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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:	March 18, 2026	)	Case No.:	PSH-26-0074
		)		
		)		

Issued: August 14, 2026

Administrative Judge Decision

Diane L. Miles, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXX (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 granted.

I. BACKGROUND

The Individual is employed by a DOE contractor in a position that requires him to hold a security clearance. In May 2025, the Individual completed a Questionnaire for National Security Positions (QNSP). Exhibit (Ex.) 6.[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 57. The Individual reported that he failed to file his federal and state personal income tax returns for tax years 2021 and 2022. *Id*. at 57–58. In January 2026, the Local Security Office (LSO) issued a Letter of Interrogatory (LOI) to the Individual, which sought additional information about his failure to file his state and federal income tax returns. Ex. 5. In his response to the LOI, the Individual reported that he failed to file his state and federal personal income taxes for tax years 2021 and 2022 because he was negligent. *Id*. at 17.

[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, 175-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.

In February 2026, 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 March 2026, 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 July 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-26-0074 (Tr.). Counsel for the DOE submitted eight exhibits, marked as Exhibits 1 through 8. The Individual submitted nine exhibits, marked as Exhibits A through I.

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 a failure to file annual state or federal income tax returns, as required. *Id*. at ¶ 19(f).

In citing Guideline F, the LSO relied upon the Individual's admissions, in his May 2025 QNSP and January 2026 LOI, that he had not filed his state or federal personal income tax returns for tax years 2021 and 2022. *Id*. The LSO also cited the Individual's admission, in his January 2026 LOI, that he did not file his personal income taxes due to negligence. *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 did not timely file his federal income tax returns for tax years 2021 and 2022 because he was negligent. Tr. at 9–10. He explained that in 2022, he was 20 years old and had never filed income tax returns before. *Id*. at 10. He explained that his parents never taught him about the requirement to file tax returns; he believed that if he ensured taxes were deducted from his paychecks, he wasn't required to do anything else. *Id*. He started filing tax returns in 2024, for tax year 2023, after he got married and his wife asked him if he was going to prepare the tax returns for both of them. Tr. at 11–12; Ex. 6 at 45. He believed that if he filed tax returns for tax years 2023 and later, he would "be in good standing with the IRS" and his prior delinquencies for tax years 2021 and 2022 would "fall off." Tr. at 12. He stated that he did not receive notices from the Internal Revenue Service (IRS) about his delinquent tax returns. *Id*. at 11.

In May 2026, after realizing that his delinquencies for tax years 2021 and 2022 could jeopardize his eligibility for a security clearance, the Individual attempted to file his 2021 and 2022 federal income tax returns. Tr. at 12–13; Ex. B (copy of 2022 federal income tax return); Ex. D (copy of 2021 federal income tax return). He explained that a tax professional prepared both returns, and he mailed them to the IRS. Tr. at 12. The Individual submitted a copy of United States Postal Service (USPS) tracking information for his mailing to the IRS, to support his claim that he mailed the 2021 and 2022 federal income tax returns to the IRS on May 15, 2026. *Id.* at 13–14; Ex. G. Although the record shows that the USPS was unable to deliver one of his packages, the Individual explained that he checked the tracking numbers on the USPS website on May 18, 2026, and the site indicated that all his packages were successfully delivered. Tr. at 13–16; Ex. G. He stated that he also contacted the USPS by telephone and was told that his packages had been successfully delivered. Tr. at 13–16. The Individual explained that after checking his IRS account online and visiting his local IRS office, two days before the hearing, he learned that his federal income tax returns for tax years 2021 and 2022 had not yet been accepted and processed by the IRS. *Id*. at 13, 15–16, 26. The Individual also submitted a letter after the hearing concluded in which he indicated that he inquired with the IRS about his 2021 and 2022 federal income tax returns and learned that he would not be able to access a transcript of his IRS account for those tax years, until the IRS completed its processing of those returns. Ex. I.

As to whether the Individual owed any federal taxes, his 2021 federal income tax return indicated that he was due a refund in the amount of $364. Ex. D at 2; Tr. at 16–17. The Individual also submitted an IRS "Account Balance" record, dated June 25, 2025, but it did not indicate whether he owed taxes for tax year 2021. Ex. C; Tr. at 18–19. The Individual's 2022 federal income tax return indicated that he owed $18.00. Ex. B at 2; Tr. at 16–17. He did not mail payment for the taxes he believed he owed for tax year 2022 because he was waiting for the IRS to process the returns so he could submit the payment on the IRS website. Tr. at 17. The Individual filed his federal income tax returns for tax years 2023, 2024, and 2025, as demonstrated by IRS Account Transcripts he submitted for each tax year which indicated that the tax returns had been filed and processed by the IRS. Tr. at 10–11, 19, 26; Ex. H at 1–22.[3]

As for the Individual's state income tax returns for tax years 2021 and 2022, the Individual explained that he failed to file these returns for the same reason he failed to file his federal income tax returns. Tr. at 20. He did not receive any notices from his state tax authority about his delinquent 2021 or 2022 tax returns. *Id*. at 22. The Individual submitted a copy of his prepared state income tax returns for tax years 2021 and 2022 and claimed that he mailed both returns to his state taxing authority on May 15, 2026. Tr. at 14; Ex. A; Ex. E. He explained that after contacting the USPS by telephone and checking the USPS website, he believed that his packages containing the state returns were delivered successfully. Tr. at 14–16; Ex. G. He believed that he owed over $40 in taxes for tax year 2021, which he claimed he paid on July 16, 2026. Tr. at 23, 26–28. He claimed that he owed over $200 in taxes for tax year 2022, which he claimed he paid on July 1, 2026. *Id.* The Individual submitted a letter from his state taxing authority, dated July 8, 2026, which indicated that between April 2024 and May 2026, it received and processed the state income tax returns for tax years 2021–2025, and that the Individual had "a zero balance" with his state taxing authority. Ex. H at 23–24.[4] He stated that he now understands that he is required to file his income tax returns annually, by the filing deadline. Tr. at 24–25.

V. ANALYSIS

The Adjudicative Guidelines provide that conditions that could mitigate a security concern under Guideline F include:

[3] The Individual's IRS Account Transcript for tax year 2023 indicates that the Individual may owe federal taxes for that year. Ex. H at 14–15.

[4] The July 8, 2026, letter from the Individual's state taxing authority indicates that the 2021 income tax return was received on May 13, 2026, and processed on May 18, 2026. Ex. H at 23–24. His 2022 income tax return was received on May 13, 2026, and processed on May 18, 2026. *Id* at 23. His 2023 income tax return was received on April 11, 2024, and processed on April 12, 2024. *Id*. His 2024 income tax return was received on February 20, 2025, and processed on March 10, 2025. *Id*. His 2025 income tax return was received on February 24, 2026, and processed on February 25, 2026. *Id*.

(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 failure to timely file his 2021 and 2022 state and federal income tax returns.

As to factor (a), the Individual's behavior of failing to timely file his state and federal income tax returns began in 2022 and continued up until the date of the hearing because his delinquent 2021 and 2022 federal income tax returns had not yet been received and accepted by the IRS. Although he filed his delinquent state income tax returns, he did not do so until May 2026, and very little time has passed since the Individual has changed his behavior as to his state tax returns. 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 his delinquent income tax returns remained unfiled for more than three years, and his 2021 and 2022 federal income tax returns remained unfiled as of the date of the hearing.
Finally, although the Individual claimed that his parents never taught him about the need to file income tax returns, he admitted, in his January 2026 LOI and during the hearing, that he did not timely file his state and federal income tax returns for tax years 2021 and 2022 because of his own negligence. Although the Individual filed his delinquent state income tax returns, he did not do so until after he realized that the delinquent income tax filings would affect his ability to obtain a security clearance. Similarly, he delayed mailing his federal income tax returns until May 2026,

and the returns remained unfiled as of the hearing. Therefore, I am unable to conclude that the Individual's failure to timely file his income tax returns is unlikely to recur, and he has not mitigated the security concerns under ¶ 20(a) of the Adjudicative Guidelines.

As for factor (b), the Individual admitted that his failure to timely file his state and federal income tax returns for tax year 2021 and 2022 were due to his own negligence. He also admitted that he did not attempt to file his delinquent returns until May 2026 because he believed any concerns related his untimely 2021 and 2022 income tax returns would "fall off." The Individual did not act responsibly by waiting until May 2026, two months before the administrative hearing, to attempt to file his delinquent returns, even though he knew that the DOE had concerns about his delinquent tax returns in January 2026. Therefore, the Individual has not mitigated the security concerns under ¶ 20(b) of the Adjudicative Guidelines.

As to factor (c), the Individual did not submit evidence he obtained any form of financial counseling. He admitted he did not file his state and federal income tax returns for tax years 2021 and 2022 because he was negligent and he believed any concerns related to those delinquencies would "fall off." These were not circumstances from which he would have benefitted from financial counseling. Moreover, the problem is neither resolved nor under control because the Individual's 2021 and 2022 federal income tax returns remained unfiled as of the hearing. Therefore, the Individual has not mitigated the security concerns under ¶ 20(c) of the Adjudicative Guidelines.

As to factor (d), although the Individual submitted sufficient evidence to establish that he did not owe state taxes, it is not clear if the Individual will owe federal taxes for tax years 2021 or 2022 because the IRS has not yet processed the income tax returns for those years. He also explained that he would not submit payment to the IRS for any taxes he owes until after the IRS processes his 2022 income tax return. Therefore, the Individual has not yet paid any federal taxes he owes, and he has not mitigated the security concerns under factor ¶ 20(d) of the Adjudicative Guidelines.

As to factor (e), the Individual did not dispute that his 2021 and 2022 state and federal income tax returns were not timely filed. Also, it is not clear if the Individual will owe federal taxes for tax years 2021 or 2022 because the IRS has not processed the income tax returns for those years. Therefore, I find that mitigating factor ¶ 20(e) is not applicable to this case.

As to factor (f), the security concerns raised by the LSO did not involve an allegation of unexplained affluence. Therefore, mitigating factor ¶ 20(f) is not applicable to this case.

As to factor (g), the Individual submitted a letter from his state tax authority, which indicated that his state income tax returns, for tax years 2021–2025, were processed and that he did not owe state taxes. As for the Individual's delinquent federal income tax returns, he submitted evidence that he mailed packages containing the returns to the IRS in May 2026. Because the Individual waited until May 2026, two months before the hearing, to mail his returns to the IRS, he was unable to submit evidence establishing that his 2021 and 2022 federal income tax returns were received and processed by the IRS. The returns remain unfiled as of the hearing as a result of the Individual's years of procrastination and lack of responsibility. *See* 10 C.F.R. § 710.7(c) (requiring consideration of “the frequency and recency of the conduct” and “the circumstances surrounding the conduct”, among other things, in applying the mitigating conditions). Therefore, I am unable to conclude that the Individual has made arrangements with the IRS to file his delinquent federal income tax returns and pay any federal taxes that he may owe. The Individual has not mitigated the security concerns under ¶ 20(g) of the Adjudicative Guidelines.

VI. CONCLUSION

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