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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: November 18, 2025) Case No.: PSH-26-0015
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Issued: May 27, 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 should not be granted access authorization.

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 the Individual's self-report in February 2025, that the Individual failed to file his federal and state income tax returns for tax year 2020 and to pay his federal and state income tax liability for tax years 2023 and 2024. As a result, the LSO informed the Individual by letter (Notification Letter) that it possessed reliable information that created substantial doubt regarding his 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 his 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 his own behalf and submitted nine exhibits, marked A through I.² The LSO submitted eight exhibits, marked Exhibits 1 through 8.³

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 the Individual’s failure to file federal and state income tax returns for tax year 2020 and that he failed to pay his federal and state income tax as required for tax years 2023 and 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.*

² Prior to the hearing, the Individual submitted nine pages of exhibits into the record without labeling them. I therefore combined the exhibits into a single .pdf exhibit book and labeled each separate page as an exhibit with a letter in alphabetical order.

³ References to the LSO exhibits are to the exhibit number and the page number of the combined .pdf of the exhibit book.

§ 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

There is no dispute that the Individual failed to timely file his income tax returns or pay his tax liability for tax year 2020 and that he failed to timely pay his 2023 and 2024 income tax liability. Transcript of Hearing, OHA Case No. PSH-26-0015 (Tr.) at 11; Ex. 5 (August 11, 2025, Letter of Interrogatory (LOI) response) at 19.

The record contains the following information regarding the Individual's 2020 tax returns. In 2021, he attempted to prepare his own tax returns but could not complete the process. Tr. at 11. That year, for the first time, he had received a Form 1099, and he did not know how to report the information contained in the form using self-preparation tax software. *Id.* at 11–12. Despite his attempt to research the issue, he got “stuck,” stopped working on it, and missed the submission deadline. *Id.* at 11–13. Every year thereafter, he recalled that he still needed to file his 2020 returns, and he thought he would be able to complete them himself at some point. *Id.* at 12, 17–18. A few days before the hearing in April 2026, the Individual obtained the services of a tax preparation company to successfully prepare his 2020 federal and state tax returns, which he mailed to the U.S. Internal Revenue Service (IRS) and state tax authority the day before the hearing. *Id.* at 11, 16, 18. His federal tax liability for 2020 totaled \$1,186 and his state liability totaled \$522; however, he had not paid either amount by the hearing date. Ex. A (state tax 2020 payment voucher); Ex. B (IRS 2020 payment voucher); Tr. at 18. And, while he testified that he should have the financial means to pay his 2020 tax liability, he had not yet set up a payment plan with either tax authority. Tr. at 19. Instead, he plans to wait until the IRS contacts him after it processes his return and determines the total amount he owes with penalties and fees before setting up a payment plan. *Id.* at 27. He did not provide any information at the hearing regarding his plan to address the outstanding state tax liability for 2020.

As for the Individual's failure to pay his 2023 and 2024 federal and state income taxes, he testified that he could not afford to pay the liability at the time he timely filed his returns for those years. *Id.* at 19. Regarding his state tax liability, he clarified that he in fact timely paid his 2023 state tax in 2024 and recalled that he was able to do so because it was a relatively small amount, but he did not provide a receipt confirming the same. *Id.* at 21. Next, he testified, and provided evidence in the form of a letter from the state tax authority, that he paid his state tax liability for 2024 by making a payment of \$409.60 to the state approximately two weeks before the hearing. *Id.* at 20; Ex. E (December 19, 2025, notice of outstanding state tax liability for 2024 with hand-written note indicating payment of the total on March 24, 2026, and associated confirmation code). The same letter demonstrates that his payment likely resolved the total outstanding tax debt he had with that state. Ex. E (indicating that the amount listed in the notice represented the entire outstanding personal income tax balance owed to the state government).

The Individual provided the following information regarding the status of his federal tax debt for 2023 and 2024. In 2025, his outstanding federal income tax debt totaled \$4,891.14, and he enrolled in a payment plan to address it that year. Ex. C at 3; Tr. at 22. He agreed to a payment schedule whereby he would make thirteen, \$400 monthly payments. Ex. D. The first payment was due in October 2025, and the last scheduled payment is due in October 2026. *Id.* He testified that as of the April 2026 hearing date he had made all of the scheduled payments, albeit late but within the post-due-date grace period provided by the agreement. Tr. at 25. However, his payment records only document that he had made four of the six scheduled payments from October 2025 to March 2026. *Id.*; Ex. I (October 2025 receipt); Ex. H (December 2025 receipt); Ex. G (January 2026 receipt); Ex. F (February 2026 receipt). He testified that he “usually juggl[es] bills” and submits payments when he is able, based on his other obligations. Tr. at 25. When asked whether he anticipated being able to make his scheduled April 2026 payment under the agreement and pay his anticipated federal and state tax debt for tax year 2025, he testified, “I’ll pay what I can [I]f I get late fees or whatever on my state or federal, I’ll pay those also[.]” *Id.* at 26.

Finally, the Individual testified that he anticipates that he will have a large tax payment due when he files his federal and state income tax return for 2025, and he does not expect to be able to pay that amount when he files his returns. *Id.* at 29. Going forward, the Individual plans to adjust his employer tax withholdings to avoid owing money at the end of the year. *Id.* at 28.

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 filed his 2020 tax returns on the eve of the hearing, he has not yet paid his outstanding 2020 tax liability, he has not provided adequate evidence to demonstrate that he has met the terms of his repayment agreement to satisfy the debt he owes to the IRS, and he does not anticipate being able to make payment to satisfy his expected 2025 tax liability when due. Thus, his concerning behavior will undoubtedly continue. Accordingly, I conclude the behavior was not infrequent and the circumstances indicate that his behavior is likely to recur.

I also find that ¶ 20(b) does not apply because the Individual clearly established that his failure to file his 2020 returns was due to his decision to continue attempting to prepare them himself despite knowing he did not have the capability to successfully complete the task. I construe the Individual's promise to increase the income tax withholding from his paycheck as an assertion that his inability to meet his obligation to pay his tax liability in 2023 and 2024 stemmed from his failure to ensure that his employer withheld an appropriate amount from his gross pay to cover his annual tax liability. As the Individual could have increased his withholding at any time, it was a circumstance well within his control. Consequently, I need not consider whether he acted responsibly under the circumstances. But I would find it difficult to conclude that the Individual acted responsibly given that he was put on notice that he needed to make a prompt change to his employer withholdings when he learned of his 2023 tax liability. Despite that notice, he had not yet corrected the withholding issue in the years leading up to the hearing date.

Next, I find that ¶ 20(c) does not apply to resolve the concerns. Although the Individual has used a tax preparation service to assist him in filing his delinquent 2020 tax returns, he has not established that he is participating in financial counseling. Furthermore, the Individual did not present evidence to establish that his failure to file his 2020 income tax returns or timely pay his state and federal tax liability for 2024 was due to circumstances from which he would have benefited from financial counseling.⁴ Therefore, I find that ¶ 20(c) of the Adjudicative Guidelines is not applicable to this case.

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.

⁴ In reaching my conclusion, I credit the Individual's testimony that he timely paid his 2023 state tax liability given that the letter he received from the state tax authority in 2025 indicated he only owed an amount commensurate with the Individual's self-described 2024 state tax liability.

Finally, ¶ 20(g) does not apply to resolve the concern. The Individual filed his 2020 tax returns one day before the hearing and has not yet arranged to remit the past-due amount. Therefore, he has not made arrangements to pay the amount owed for his 2020 federal and state taxes. Furthermore, while I conclude the Individual has paid his state tax debt and made arrangements to pay his federal tax debt for 2023 and 2024, the record does not persuade me to conclude that he has met his obligations under that agreement because his records fail to support his testimony that he made all of the scheduled payments. Given the Individual's admitted difficulty in meeting his financial obligations, I doubt that he did make those two payments for which he did not provide a payment receipt. Therefore, I conclude that while the Individual has made arrangements to address his federal tax liability for 2023 and 2024, he is not in compliance with those arrangements. Finally, he admitted that he will likely fail to pay his 2025 income tax bill, which he is certain to owe, when he files his 2025 federal and state tax returns. Thus, there is no doubt that his concerning behavior will continue. *See* 10 C.F.R. § 710.7(c) (requiring consideration of "the frequency and recency of the conduct" and "the likelihood of continuation or recurrence" in applying the mitigating conditions).

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 should not be granted access authorization.

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