

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 the following:

- The Individual has two unpaid, charged-off credit card accounts totaling \$9,242.00.
 - WFBNA - \$8,399.00
 - Apple Card/GS Bank USA - \$843
- The Individual has not filed federal or state personal income tax returns for tax years 2021 and 2022.

Ex. 1 at 5.² The LSO does not attribute a motive for the unpaid accounts, so either concern (a) or concern (b) may be implicated. Concern (f) is implicated by the Individual’s failure to file income tax returns. Accordingly, the LSO’s security concerns under Guideline F are justified.

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 at ¶ 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 exhibit page numbers will be cited using the Bates stamp in the top right corner of the documents.

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 2024, the Individual fell behind on some credit card payments as a result of “overspending.” Ex. 4 at 16. With growing children at home, expenses for “food, sports, [and] necessities” increased, and the Individual did not budget for the increase. Ex. 5 at 20. In her May 2025 response to a Letter of Interrogatory (LOI) issued by the LSO, the Individual stated that WFBNA had initiated a lawsuit against her to collect on her past due balance. *Id.* at 19. She also stated in her LOI response that she had begun making bi-weekly \$40 payments on her past due balance with Apple Card and intended to have the balance paid off by the end of the year. *Id.* at 20. At that time, she had caught up with her regular household bills. *Id.*

The Individual did not file her federal or state income tax returns for tax years 2021 or 2022 until January 2026. Ex. A; Ex. B. In her LOI response, she stated that she paid taxes but did not file due to “lack of responsibility.” Ex. 5 at 21. She stated that her wages were being garnished by the Internal Revenue Service (IRS) to pay her federal tax debt. *Id.*; *see also* Exs. C–H.

The Individual submitted into evidence:

- Three certified mail delivery receipts, two to the Individual’s state tax authority and one to the IRS, showing delivery on January 16, 2026. Ex. A.
- A photocopy of the Individual’s 2021 tax return with a stamp indicating it had been received by her state tax authority on January 15, 2026. Ex. B.
- Copies of the Individual’s pay stubs from April 7, May 10, May 24, June 7, June 21, and July 5, 2024, showing a tax levy wage garnishment totaling \$4,768.14. Ex. C; Ex. D; Ex. E; Ex. F; Ex. G; Ex. H.
- Tax summaries for tax years 2021 and 2022, the origins of which were not clear. The summaries showed federal tax owed in 2021 and 2022 in the amounts of \$2,863.00 and \$4,002.00, respectively; state tax refunded in 2021 in the amount of \$1,629.00; and state tax owed in 2022 in the amount of \$457. Ex. I.
- A federal tax transcript for tax year 2021, dated January 26, 2026, showing no tax return filed for that year and a zero balance for tax owed. Ex. J.
- A federal tax transcript for tax year 2022, dated January 26, 2026, showing no tax return filed for that year and a zero balance of tax owed. Ex. K.

- A Stipulation for Entry of Judgment and Settlement showing that the lawsuit against the Individual for her WFBNA debt was settled for \$7,500.00. Ex. L. *See also* Tr. at 11.
- A bank statement showing a payment of \$7,500 to Wells Fargo Card Reserve. Ex. M at 4. *See also* Tr. at 11.
- A spreadsheet with the Individual's budget for January (presumably 2026) showing an unpaid balance of \$176.94 for household bills for the month and that the Individual had overpaid her share of the bills by \$174.82.³ Ex. N. The budget items were listed as follows, showing first the share and payment for her cohabitant boyfriend (CB), then the Individual's share and payment (IND).
 - Mortgage: CB \$1,500.00 owed, \$1,500.00 paid; IND \$653.85 owed, \$653.85 paid.
 - USAA #1: CB \$263.13 owed, \$263.13 paid; IND \$0 owed.
 - [Phone Service]: CB \$240.71 owed, \$0 paid; IND \$240.71 owed, \$481.42 paid.
 - USAA #2: CB \$0 owed; IND \$263.13 owed, \$263.13 paid.
 - City of [Individual's Residence]: CB \$0 owed, \$79.36 paid; IND \$0 owed, \$79.36 paid.
 - 5th Wheel: CB \$280.00 owed, \$280.00 paid; IND \$280.00 owed, \$280.00 paid.
 - Spa: CB \$66.50 owed, \$66.50 paid; IND \$66.50 owed, \$66.50 paid.
 - [CB] Loan: CB \$450.00 owed, \$597.00 paid; IND \$147.00 owed, \$0 paid.
 - Frontier: CB \$82.49 owed, \$83.00 paid; IND \$82.49 owed, \$83.00 paid.
 - [CB's] Truck: CB \$679.16 owed, \$340.00 paid; IND \$0 owed.
 - [Utilities]: CB \$243.77 owed, \$245.00 paid; IND \$243.77 owed, \$245.00 paid.
- A statement for the Individual's Apple Card showing a zero balance as of October 2, 2025, and stating that the card remained closed. Ex. O. *See also* Tr. at 11.
- Invoice and Fee Disclosure documents for an unidentified tax preparer showing balances due for preparation of tax returns for tax years 2021 and 2022. Ex. P; Ex. Q.

At the hearing, the Individual testified that she did not file her 2021 and 2022 tax returns when they were due because she knew she would owe tax and did not know how she would pay. Tr. at 16. The Individual was "in a state of just a lot of debt at the time, and it [was] piling." *Id.* She had been on a payment plan for her taxes in previous years and testified that she was told she would not be able to be on a payment plan, so she "bailed" and did not file or pay her taxes. *Id.* at 17. Tax

³ The Individual's cohabitant boyfriend had not paid his full share of the household bills for the month. Ex. N.

authorities sent the Individual letters seeking payment despite her not having filed. *Id.* at 16–17. The IRS garnished her wages in the amount of \$794.69 every paycheck for seven pay periods. *Id.* at 17–19. The Individual testified that this paid her balance in full. *Id.* at 18. She filed her taxes as required for tax years 2023 and 2024. *Id.* at 37.

The Individual testified that she went to the IRS office to file her tax returns in person on January 15, 2026—just eleven days prior to the hearing. Tr. at 1, 20–21. Her 2021 return was accepted that day, but, the Individual testified, she did not have the correct paperwork for her 2022 return that day, so it was not accepted.⁴ *Id.* at 21–22. She mailed the 2022 return the following day. *Id.* at 20–21. She mailed her state tax returns for 2021 and 2022 to the state tax authority the same day. *Id.* at 21. The Individual believed her federal tax transcripts had not yet been updated to show her returns as filed because she had filed so recently. *Id.* at 22. She admitted that she had procrastinated on filing despite having been notified months earlier that her security clearance had been suspended in part for failure to file taxes.⁵ *Id.* at 23. She testified that she did not have a good reason for the delay and that she had been “afraid to face” the issue.⁶ *Id.* At the hearing, the Individual said she was locked out of the online portal for her state’s tax agency and was waiting to receive a pin in the mail so she could access her state tax transcripts. *Id.* at 28–29. In a post-hearing submission of exhibits requested of her at the hearing, the Individual wrote that her tax transcripts were not yet updated, that she had gone to the local federal and state branch offices in person, and that she had been told her records would be updated by mid-March. Transmittal Email for Exhibits N–Q from Individual to Judge Martin (Feb. 9, 2026).

The Individual testified that her monthly net pay was about \$7,000.00. Tr. at 29. She paid \$700.00 per month for the mortgage on the home she lived in with her boyfriend, though her name was not on the mortgage. *Id.* at 30. She testified that she had no student loans or car payments. *Id.* However, she later admitted that she had an RV loan for a fifth-wheel travel trailer, for which she paid \$280.00 monthly. *Id.* The Individual and her boyfriend paid for their two sons’ car insurance as well, her share of which was about \$350.00 monthly. *Id.* She and her boyfriend split the remaining household bills, such as utilities, her share of which was about \$250.00 monthly. *Id.* The Individual testified that her share of the monthly bills totaled about \$2,000.00 per month. *Id.* at 40. She testified that she had a little over \$10,000.00 in credit card debt and that she had not used the cards in six months. *Id.* at 31–32. The Individual testified that she was paying “well over a thousand dollars a month” on her credit cards. *Id.* at 31. The Individual did not explain what she did with the rest of her monthly take-home pay, after paying her bills and her credit card payments.

The Individual’s bank statement showed that on July 18, 2025, the Individual made two withdrawals from an ATM, one in the amount of \$5,000.00 and one in the amount of \$4,000.00.

⁴ While the Individual had a photocopy of the first page of her 2021 tax return stamped “received” on January 15, 2026, her IRS tax transcript showed no return filed as of January 26, 2026. Ex. J; Ex. B.

⁵ The Individual admitted that at her January 14, 2026, prehearing conference she had said her taxes were filed. Tr. at 48. She explained that the returns had been prepared at that time, she just hadn’t sent them in yet. *Id.* She testified that she now understood the difference between preparing and filing taxes. Tr. at 49.

⁶ The Individual stated that though she had cited procrastination and fear as her reasons for not filing taxes in the past and for delaying filing until the last minute before the hearing, the hearing had been “a real eye-opener” for her, and it “set[] the fear in [her] to do it.” Tr. at 49.

Ex. M at 8. The Individual testified that this had been her savings, which she now kept at home, though she had spent all but \$900.00 of it to pay down credit cards and go to Las Vegas with her boyfriend for his college graduation ceremony. Tr. at 43–44. She testified that she did not gamble during the trip and that her boyfriend had made small sports bets of \$50–\$100 each. *Id.* at 44. She did not explain why she used cash to pay the credit cards and did not provide proof of payment.

The Individual’s self-reported credit card balance at the time of the hearing – a little over \$10,000 – was close to the total balance of her revolving and unsecured credit at the time her credit report was pulled for her security clearance investigation in August 2024. Ex. 10 at 175–79; Tr. at 43. The Individual was asked to explain how she could pay \$1,000.00 per month on the cards, pay nearly \$9,000 cash on the card balances, not make any new spending on the cards in six months, and have almost the same balance as she had a year and a half earlier. Tr. at 43. She did not answer the question asked, but instead reiterated that she had lost track of expenses in the past, which led to her two delinquent debts, and she had now cut back on unnecessary expenses such as dining out. *Id.* at 46–47. In response to being asked if she had a written budget to explain the discrepancy in her reported credit card balance and reported credit card payments, the Individual submitted the Exhibit N budget spreadsheet, which showed only that she paid \$2,152.56 in expenses in January 2026. *Id.*; Ex. N. The budget did not include essential items like food or fuel, the \$1,000.00 in monthly credit card payments the Individual testified to having made, or all of the bills the Individual listed in the hearing. Ex. N.

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 at ¶ 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 mitigating conditions apply.

The Individual has only recently resolved her delinquent debts and, although the Individual claimed to have filed her delinquent tax returns, IRS records provided by the Individual reflect that the IRS has not yet received her unfiled tax returns. She did not provide any documentation to account for the thousands of dollars remaining from her net pay after paying the bills reflected in Exhibit N each month or the large sum of cash she withdrew from her bank in 2025, and I find her testimony on the matter not credible. Given the Individual's inability to identify where most of her money goes, her lack of receipts, and the absence of a budget line for \$1,000.00 in credit card payments, I struggle to believe her claims that she has paid off, at minimum, \$14,000.00 in credit card debt over the preceding six months (between monthly \$1,000.00 payments and \$8,000.00 in cash) in addition to paying almost \$9,000.00 in delinquent debt. Considering the foregoing, I believe that the Individual has instead engaged in substantial spending to which she has not admitted which places her at risk of falling into delinquency on debts in the future. Given her testimony that financial irresponsibility and procrastination led to her delinquent debts and failure to file taxes, her decision to wait until just before the hearing to file her taxes, her claim that she did not know the difference between preparing and filing taxes,⁷ and her inability to explain her current financial situation indicate that the circumstances that led to the security concerns persist. I cannot find that the situation is unlikely to recur, and her current behavior continues to cast doubt on her judgment, trustworthiness, and reliability. As such, mitigating condition (a) does not apply.

⁷ The Individual's testimony about her statements at the prehearing conference showed, at best, incompetence in basic financial and legal responsibilities. At worst, they show dishonesty to the court. Neither situation reduces doubt about the Individual's ability to meet her obligations as a security clearance holder in the future.

As discussed above, the Individual's own behavior was the root of the security concerns. She did not act responsibly at the time, and admitted that fear, procrastination, and failure to budget caused her to fall behind on her bills and tax responsibilities. Mitigating condition (b) does not apply.

Though the Individual has resolved the two delinquent debts cited in the Notification Letter, she continues to struggle with budgeting and spending. Furthermore, she has not resolved the security concerns surrounding her tax filings. To the extent that resolving the delinquent debts alleviates the LSO's concerns, other concerns remain and doubt also remains about the behavior that led to the delinquencies. The Individual testified that she fell behind on her credit card payments because she did not realize she was overspending. Similarly, she was unable to provide a consistent or complete accounting of all her monthly expenses, and she could not explain where her significant disposable income went each month. The circumstances are quite similar to those she described as the underlying reason for the delinquencies, so, therefore, while mitigating condition (d) may apply with respect to her repayment of the two overdue debts cited in the Notification Letter, it is insufficient to resolve all of the concerns. Furthermore, the whole person concept weighs against finding the debt concerns resolved as the Individual has not resolved the underlying behaviors.

The Individual testified that she filed all her delinquent taxes and paid the past due tax. However, she was unable to show conclusive evidence that she had filed or paid her taxes, in large part due to delay caused by procrastination and fear. The returns she prepared show that she owes tax in an amount greater than the amount she was garnished, and there is no evidence that she has arranged to pay the remaining tax or that she is in compliance with any arrangements. Accordingly, mitigating condition (g) does not apply.

Mitigating conditions (c), (e), and (f) are inapplicable because the Individual has not shown that she attended credit counseling or financial counseling, has not disputed the legitimacy of her debts, and has not been accused of unexplained affluence.

For the foregoing reasons, I find that the Individual has not resolved the Guideline F security concerns.

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