



CHAIRMAN

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

March 28, 2018

The Honorable Gene L. Dodaro  
Comptroller General of the United States  
Washington, DC 20548

Dear Mr. Dodaro:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated March 5, 2018. Your letter called attention to open recommendations to which the U.S. Government Accountability Office (GAO) believes the NRC should give high priority. The Commission recognizes GAO's concerns regarding the open recommendations and appreciates GAO's recognition that the NRC is making progress on each recommendation. Please find in the enclosure an update on the actions that the NRC is taking to address GAO's recommendations.

The NRC appreciates the efforts of GAO to identify opportunities to improve and takes each GAO recommendation seriously. If you need any additional information, please contact me or John Jolicoeur, Executive Technical Assistant, Office of the Executive Director for Operations, at (301) 415-1642.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kristine L. Svinicki".

Kristine L. Svinicki

Enclosure:  
As stated

cc: M. Gaffigan, GAO  
M. Mulvaney, OMB

## NRC Actions to Address Priority Open GAO Recommendations

### 1. The Security of Radiological Sources

The U.S. Government Accountability Office (GAO) recommendations addressed two separate areas: source security of Category 3 sources (GAO-16-330) and the trustworthiness and reliability process (GAO-14-293).

GAO-14-293, "Nuclear Nonproliferation: Additional Actions Needed to Increase the Security of U.S. Industrial Radiological Sources," recommended that the U.S. Nuclear Regulatory Commission (NRC) conduct an assessment of the trustworthiness and reliability (T&R) process—the process by which licensees approve employees for unescorted access—to determine if the process provides reasonable assurance against insider threats. GAO recommended that the NRC's assessment of the process include revising, to the extent permitted by law, the T&R process to provide specific guidance to licensees on how to review an employee's background. The NRC should also consider whether certain criminal convictions or other indicators should disqualify an employee from T&R or trigger a greater role for NRC.

The case referenced by GAO in the first part of this recommendation referred to a misdemeanor domestic dispute on a local law enforcement record, 12 years prior to the request for unescorted access, which was not cited on the Federal Bureau of Investigation (FBI) criminal history record. As a result, the information was not available to support the T&R determination for the individual, and also did not reflect a performance deficiency or a systemic weakness.

As to the second part of this recommendation, the NRC reviewed the effectiveness of the requirements in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 37 to determine whether any additional security measures, guidance updates, rulemaking changes, or licensee outreach efforts are appropriate. This review included insights into the effectiveness of the T&R process and generated recommendations for enhancing T&R, including increased controls for protection of information related to individuals having access to Category 1 and 2 quantities of radioactive materials; improved guidance about information individuals must disclose when applying for unescorted access; development of sample forms or templates for use in T&R evaluations; and improved coordination with the FBI to share potential terrorist threat information involving individuals seeking approval for new or continued unescorted access to Category 1 and 2 quantities of radioactive materials.

Additionally, in late 2016, the NRC staff completed inspection activities associated with Temporary Instruction (TI) 2800/042, "Evaluation of Trustworthiness and Reliability Determinations," and used the information gained about licensees' implementation of the requirements to conduct background checks on personnel seeking unescorted access to Category 1 or Category 2 quantities of radioactive material to consider additional enhancements to the T&R process. Overall, this focused evaluation demonstrated that licensees appropriately use the information provided by the required FBI criminal history reports, in conjunction with employment history, personal references, and education checks, in making a T&R determination. The inspections also demonstrated that while some licensees do utilize disqualification factors, either of their own determination or as were provided in NRC guidance or by other Federal programs (such as the Transportation Security Administration Transportation Worker Identification Credential), licensees consider all information gathered during the background investigation to make the best informed decisions possible.

The outcomes of these activities are currently being used by the NRC staff to revise guidance for licensees to provide additional details on conducting background checks. In addition, the NRC staff is currently completing its evaluation of certain aspects of the T&R process, such as the need for disqualification criteria, and intends to finalize recommendations in fiscal year (FY) 2018.

Regarding GAO-16-330, "Nuclear Security: NRC Has Enhanced the Controls of Dangerous Radioactive Materials, but Vulnerabilities Remain," GAO recommended that the NRC do the following:

- 1) Take the steps needed to include Category 3 sources in the National Source Tracking System and add Agreement State Category 3 licenses to the Web-Based Licensing System as quickly as reasonably possible.
- 2) At least until such time that Category 3 licenses can be verified using the License Verification System, require that transferors of Category 3 quantities of radioactive materials confirm the validity of a would-be purchaser's radioactive material license with the appropriate regulatory authority before transferring any Category 3 quantities of licensed material.

In early 2016, the NRC formed a working group, the "License Verification and Transfer of Category 3 Sources Working Group" (LVWG), to evaluate license verification and transfer requirements for Category 3 sources. The LVWG evaluated the inclusion of Category 3 licenses in the NRC's Web-Based Licensing System and the methods available for verifying the legitimacy of licenses held by those licensees prior to the transfer of material. The working group also evaluated the inclusion of Category 3 sources in the National Source Tracking System (NSTS) for the specific purpose of preventing licensees from accumulating Category 3 sources into Category 2 or higher quantities of radioactive material. The LVWG made recommendations to enhance the existing processes for license verification and source tracking beyond Category 1 and Category 2 thresholds.

As directed by the Commission, the Category 3 Source Security and Accountability Working Group developed a notation vote paper that was submitted to the Commission in August 2017 (SECY-17-0083, "Re-Evaluation of Category 3 Source Security and Accountability in Response to SRM-COMJMB-16-0001). The Commission is currently considering the staff's analysis and recommendations.

## **2. The Reliability of Cost Estimates**

Regarding improving the reliability of cost estimates, in GAO-15-98, "Nuclear Regulatory Commission: NRC Needs to Improve Its Cost Estimates by Incorporating More Best Practices," GAO stated that the NRC should align its cost-estimating procedures with relevant best practices identified in the GAO Cost Estimating and Assessment Guide.

The NRC staff is updating its cost-benefit guidance to incorporate cost estimating best practices and the treatment of uncertainty to support the development of realistic estimates of the costs to implement proposed requirements. This guidance update addresses relevant best practices provided by the GAO and feedback provided by licensees, the Nuclear Energy Institute, and other stakeholders. This update will also consolidate guidance documents; incorporate recommendations from the GAO's report on the NRC's cost-estimating practices and

cost-estimating best practices from the GAO's guide; and capture best practices for the consideration of qualitative factors in accordance with Commission direction.

The cost-benefit guidance update was released on April 14, 2017, for a 60-day public comment period. Comments received were resolved and the document is undergoing final review. The guidance document is expected to be submitted to the Commission in the spring of 2018.

### **3. Strategic Human Capital Management**

Regarding improving strategic human capital management, GAO issued GAO-17-233, "Strategic Human Capital Management: NRC Could Better Manage the Size and Composition of Its Workforce by Further Incorporating Leading Practices." In this report, Recommendation 1 states that the NRC should set agency-wide goals, which could be ranges, for overall workforce size and skills composition that extend beyond the 2-year budget cycle.

On July 5, 2017, the NRC initiated a one year pilot of an Enhanced Strategic Workforce Planning (SWP) process that better integrates workload projection, skills identification, human capital management, individual development, and workforce management activities. As currently envisioned, the SWP has an annual cycle that ensures the insights from both 1-year and 5-year workload forecasts are considered in NRC strategic planning, human capital management, and budget formulation activities.

At the conclusion of the pilot, the NRC will perform a lessons-learned assessment to identify strengths, challenges, estimated resources, and recommended improvements to the enhanced process for agency-wide implementation.