

I like the changes to the draft recommendation that give agencies discretion with regard to considering costs. Assuming these changes stay in, I will feel much more comfortable voting for this revised recommendation than for the original draft, as to which I had concerns about cost, as discussed at our previous meeting. I know that some ACUS members do not like recommendations that recommend that agencies "consider" doing something, but given that the cost/benefit calculus may vary from agency to agency I believe this is an appropriate occasion on which we should call agencies' attention to the potential benefit of doing something (i.e., creating and maintaining an agency litigation webpage) but leave to the agency the ultimate decision as to whether doing the thing is justified after considering the costs.