

## Recommendations to Address Findings

### RECOMMENDATIONS ASSOCIATED WITH INTERNAL GUIDANCE

**Recommendation: 1**

Title: Develop new guidance on FOIA and SUNSI relationship  
Findings addressed: 1, 3, 5  
Implementation: OIS supported by OGC and NSIR  
Priority: High (high value and medium cost)

The working group recommends that a single new living guidance document be developed that is written in plain language and is posted to internal SUNSI and FOIA Web Sites. The document should address the following topics:

- The types of information that may be withheld under FOIA with a specific focus on the more frequently invoked, less straightforward exemptions such as Exemption 7(f).
- How the staff will implement the NRC's commitment to transparency and openness (and any Administration guidance on openness) when making determinations on FOIA withholding.
- The differences between FOIA [especially Exemption 7(f)] and SUNSI, highlighting that while a SUNSI designation should prompt consideration of possibly applicable FOIA exemptions, it does not in and of itself mean that the information or the document will be able to be withheld under FOIA in the event of a FOIA request.
- The proper use of the compilation or mosaic theory in connection with FOIA exemptions such as FOIA Exemption 1 (which applies to classified information) and the discretionary FOIA exemptions (which may be available to withhold SUNSI in appropriate circumstances).
- Examples of properly withheld material for various FOIA exemptions:
  - Recommend that the examples include information associated with the Site Characteristics sections of NRC licensing documents (as well as more controversial topics, such as flooding).
  - Recommend that the examples list is vetted by all relevant staff offices (to encourage agreement on the front end with regard to the types of information that the NRC staff would like to withhold on various topics).
  - Recommend that the examples list be amended if material is released that should have been withheld or a disagreement highlights a weakness in the list, especially if there is litigation on the matter.

Enclosure

**Recommendation: 2**

Title: Update SUNSI guidance documents

Findings addressed: 1, 2, 3, 4

Implementation: OIS (lead) and Program Offices

Priority: High (high value and medium cost)

The working group recommends that the content of SUNSI guidance documents be updated. A clear structure of guidance documents should be established, and their relationships should be clearly communicated. (For example, the SUNSI Web Page could have a purpose of providing additional guidance to MD 12.6.) The updated guidance should address the following topics:

- Add to the SUNSI Web Page or establish a new guidance document on technical topics that is authoritative and can be updated in a timely manner. Replace SECY-04-0191, “Withholding Sensitive Unclassified Information Concerning Nuclear Power Reactors from Public Disclosure.”
- Update and increase the detail, when possible, of guidance on technical topics in the document (or Web Site) that replaces SECY-04-0191.
- Update MD 12.6, “NRC Sensitive Unclassified Information Security Program” (it has not been updated since December 1999). The MD should direct employees to the SUNSI Web Page for additional practical implementation guidance consistent with the MD.
- Update MDs 3.1, “Freedom of Information Act” and 3.4, “Release of Information to the Public,” to point to other guidance and to be consistent with any new processes.
- Ensure consistency among the SUNSI web page; MDs 3.1, 3.4, and 12.6; and any new guidance document.
- Describe differences between FOIA and SUNSI and explain that a SUNSI designation should prompt consideration of FOIA exemptions that might be available to withhold the designated information in the event of a FOIA request.
- Investigate and resolve possible differences between how the compilation or mosaic theory applies to SUNSI and how it applies to classified information. In particular, current SUNSI guidance states that the theory may be applied across multiple documents, but the theory may be applied only within a document for classified information.
- Discuss how the staff is to implement the NRC’s commitment to transparency and openness (and any administration guidance on openness) when making SUNSI determinations.
- Emphasize that SUNSI documents must be properly marked at origination.
- Explain Exemption 3 authorities held by other agencies, such as Protected Critical Infrastructure Information (PCII) and Critical Energy Infrastructure Information (CEII), and how NRC handles such documents. Describe how, within the NRC, PCII and CEII may be protected. Note in the guidance that inappropriate handling of PCII and CEII could harm working relationships with Federal partners and that licensees may need instruction on proper documentation if they claim information is PCII or CEII.

- Consider using Frequently Asked Questions (FAQ) in SUNSI and FOIA Web guidance.

**Recommendation: 3**

Title: Remove outdated Web resources on FOIA and SUNSI  
Finding addressed: 1  
Implementation: OIS  
Priority: High (high value and medium cost)

The working group recommends the removal of outdated FOIA and SUNSI information and resources on the OIS Web Site. The Web Page should link to new training as well as the announcement suggested in Recommendation 6. OIS should coordinate with OGC and relevant staff offices to identify outdated information. (Note that Recommendation 5 supports maintaining the guidance up to date.)

**Recommendation: 4**

Title: Official Agency Records (OARs) and approval of ADAMS profile  
Finding addressed: 15  
Implementation: OIS  
Priority: Low (low value and low cost)

The working group recommends that the NRC state in Management Directive 3.53 (or other MDs as appropriate) when, in general, a document is to be declared an OAR. The guidance should address what makes a document final, when a document is not final, and what the criteria are to declare it as an OAR. For example, preliminary versions or works in progress should not be declared OAR without a specific reason and management approval.

**Recommendation: 5**

Title: Keep SUNSI and FOIA guidance up to date  
Finding addressed: 1  
Implementation: OIS  
Priority: High (high value and medium cost)

The working group recommends that once NRC develops thorough guidance for sensitive information (see recommendations 1, 2 and 10), the agency should ensure that a process is in place to keep the guidance up to date. Consider a program similar to regulatory guides that reviews and updates guidance on a fixed schedule. FOIA guidance for general staff and practitioners must also be kept up to date (e.g., when improved practices are identified or case law affects the use of exemptions).

RECOMMENDATIONS ASSOCIATED WITH INTERNAL KNOWLEDGE

**Recommendation: 6**

Title: Issue agencywide communication on SUNSI and FOIA  
Findings addressed: 1, 2, 3, 5  
Implementation: OIS supported by OGC and NSIR  
Priority: High (high value and low cost)

The working group recommends that, after the new guidance is developed, an annual communication (e.g., a Yellow Announcement) should be sent out to remind the staff that SUNSI and FOIA are not the same and to point out that different criteria exist for determining which information is considered SUNSI and which information may be withheld in response to a FOIA request.

- The agencywide communication should include the following:
  - A link to relevant guidance documents and training presentations or slides.
  - A brief description of the purpose of any guidance documents mentioned in the announcement to ensure the staff understands how the guidance document should be used (e.g., in making SUNSI determinations or in deciding what information may be withheld in response to a FOIA request).
  - A reminder to staff of the need to mark SUNSI documents and, if portion marking is implemented by recommendation 14, to provide a resource for guidance on portion marking Word and PDF documents.
  - A list of key contacts described in Recommendation 10 and the availability of OIS and OGC staff to assist with questions on FOIA exemptions.
  - A description of how the NRC's commitment to transparency and openness (and any administration guidance on openness) is balanced with SUNSI and FOIA determinations to withhold information from the public.
  - A statement that PCII and CEII do not apply to the NRC and thus are not valid bases, in and of themselves, for establishing information as SUNSI or withholding in response to a FOIA
- In conjunction with recommendation 15 regarding kickoff meetings, the annual communication should remind staff to coordinate with staff in other divisions or offices that are responding to the same FOIA request and have the same or similar documents. (Note that OIS/FOIA will need to identify all recipient offices, divisions, etc. to each individual recipient for coordination.)
- The working group recommends that a copy of this latest communication be included with each FOIA request distributed to a staff office for review.

**Recommendation: 7**

Title: Promote staff interaction with OGC on complex issues  
Findings addressed: 5, 9  
Implementation: Program Offices  
Priority: High (high value and low cost)

The working group recommends that the NRC encourage the staff (at least at a management level) to contact OGC with questions related to the legal issues associated with what information may be properly withheld in response to a FOIA request (to encourage issues to be addressed on the front end and to be better coordinated with OGC). This could be accomplished through the agencywide communication in Recommendation 6, in the key contact information on the FOIA Web Page, and in FOIA kickoff meetings.

**Recommendation: 8**

Title: OGC presentation on FOIA and SUNSI  
Finding addressed: 5  
Implementation: OGC  
Priority: Medium (medium value and low cost)

Have OGC make an agencywide presentation on the differences and the interplay between FOIA and SUNSI. (Similar sessions have already been delivered to small groups.) The presentation should be recorded for future use by any staff.

**Recommendation: 9**

Title: Facilitate communication on FOIA issues  
Finding addressed: 8  
Implementation: OIS and OGC  
Priority: High (high value and low cost)

The working group recommends continuing periodic OIS/OGC meetings to review and discuss FOIA issues. (Note that these meeting have been occurring since January 2014.)

Because FOIA analysts are the only staff that see all FOIA responses and OGC staff see many of the responses, encourage OIS and OGC staff to contact technical staff if inconsistencies are spotted. Develop a process for addressing broad inconsistencies/lessons learned, if needed.

**Recommendation: 10**

Title: Identify key contacts  
Finding addressed: 9  
Implementation: OIS  
Priority: Medium (medium value and low cost)

The working group recommends identifying key contacts as subject matter experts (SMEs) for sensitive information, publish them on the FOIA and SUNSI Web Pages, and provide them in agencywide communications and at FOIA kickoff meetings. OIS should also identify a resource for aid in making SUNSI determinations. Example contacts consist of the following:

- NRR, NRO, NMSS, and FSME project managers for facility information.
- SMEs for technical topics.
- NSIR.
- OIS and OGC specialists for FOIA.
- SUNSI Resource (SUNSI.Resource@nrc.gov).

**Recommendation: 11**

Title: Improve document management  
Findings addressed: 10, 15  
Implementation: OIS  
Priority: Medium (medium value and medium cost)

**Version Control:** Evaluate the use of version control tools (ADAMS and SharePoint) across the agency to determine if improvements are needed. Consider the value in mandating use of a single tool (ADAMS or SharePoint) for maintaining versions. Identify whether communication and education are warranted to promote the use of version control tools.

**Access Control:** Training and guidance should emphasize the use of access controls built into ADAMS or SharePoint. This could be facilitated by setting ADAMS to not allow selection of “All NRC users” if a record is profiled as non-public. Use of ADAMS distribution groups could also be encouraged for appropriate long-term access that limits access to the distribution group.

**Recommendation: 12**

Title: Execute CUI awareness program  
Finding addressed: 6  
Implementation: OIS and NSIR  
Priority: Medium (medium value and medium cost)

The CUI communication program currently being developed should be implemented. The program should include most of the following training opportunities. The National Archives and Records Administration (NARA), the CUI executive agent, has offered to conduct onsite reviews of agency programs. The responsible program office can deliver an all-employee CUI training session followed by a question and answer period. Currently, NARA has made the following CUI training available to anyone interested: <http://www.archives.gov/cui/training.html>. The modules in the NARA training include the following:

- **CUI Awareness**, which discusses the history of CUI and the need for a consistent Governmentwide policy.
- **Executive Order 13556**, which introduces the Presidential directive to create a collaborative and standardized approach for managing controlled unclassified information.
- **CUI & FOIA**, which clarifies the distinction between the CUI program and the FOIA.

Because CUI implementation is driven by the publication of a final rule and the date for the rule has been a moving target, NARA has recommended that no changes take place in agency policy prior to the publication of the final rule.

#### RECOMMENDATIONS ASSOCIATED WITH INTERNAL PROCESSES

**Recommendation: 13**

Title: Pilot program for a FOIA consistency reviewer  
Finding addressed: 1, 4, 12  
Implementation: Program Offices and OIS  
Priority: Low (low value and high cost)

The working group recommends that the NRC consider developing a pilot program that tests the effectiveness of having a consistency reviewer with a focus on costs and benefits.

- The pilot program would be in effect for either a specified period of time or a certain number of FOIA requests that involve multiple offices.
- The office in charge of implementing the pilot program would evaluate whether the reviewer is able to find inconsistencies in the agency's proposed responses (between the information that the staff is proposing to release and is proposing to withhold) and whether having a consistency reviewer adds a significant amount of time to the agency's FOIA response process.
- The reviewer's role would be to ensure that the staff is not proposing to release information that it is proposing to withhold in other places, and vice versa. The reviewer would be responsible for reviewing the entire agency's response (not just the records from one staff office).
- The working group recommends that the reviewer be familiar with the security aspects of any potential targets (e.g., reactors, fuel facility, and downstream populations) implicated by the information proposed to be withheld in response to the FOIA request. The group also recommends that the reviewer be an individual in one of the relevant staff offices (i.e., a program office like NRR or NRO instead of OIS) to ensure familiarity with the topic. The

reviewer may be different for each topic and one reviewer per topic is suggested, but this could vary based on need.

**Recommendation: 14**

Title: Require portion marking for all SUNSI in NRC-produced documents  
Finding addressed: 2  
Implementation: OIS  
Priority: Medium (high value and high cost)

Of the seven types of SUNSI listed in the SUNSI Web Page, only security-related information and proprietary are required to have portion marking and header and footer markings. The working group recommends that all NRC-produced documents be required to be portion marked for SUNSI at origination. Before implementation, the resource implications of this recommendation should be evaluated. (Consider that the investment of time to portion mark at origination may be offset by savings in future SUNSI or FOIA reviews. If the decision is not to mark all SUNSI documents, consider marking all documents in situations of high stakeholder interest.) It should be noted that the proposed rule for CUI requires portion marking and, as a result, a Federal requirement for portion marking may be introduced soon.

Some SUNSI categories (e.g., attorney work products, investigation products, and predecisional documents) may have documents where the entire document is sensitive. Those documents should include a statement that the entire document is SUNSI and thus is not portion marked.

Guidance on how to physically apply portion marking to Word and PDF documents should be communicated.

**Recommendation: 15**

Title: FOIA response kickoff meetings and materials  
Findings addressed: 8, 9, 18  
Implementation: OIS and OGC  
Priority: High (high value and low cost)

For major FOIA efforts or for new FOIA reviewers, the working group recommends that OIS conduct a kickoff meeting that brings together staff from all divisions that have responsive records. Kickoff meetings would include:

- Refresher training.
- A description of the entire FOIA response process at the NRC.
- An introduction to key contacts in OIS and in OGC for questions.
- Identification of previous related FOIA requests.
- A discussion of ADAMS search tools that identify documents produced in previous related FOIA responses.



**Recommendation: 16**

Title: Process to resolve differing views on sensitivity  
Finding addressed: 12  
Implementation: OIS  
Priority: Low (low value and low cost)

MD 12.6 should be modified to include the following content. For differing views on SUNSI designations, the DPO process may work effectively and should be used as appropriate. If the DPO process does not sufficiently address a difference or the difference is over release in response to a FOIA request (where statutory deadlines apply and a quick resolution is therefore required), the difference should be addressed by the involved Branch Chiefs. If the differing view cannot be resolved between the Branch Chiefs, it should be elevated through management (i.e., to Division Directors and then Office Directors). If Office Directors cannot agree, then it should be brought to the DEDOs to serve as arbiters. If the dispute involved information or data obtained from other Federal agencies, decisions should give deference to the opinions of the other agencies. (If whole documents were acquired by the NRC from another Federal agency, the originating agency should be consulted before release.) FOIA differences should be addressed in a timely manner because of statutory requirements for response.

**Recommendation: 17**

Title: Improve the process to determine what records have been released in prior FOIA responses  
Finding addressed: 17  
Implementation: OIS  
Priority: Medium (high value and high cost)

The working group recommends a new ADAMS property field that stores the accession number of a record that has been processed with redactions in a FOIA response. As an example, for FOIA request 1, Document A (ML050000001) is redacted and the redacted version is placed in ADAMS under accession number ML14A000001.

The FOIA Analyst would be required to provide the accession number of a FOIA response record to the Document Processing Center for addition to the properties of the original record. The accession number should be displayed in the results list of an ADAMS search. In the example case, the FOIA analyst would request (probably via e-mail) that the ADAMS profile for the non-redacted, original version of Document A (ML050000001) be modified to state that redacted version of the document is available at accession number ML14A000001. Then, for FOIA Request 2, when the reviewer finds the original Document A (ML050000001), he or she also has found the redacted version (ML14A000001) and can maintain consistency.

As part of FOIA training, educate staff that a FOIA response creates new records that are scanned versions of the redacted original. Discuss document search tools in the FOIA response kickoff meetings.

**Recommendation: 18**

Title: Evaluate the need for periodic review of documents in ADAMS

Finding addressed: 16

Implementation: OIS

Priority: Low (low value and medium cost)

The need for periodic reviews of documents in sensitivity category “A.4 - Sensitive – Security Related – Periodic Review Required” should be investigated and confirmed. It appears that the Commission directed the staff in SRM-COMSECY-05-0054 to establish a policy for reviewing “sensitive internal” and “security-related” SUNSI every 7 years. SECY-09-0126 states that NRC policy requires a review after 7 years for certain categories of SUNSI to determine whether the information should be decontrolled. This guidance may conflict with new CUI requirements. Evaluate how well the policy is known and the extent to which periodic reviews are being conducted. Consider revisiting the need for periodic reviews of such documents. OIS should develop mechanisms to ensure that the periodic reviews are performed (e.g., e-mails sent to the document owner or contact). The criteria for using category A.4 and the mechanisms developed to ensure that reviews are performed should be publicized. Note that portion marking all SUNSI would greatly facilitate the periodic reviews.

**Recommendation: 19**

Title: Identification of prior FOIA responses on a topic

Finding addressed: 17

Implementation: OIS

Priority: Medium (medium value and medium cost)

To assist program offices in maintaining consistency with prior FOIA responses, the working group recommends that OIS FOIA specialists identify prior FOIA requests related to a new request (e.g., querying keywords in FOIAExpress). This information should be provided to FOIA responders at kickoff meetings. This recommendation will help ensure that e-mail and other non-ADAMS records for a prior FOIA response are considered when responding to a new FOIA request.

**Recommendation: 20**

Title: Level of management review for release and withholding

Finding addressed: 13

Implementation: OIS and OGC

Priority: Medium (medium value and medium cost)

Office directors are typically given wide latitude on how to execute rules, policies, and other agency guidance. Because they are responsible for many functions in the office, it is commonly accepted that they will delegate implementation of many duties. Even if not delegated, office directors rely on subject matter experts for recommendations in making their final decisions. It would be difficult to limit the office director's judgment on the day-to-day management of their office.

A presumption of release exists under the FOIA statute. To withhold a document from a requestor, the information must fall under one of the nine statutory exemptions and, for discretionary exemptions, current Presidential directive requires the agency to articulate a particular harm that it would suffer if the information was released. The review process for fully released records in response to a FOIA request begins with the subject matter experts and ends with the final check at the FOIA office. Although a OGC review may not be required for certain categories of information, an office may request to meet with OGC or the FOIA office if questions arise concerning the release of records. At the final stages of review, the FOIA office will perform a check of responsive records to look for exemptions that may have been overlooked at a lower review level. However, analysis and responsibility for review of the technical information and of any resulting harm to the government if released must always be initially conducted at the office level by the subject matter expert.

The working group recommends that senior agency management decide what level of management review is appropriate and sufficient to decrease the instances of inconsistency. OIS and OGC will then proceed to revise agency requirements to reflect that decision.

#### RECOMMENDATIONS ASSOCIATED WITH INTERNAL TRAINING

**Recommendation: 21**

Title: Improved training on SUNSI and FOIA  
Findings addressed: 2, 5, 7, 9, 18  
Implementation: OIS supported by OCHCO and NSIR  
Priority: High (high value and medium cost)

The working group recommends that the existing annual mandatory SUNSI training portion of INFOSEC be amended to include some training on FOIA and the relationship between FOIA and SUNSI (such as an explanation that the criteria for SUNSI designations and for withholdings under FOIA are not the same). Also, the existing general FOIA training recommended for all employees should be updated to cover the distinction between SUNSI determinations and FOIA exemptions. Both courses should remind employees to consider whether a FOIA exemption is available to withhold information when they see that information responsive to a FOIA request has been marked as SUNSI. Both courses also should include relevant key contacts in OIS and OGC for more information. Once the conversion from SUNSI to CUI is implemented, assure that the relationship to FOIA is addressed in CUI training. The

annual mandatory SUNSI training course also should emphasize that it is essential to mark SUNSI documents at origination.

Training should emphasize that PCII and CEII designations reside with other Federal agencies and do not apply to the NRC. For this reason, they are not valid bases in and of themselves for establishing information as SUNSI or withholding in response to a FOIA. Describe how, within the NRC, PCII and CEII may be protected.

**Recommendation: 22**

Title: Develop or identify mandatory FOIA training  
Findings addressed: 5, 18  
Implementation: OIS supported by OCHCO and OGC  
Priority: Low (low value and low cost)

Initial and brief refresher training in FOIA should be mandatory for NRC staff. One of the existing iLearn courses could be used or new courses could be developed. This training should focus on FOIA generally in contrast to the addition of the topic of the differences between FOIA and SUNSI that is recommended for the annual INFOSEC training in Recommendation 21.

**Recommendation: 23**

Title: Promote better records management  
Finding addressed: 11  
Implementation: OIS and OCHCO  
Priority: Low (low value and low cost)

In ADAMS, FOIA, SharePoint, and Records and Information Management training, the working group recommends emphasizing recordkeeping responsibilities and the need to do the following:

- Use version control.
- Discard drafts on individual computer storage drives.
- Delete e-mails not needed for information retention.
- Discard hard copies of drafts and materials not needed to reproduce the final product.

RECOMMENDATIONS ASSOCIATED WITH EXTERNAL PARTIES

**Recommendation: 24**

Title: SUNSI designation based on input from other Governmental agencies  
Findings addressed: 19, 22  
Implementation: OIS

Priority: High (high value and medium cost)

The working group notes that FOIA has a process for consulting with other agencies regarding records with sensitive information. Similarly, if an NRC product quotes information that was marked as sensitive in a document from another agency, that information should be SUNSI in the NRC product. The recommendation below addresses the sensitivity of NRC-developed products that discuss or apply sensitive information from other agencies (i.e., derivative works).

The working group recommends that SUNSI guidance be improved to emphasize that if NRC documents discuss or apply sensitive information obtained from external sources (including other Federal or State agencies), then they are derivative works that should be identified and marked by NRC staff as SUNSI. This recommendation also would apply to information developed by NRC staff from computer models that use sensitive data from external sources. It is suggested that the guidance recommends consultation with other Federal agencies but does not require deference to their view.

It would be useful to have information that could be given to another agency describing the NRC processes and constraints regarding sensitive information from external parties. Communication with other agencies should request that documents with sensitive information be portion marked by the other agency. In addition, it is recommended that NRC-developed results that are based on sensitive information from another agency be communicated back to the originating agency for awareness.

**Recommendation: 25**

Title: Develop guidance for marking of SUNSI provided by licensees, applicants, vendors, etc.

Finding addressed: 20

Implementation: NRR, NRO, NMSS and FSME

Priority: High (high value and medium cost)

Inconsistent markings from licensees, applicants, or vendors may be the result of the lack of an NRC guidance document clearly illustrating NRC expectations. The working group recommends developing an external guidance document (e.g., RIS, regulatory guide) that speaks to the requirements of 10 CFR 2.390 [in particular (d)(1)]. The guidance should provide specific instructions for portion marking in licensee submissions.

FINDINGS AND ASPECTS OF FINDINGS NOT TO BE ADDRESSED BY  
RECOMMENDATIONS

**Problem 5. Relationship Between SUNSI and FOIA (partial aspect)**

“In addition, as a result the administration and NRC commitments to openness and transparency and the public perception created when SUNSI is released in response to a FOIA request, some staff question whether any information should be designated as SUNSI if it does not satisfy a FOIA exemption.”

FOIA law is not static and changes in response to unpredictable factors such as court decisions. If we tie SUNSI to FOIA exemptions, we are likely to have situations where, for example, a FOIA exemption is no longer available and our SUNSI definition is no longer valid. Also, some FOIA exemptions are discretionary. Views on whether to invoke a discretionary exemption for a particular document or piece of information may change as the document/information ages, resulting in another mismatch. In this situation, a document might be released in response to a FOIA request even though it was designated as SUNSI and was not initially and pro-actively made public by the program office. Not every document is reviewed under MD 3.4 for pro-active release (i.e., no FOIA request is present). Some documents are reviewed, and some of those are not made public at that time. Later, a FOIA request may be made that would require response with this same document. The agency must then review it, applying not the MD 3.4 standards but the FOIA law. Under that analysis, the document may be released in whole or in part despite not being initially released under the pro-active standards of MD 3.4. Neither a SUNSI designation nor a decision not to make a document pro-actively public is determinative of a document’s exemption status under FOIA, and an attempt to match SUNSI designations to FOIA exemptions is not feasible.

**Problem 14: Different Practices for SUNSI Reviews**

“An NRC technical lead or subject matter expert usually would perform an initial SUNSI review, but the practice is different across staff offices. For example, some offices employ contractors to make SUNSI determinations using appropriate criteria. Without uniform SUNSI review practices, SUNSI determinations may lack consistency in how they are made.”

Although the working group identified the different practices as a possible cause of inconsistencies, it is an unlikely cause because different offices generally handle different types of information. Program offices currently determine their own approach to making SUNSI determinations, and that practice does not necessarily need to change. The other recommendations will greatly reduce the likelihood of inconsistencies and any action to address Problem 14 specifically would add little to the improvements.

**Problem 21: Inconsistent Expectations by External Parties (partial aspect)**

“Some external parties regard information as being sensitive (and expect that information to be withheld in response to a FOIA request) that other external parties do not....”

Because each situation is different, a programmatic resolution to this finding would not be satisfying. When discrepancies exist among licensees or applicants about how the same information is treated, the responsible program office should evaluate the contributing factors and address the situation accordingly. Cases may exist where the different treatment is justified and cases may exist where it is not. Determinations by the NRC that some type of information is SUNSI should be communicated to licensees, applicants, or vendors so that the information can be appropriately protected. However, if the issue is not clear cut, the risks associated with public release are low, and the situation could be handled on a case-by-case basis.

VALUE / COST METHOD OF PRIORITIZATION

This method uses a simple scheme that involves estimating the relative value and relative cost of each recommendation. The combination of value and cost determine the priority. A 'best estimate' or 'educated guess' approach was employed to estimate the relative value and the relative cost.

<b>Relative Value Ranking</b>	<b>Relative Cost Ranking</b>	<b>Overall Priority</b>
High	High	Medium
High	Medium	High
High	Low	High
Medium	High	Low
Medium	Medium	Medium
Medium	Low	Medium
Low	High	Low
Low	Medium	Low
Low	Low	Low