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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: August 11, 2025) Case No.: PSH-25-0180
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Issued: March 5, 2026

Administrative Judge Decision

James P. Thompson III, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (the Individual) to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position."¹ As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should not be restored.

I. BACKGROUND

The Individual is employed by a DOE contractor in a position that requires a security clearance. The DOE Local Security Office (LSO) learned, through self-report in July 2024, that the Individual had failed to file her federal and state income tax returns for several years. When questioned regarding the status of these tax returns, she stated that she would file them by January 2025, but the LSO later determined that she had not done so. As a result, the LSO informed the Individual by letter (Notification Letter) that it possessed reliable information that created substantial doubt regarding her eligibility to possess a security clearance. In an attachment to the Notification Letter, entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information raised security concerns under Guideline F of the Adjudicative Guidelines.

The Individual exercised her right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. 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

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.

hearing. At the hearing, the Individual testified on her own behalf and submitted eleven exhibits, marked A through K. The LSO submitted eight exhibits, marked Exhibits 1 through 8.²

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the LSO cited Guideline F (Financial Considerations) of the Adjudicative Guidelines as the basis for concern regarding the Individual's eligibility to possess a security clearance. Exhibit (Ex.) 1.

Guideline F provides that “[f]ailure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information.” Adjudicative Guidelines at ¶ 18. Conditions that could raise a security concern include an individual’s “failure to file . . . annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required[.]” *Id.* at ¶ 19(f). The SSC cites that the Individual failed to file federal and state income tax returns for tax years 2019 through 2024. Ex. 1 at 5. This 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 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 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 an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 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.

² References to the LSO exhibits are to the exhibit number and the page number of the combined .pdf of the exhibit book.

IV. FINDINGS OF FACT

There is no dispute that the Individual failed to file tax returns for 2019 through 2024. Ex. 2 at 13; Transcript of Hearing, OHA Case No. PSH-25-0180 (Tr.) at 13 (confirming that she disclosed the delinquent filings). She procrastinated filing them because she found the relative complexity of preparing the annual return for her twenty-six-year-old small business overwhelming, which caused her to ultimately fail completing her personal and business returns for each year at issue. Tr. at 14, 16, 19, 36. She explained that she knew her failure to file income tax returns was “wrong” but thought it “wouldn’t be that bad” because she had sufficient income withheld by her employer to satisfy any tax liability. Ex. 3 at 27; Tr. at 13 (acknowledging that she understood her failure was serious), 16 (testifying “I don’t want to say it wasn’t such a big deal, ‘cause it – it is”), 34 (confirming that she knew the law required her to file tax returns). Accordingly, she testified that she thought her conduct would not jeopardize her clearance because she believed that only behavior that would make her susceptible to a bribe or extortion would present a concern. Tr. at 34, 51–52.

There is also no dispute that the Individual failed to follow through with her statements to the DOE that she would file her delinquent tax returns. Ex. 8 at 155 (telling an investigator in a November 2024 interview that she planned to file her returns by January 2025); Ex. 5 at 21 (providing an update in her response to a June 2025 Letter of Interrogatory (LOI) that she will prepare and file her delinquent tax returns by the end of the month), 27 (acknowledging in the same LOI that she failed to follow through with her November 2024 statement to the investigator); Tr. at 13. Notably, in the June 2025 LOI she explained that she was motivated to resolve her tax issues by the end of that month because an adverse determination regarding her eligibility to possess a security clearance would have a “detrimental effect on [her] livelihood.” Ex. 5 at 31; *see also* Tr. at 29 (stating that she had reached out for help and planned to take “vacation time from work” to file her delinquent returns by June 2025 and address a state audit of her small business, which included accounting for unpaid sales taxes). She therefore knew, in June 2025, that failing to file her tax returns presented a security concern separate from whether she had any tax liability. At the hearing, she testified that she had been sincere in stating that she would file her returns by January 2025, and then in June 2025, because at the time she felt she “could do it [herself].” Tr. at 45.

As for why she initially failed to file her returns starting in 2020 for tax year 2019, the Individual testified that while she had previously worked with an accountant to prepare her tax returns, she stopped because she did not have the business tax documents the accountant needed to complete her returns. *Id.* at 14. She also testified that her accountant would contact her regarding filing her tax returns, and the accountant would even file extensions on the Individual’s behalf, but the Individual never provided the information the accountant requested. *Id.* at 21.

By the date of the hearing, the Individual had successfully filed her delinquent returns. She testified that she filed them all in July 2025. *Id.* at 32. However, the exhibits she provided indicate that she filed most of her federal returns in early August 2025. Exs. D–I (U.S. Internal Revenue Service (IRS) transcripts showing, *e.g.*, that she filed her 2020, 2022, and 2024 tax returns on August 4, 2025). Her state tax records do not provide filing dates. Ex. A (State Tax Board ledger indicating the Individual’s delinquent tax returns had been filed). She explained that, after her clearance was

suspended in early July 2025, she enlisted the help of her family and accountant to file the returns. Tr. at 17–18 (testifying she took time off from work and received help), 28, 32. As she explained, the “shock of potentially losing [her] job” motivated her action. *Id.* at 35. Although not yet due at the time of the hearing, she testified that she had begun working with her accountant to timely file her 2025 tax returns. *Id.* As of the hearing date, she did not owe any outstanding debt to the IRS. Ex. B (IRS record that demonstrates a zero balance). However, while the Individual did not owe any income tax to the state tax authority, she did currently owe the state delinquent sales tax in the amount of \$600 from the operation of her business—an amount determined after the state completed its audit and which she learned of approximately two weeks before the hearing. Tr. at 22, 48–49 (responding to questioning regarding when she received notice of the amount and whether she had remitted payment prior to the hearing). Immediately after the hearing, the Individual paid the outstanding sales tax balance. Ex. K (payment receipt).

In December 2025, the Individual began meeting with a counselor to address her tendency to procrastinate. Tr. at 23. She now attributes her procrastination to her fear of making mistakes. *Id.* at 26. As a result, she now applies the technique of breaking up her time when working so that she spends dedicated chunks of time on discrete tasks with breaks in between, which helps her to remain focused on the end goal. *Id.* at 25. She received counseling twice and intends to continue. *Id.* at 24, 30. She also decided, based on the advice of her counselor and accountant, to restructure her business to simplify the taxation reporting requirements and thereby make it easier for her to complete future returns. *See id.* The Individual testified that if she found herself again procrastinating filing her tax returns, she “would immediately turn . . . to [her] family first, because they are supportive.” *Id.* at 30. She is confident the issue will not arise again because of the techniques she learned in counseling, her simplified business filing requirements, and the support she has from her family. *Id.* at 36.

Lastly, the Individual’s supervisor provided a letter stating that the Individual is dependable and reliable. Ex. J.

V. ANALYSIS

A. Guideline F Considerations

Under Guideline F, the following conditions could mitigate security concerns based on financial considerations:

- (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, . . . divorce or separation . . .), 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.

I find that none of the above conditions apply to resolve the Guideline F concerns.

First, I conclude that ¶ 20(a) does not apply to mitigate the concerns. The behavior did not happen long ago because the Individual only filed her several consecutive years' worth of delinquent tax returns approximately six months ahead of the hearing, which demonstrates that the issues went unaddressed until relatively recently. Furthermore, the fact that the Individual's behavior arguably ended six months ago by filing the belated returns does not persuade me to find that her behavior is therefore unlikely to recur for the reasons discussed below in this Decision. The behavior was not infrequent because the Individual repeatedly failed to file her returns for six years and only did so after her clearance was suspended, despite asserting that she would file them a year before the hearing. Lastly, the circumstances do not indicate that her behavior is unlikely to recur because her delay was due to her decision to procrastinate each year because she felt overwhelmed; it was not caused by some external factor that prevented her from taking action. In consideration of the above, including the actions the Individual has taken since, which are further analyzed below under ¶ 20(g), I do not find the behavior is unlikely to recur.

I also find that ¶ 20(b) does not apply because the Individual clearly established that her failure to file her tax returns was due to procrastination and therefore not attributable to problems beyond her control. Accordingly, I need not consider whether she acted responsibly under the circumstances.

Next, I find that ¶ 20(c) does not apply to resolve the concerns. Although the Individual has demonstrated that she participated in two counseling sessions, she has not established that she is participating in financial counseling, and she has not yet demonstrated the ability to timely file her federal and state tax returns. Thus, she did not provide sufficient evidence to establish clear indications that the problem is being resolved or is under control.

Paragraphs 20(d) and 20(e) are inapplicable because the concerns raised in the SSC are not based on a failure to repay overdue creditors or otherwise resolve debt.

Paragraph 20(f) is patently inapplicable because the concerns outlined in the SSC are not based on unexplained affluence.

Finally, ¶ 20(g) does not apply to resolve the concern. While she filed her outstanding tax returns before the hearing by enlisting the help of an accountant and family, received counseling to address her tendency to procrastinate, and understands the necessity to file her tax returns in the future, the circumstances do not demonstrate that she has resolved the concerns. *See* 10 C.F.R. § 710.7(c) (requiring that I consider “the circumstances surrounding the conduct” in evaluating whether the security concerns are resolved). First, there is no dispute that she knew she was required to file her federal and state tax returns annually. Furthermore, she did not file her delinquent returns until approximately six months before the hearing despite being well aware, for over a year, that her failure to file tax returns presented a security concern. With that understanding, she twice committed to promptly address the issue. Not only did she fail to meet those commitments, but it was not until her clearance was actually suspended that she began taking the necessary steps to finally file her belated returns. And, on the hearing date, she had not yet made payment to the state tax authority for her outstanding business tax liability despite learning of the final accounting approximately two weeks before the hearing and knowing that her tendency to procrastinate concerning tax-related obligations had led to her clearance being suspended. Notably, she made payment after the hearing, and only indicated her intent to do so when questioned during the hearing as to whether she had any outstanding tax debt. While the fact that she had outstanding state tax liability is not a basis for concern outlined in the SSC, it does provide context for whether the Individual will likely delay filing her tax returns again in the future. *See id.* (requiring me to consider “the likelihood of continuation or recurrence”). Finally, I am unconvinced that her reliance on her family to hold her accountable will increase the likelihood that she will timely file her returns in the future given that her accountant had previously tried, without success, to hold her accountable by reminding her about her need to complete her returns year after year.

Accordingly, I find that the Individual has not resolved the Guideline F concerns.

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 of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to fully resolve the Guideline F 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.

James P. Thompson III
Administrative Judge
Office of Hearings and Appeals