2025, QNSP and his May 2025 LOI. Also, he claimed he prepared the returns by hand, but he did not submit a copy of the filed, handwritten, return. He submitted copies of tax returns that were not signed, appeared to be prepared electronically, and did not appear to be filled-out completely. He did not submit evidence the returns were filed, or accepted. He claimed that he submitted a check with each return, representing the amount of taxes he owed, but he did not submit documentation that he did so, nor did he submit documentation to support his claim that the payments were received by state and federal tax authorities. Therefore, I cannot find the Individual has made sufficient arrangements with the appropriate tax authorities to file his delinquent tax returns, and he has not mitigated the security concerns under ¶ 20(g) of the Adjudicative Guidelines.<sup>5</sup>

For the reasons cited above, I find that the Individual has not mitigated the Guideline F security concerns raised by his failure to file his 2019 state and federal income tax returns and his failure to resolve his delinquent debts with Creditor A, Creditor B, Creditor C, and Creditor D.

## VI. CONCLUSION

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<sup>5</sup> As for the remaining mitigating factors, the Individual did not dispute the legitimacy of his delinquent debts, and the security concerns raised by the LSO did not involve an allegation of unexplained affluence. So, the mitigating factors at ¶ 20(e) and (f) are 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 not be restored. 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