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# Immigrant Investor Program Office



## Overview

November 23, 2020

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# What is EB-5?

Employment based immigration = five preference categories for immigrants

Employment-Based immigration – 5<sup>th</sup> preference category

Category is composed of immigrant investors who will:

- 1) make a minimum capital investment in the U.S.
- 2) benefit the U.S. economy, and
- 3) create or preserve jobs for qualifying employees.

# The EB-5 Program: Origins

**1990** - Congress establishes the EB-5 immigrant visa category that provided for what we now refer to as the 'Standalone' pathway.

**1992** - Congress authorizes the Immigrant Investor [Pilot] Program which we now refer to as the Regional Center Program.

Together, the 'Standalone' pathway and Regional Center Program are commonly referred to as the 'EB-5 Program.' or 'Immigrant Investor Program'.

## The 'Standalone' and Regional Center pathways – Similarities and Differences



### Similarities

- Investment minimum = \$1.8 million (or \$900,000 if the investment in a targeted employment area (TEA));
- Equity investment in a single new commercial enterprise;
- Investment 'at-risk';
- Investment sustained over the two-year conditional permanent residence period;
- Create or preserve – a minimum of 10 jobs for each immigrant investor.

# The Process for Immigrant Investors

Investor invests in a stand-alone new commercial enterprise (NCE) or selects a regional center-sponsored NCE for investment

Investor files a Form I-526 petition with USCIS to petition USCIS for classification as an EB-5 immigrant investor to obtain status for a conditional permanent resident visa

If approved, the Investor may obtain a conditional permanent resident (CPR) status when a visa number is available by filing for a visa at a U.S. Consulate (overseas) or filing for adjustment of status in the U.S. (domestic)

Within 90 days of the second anniversary of obtaining CPR status, the Investor files a Form I-829 to remove the conditions to his/her permanent residency by demonstrating sustainment of the investment and creation or preservation of the required number of jobs

# Regional Center Structure

Regional Centers promote economic growth in their designated geographic region. Regional Centers can be a public, private or hybrid entity and it can be for profit or not-for-profit.

- New Commercial Enterprise (NCE) is an investment vehicle generally organized as an LP or LLC that pools investor funds to provide a loan or equity investment to a JCE. NCEs are a for-profit commercial venture.
- Job Creating Entity (JCE) is almost always a commercial venture as it must have some form of revenue to repay NCE.

## Why EB-5? – Investor Motivation

For immigrant investors, the greatest incentive is the implicit value of Legal Permanent Resident (LPR) status, so investors are willing to accept modest monetary returns on their capital investment.

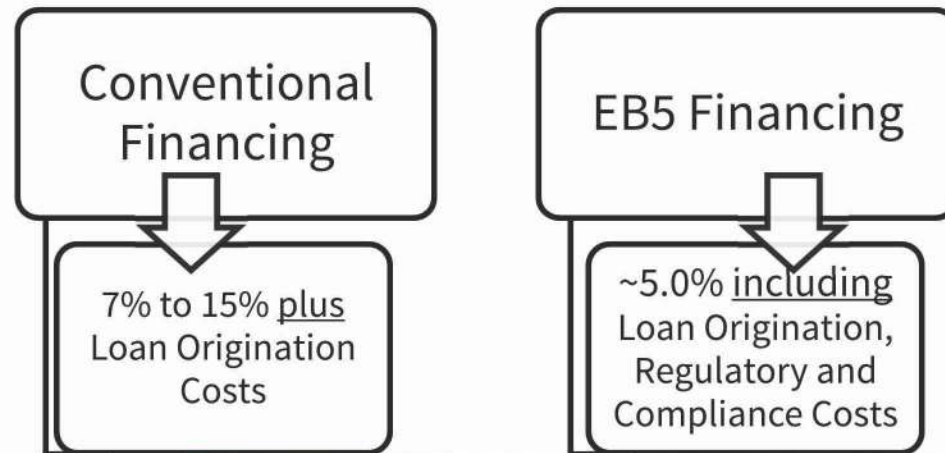
EB-5 petitioners do not require any prior connection to the U.S., such as a family sponsor or a potential employer.

For some countries, EB-5 processing times are faster than other immigration categories.

# Why EB-5? – Business Motivation

In the Regional Center Program, the advantages to developers of using EB-5 capital are:

- the lower cost of EB-5 capital compared with comparable conventional sources;

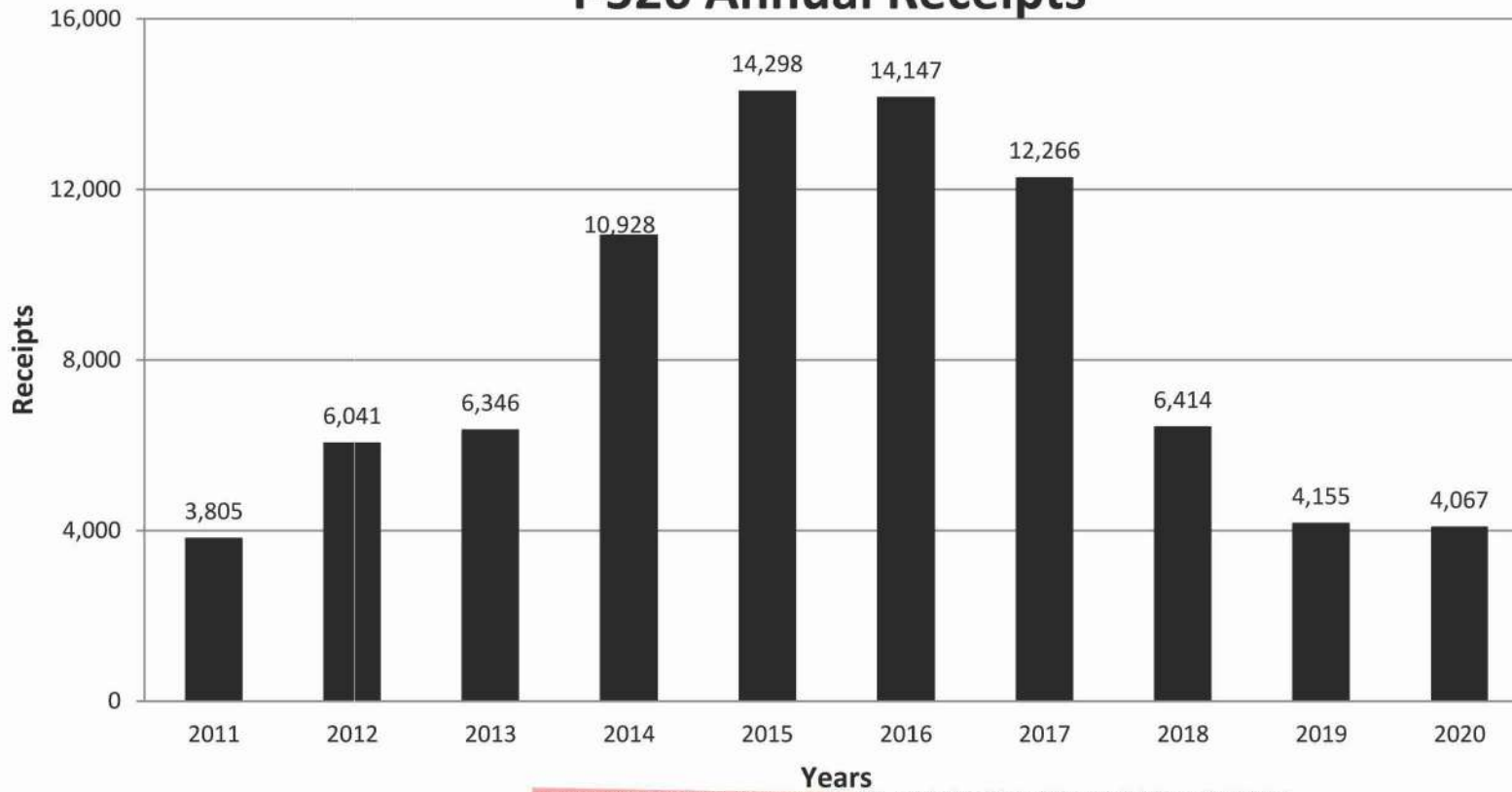




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# EB-5 Filings and Adjudication

## I-526 Annual Receipts



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# FY20 I-526 Applications by Country

Country	Percentage
INDIA	22.18%
KOREA, REPUBLIC OF	11.51%
CHINA	10.71%
VIETNAM	6.65%
HONG KONG	5.70%
TAIWAN	5.67%
MEXICO	5.35%
BRAZIL	3.48%
SOUTH AFRICA	3.34%
NIGERIA	1.77%
Other	23.65%

- From FY 2010 to 2017 China averaged over 80% of the petitions received on I-526s, with the highest in FY2014 at nearly 90%.
- In FY2018, China's percentage dropped to nearly 40% of the petitions received, and in FY2019 and FY2020, China averaged 12% of the petitions.

# By the Numbers

- As of November 2020, there are 674 active RCs
- Impact of EB-5 on the Economy
  - 12,266 filings in 2017
  - Average \$500,000 + \$50,000 administrative fees
  - =>\$6.7 billion into U.S. economy
- **2017 – ~616,000 jobs created**
- **>\$33.6 billion was contributed to the U.S. economy by capital investment and related spending of the Program in FY14 and FY15.\***

\* Western Washington University Center for Economic Business Research (CEBR) study published in 2018.

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# Compliance Division

## Immigrant Investor Program Office

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# Compliance Division Staffing

Compliance Division consists of four branches.

1. Adjudicative Branch – Responsible for adjudicating Form I-924s, Reviewing annual filings and Terminating regional centers that are not compliant.
2. Audit team – Responsible for regional center compliance reviews
3. Research and analysis branch
4. Background Check Unit

Currently 4 teams with around 35 staff members

Staff with a variety of grades and occupational series/duties including: Economists, Adjudicators, MPAs, Auditors, Immigration Service Analysts (ISAs) and Compliance Officers. This includes staff that are Certified Fraud Examiners, Certified Anti-Money Laundering Specialists, and Certified Global Sanctions Specialists.

# Approved and Terminated Regional Centers

## USCIS approved regional centers:

<https://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/immigrant-investor-regional-centers>

## USCIS terminated regional centers:

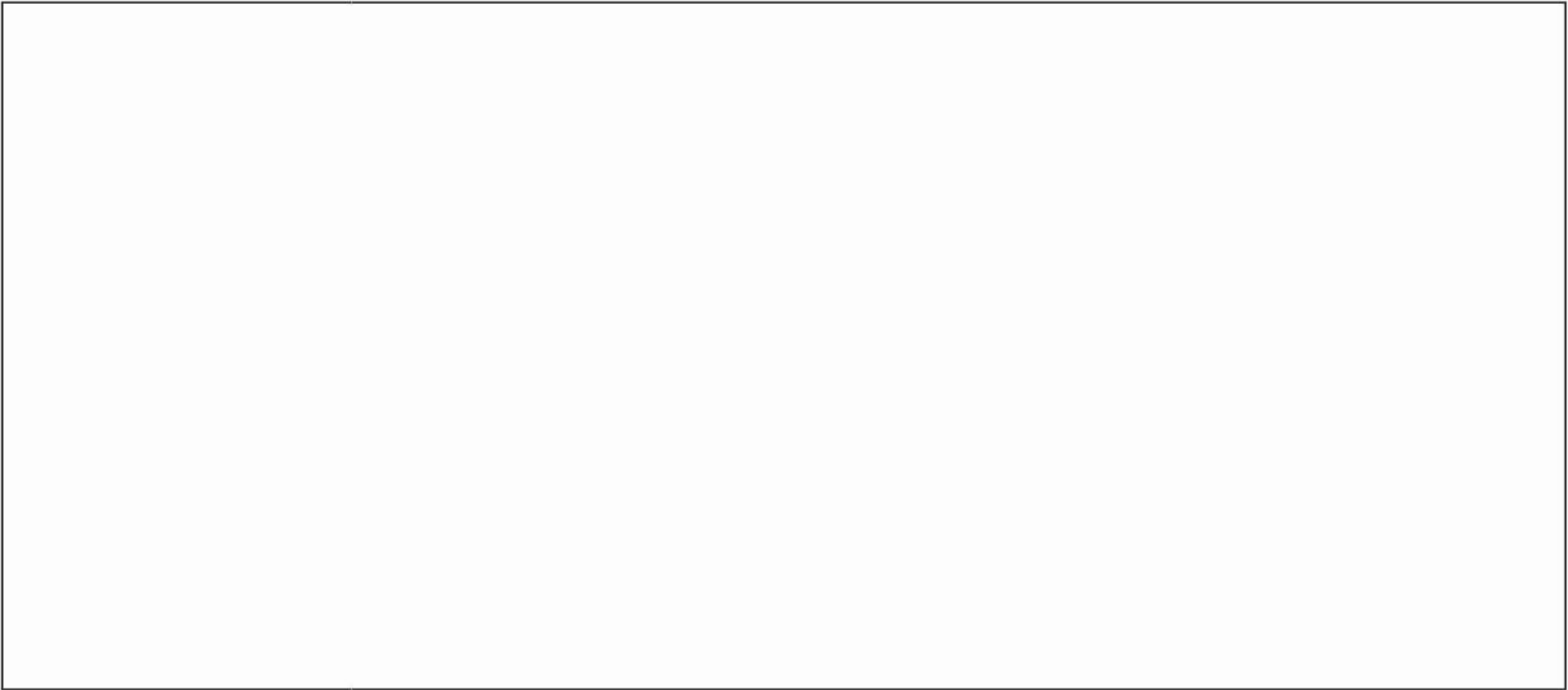
<https://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-immigrant-investor-process/regional-center-terminations>

## USCIS regional center termination notices:

<https://www.uscis.gov/about-us/electronic-reading-room/regional-center-termination-notices>

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# **FDNS Division**



## **Immigrant Investor Program Office**

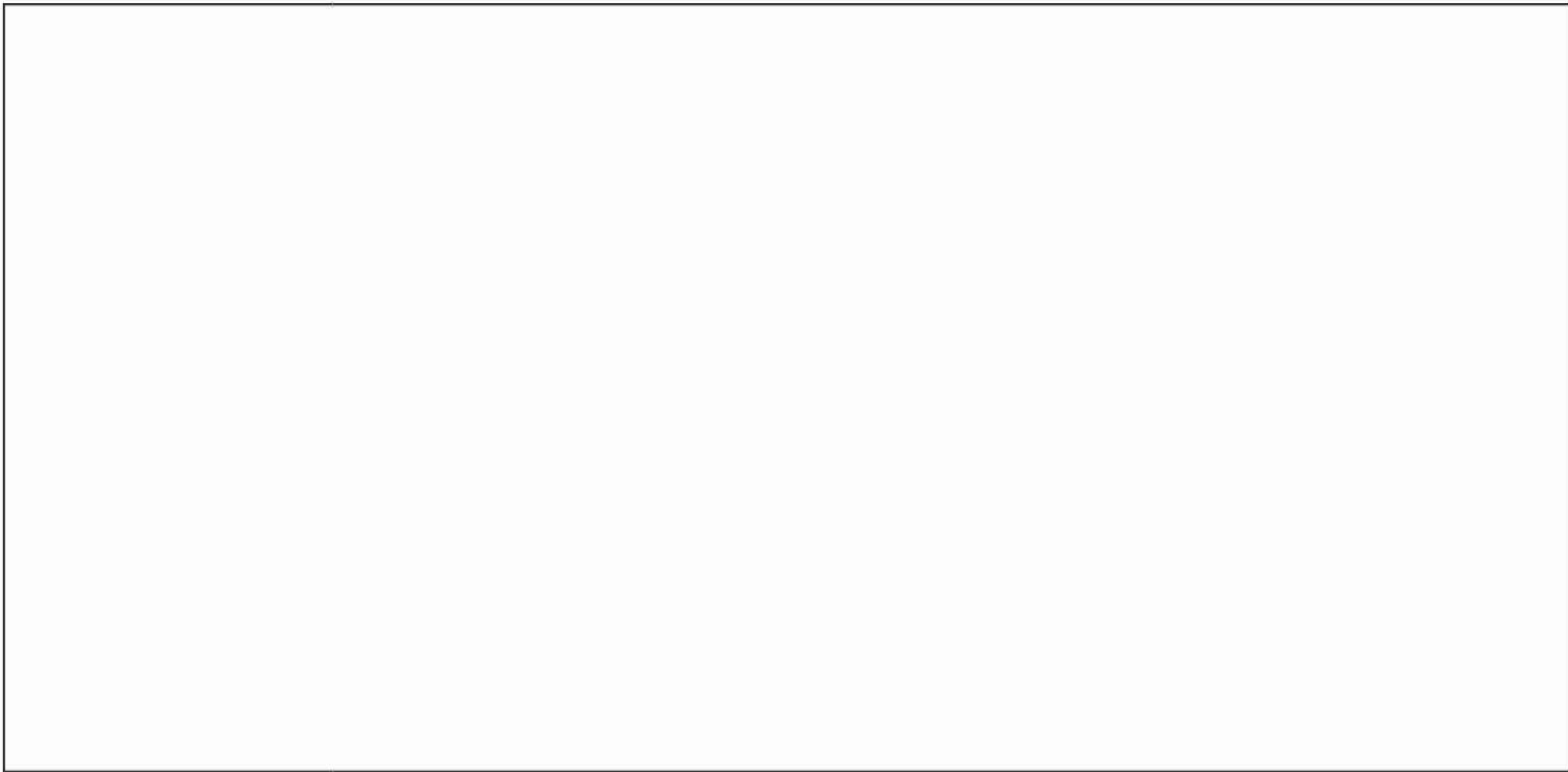
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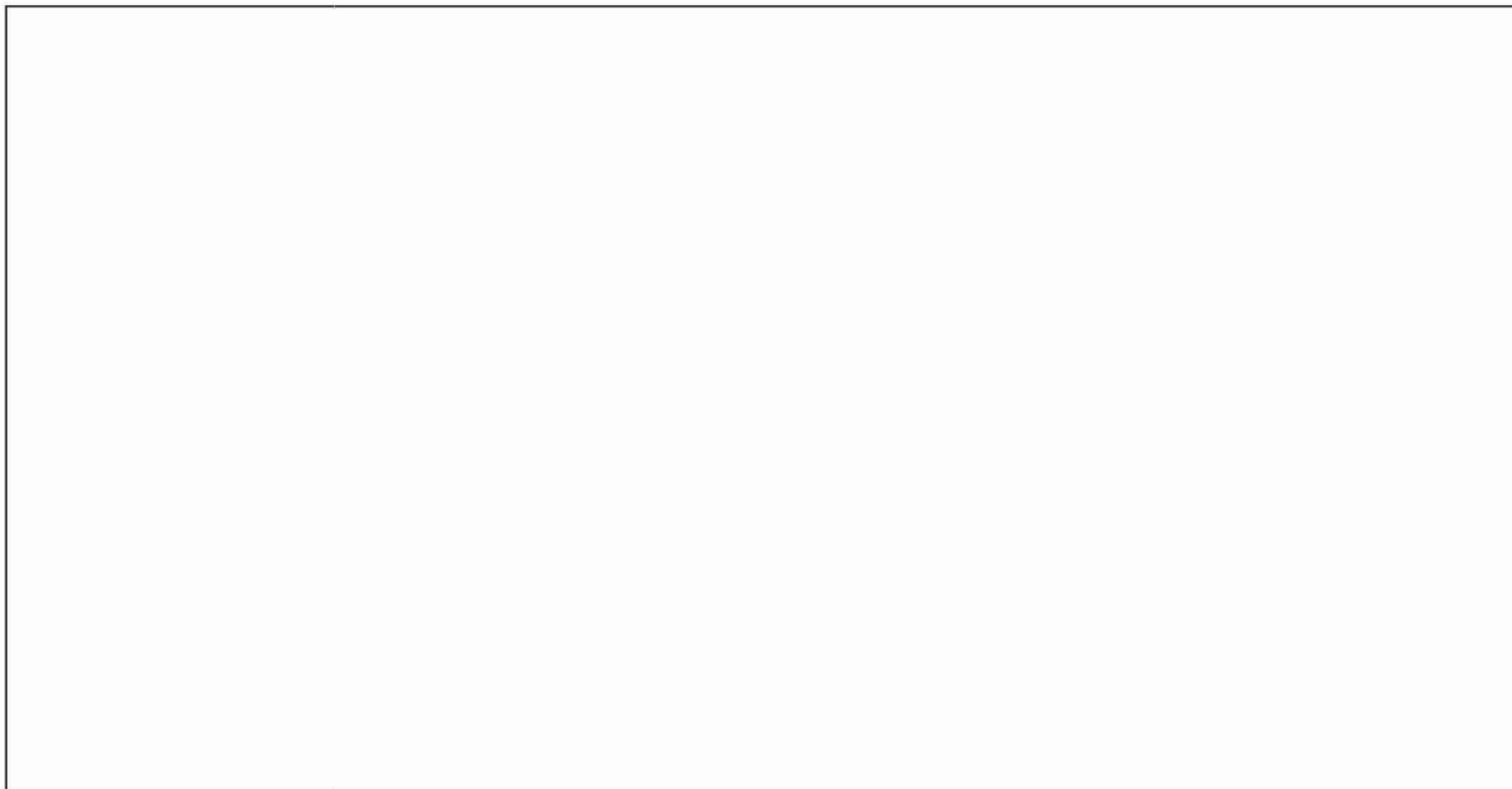
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# FDNS Operations Branch

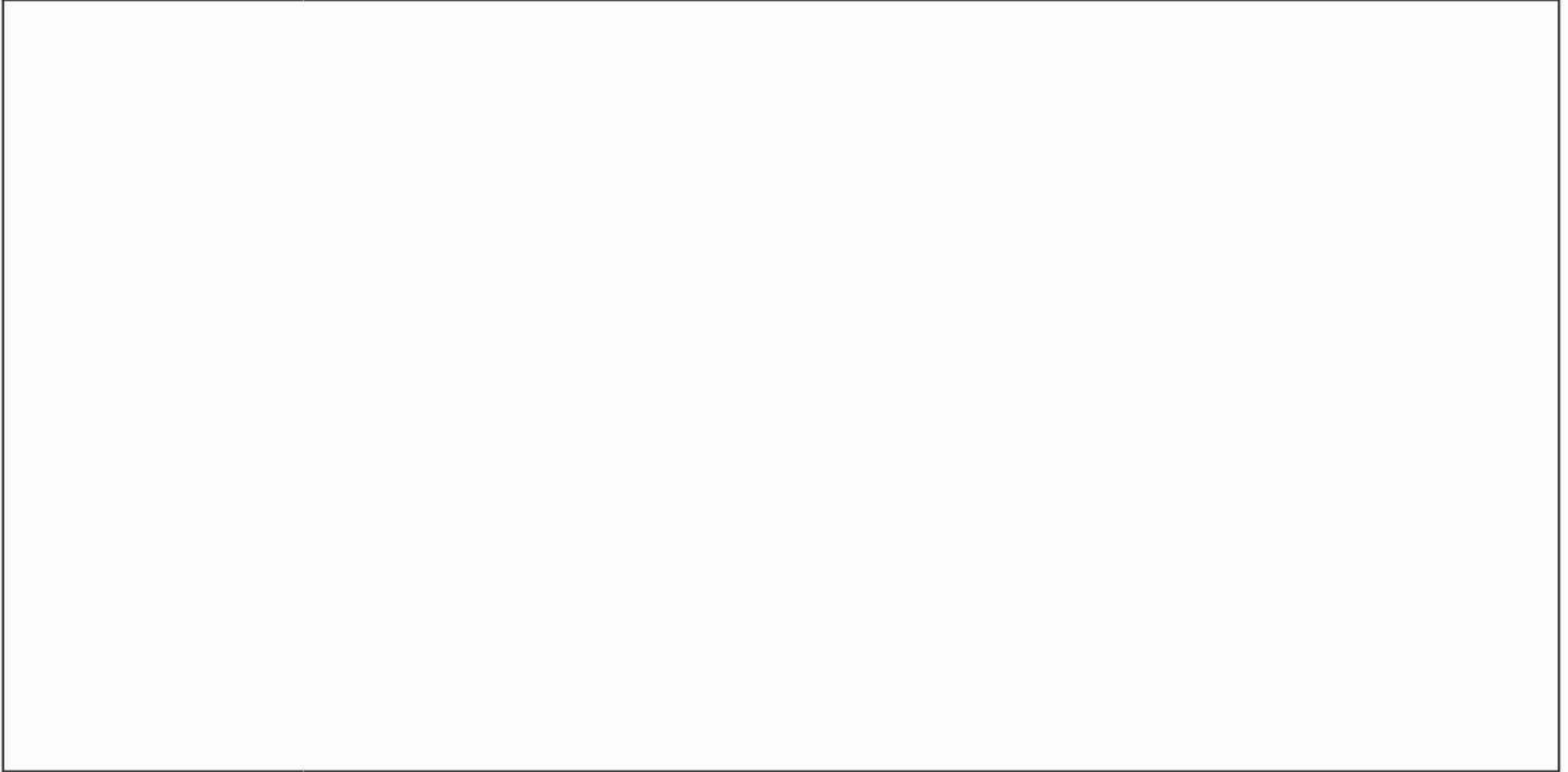


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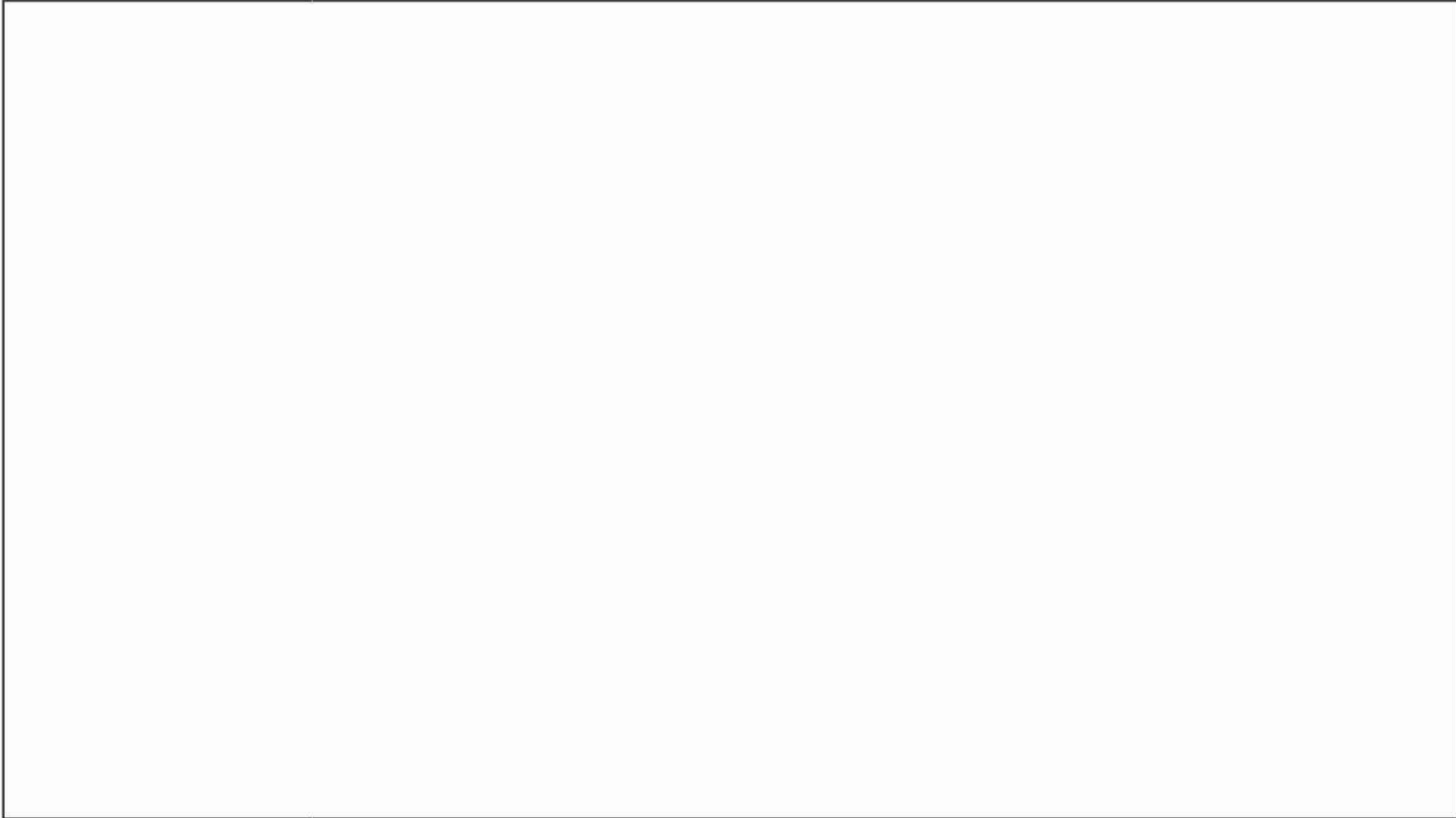
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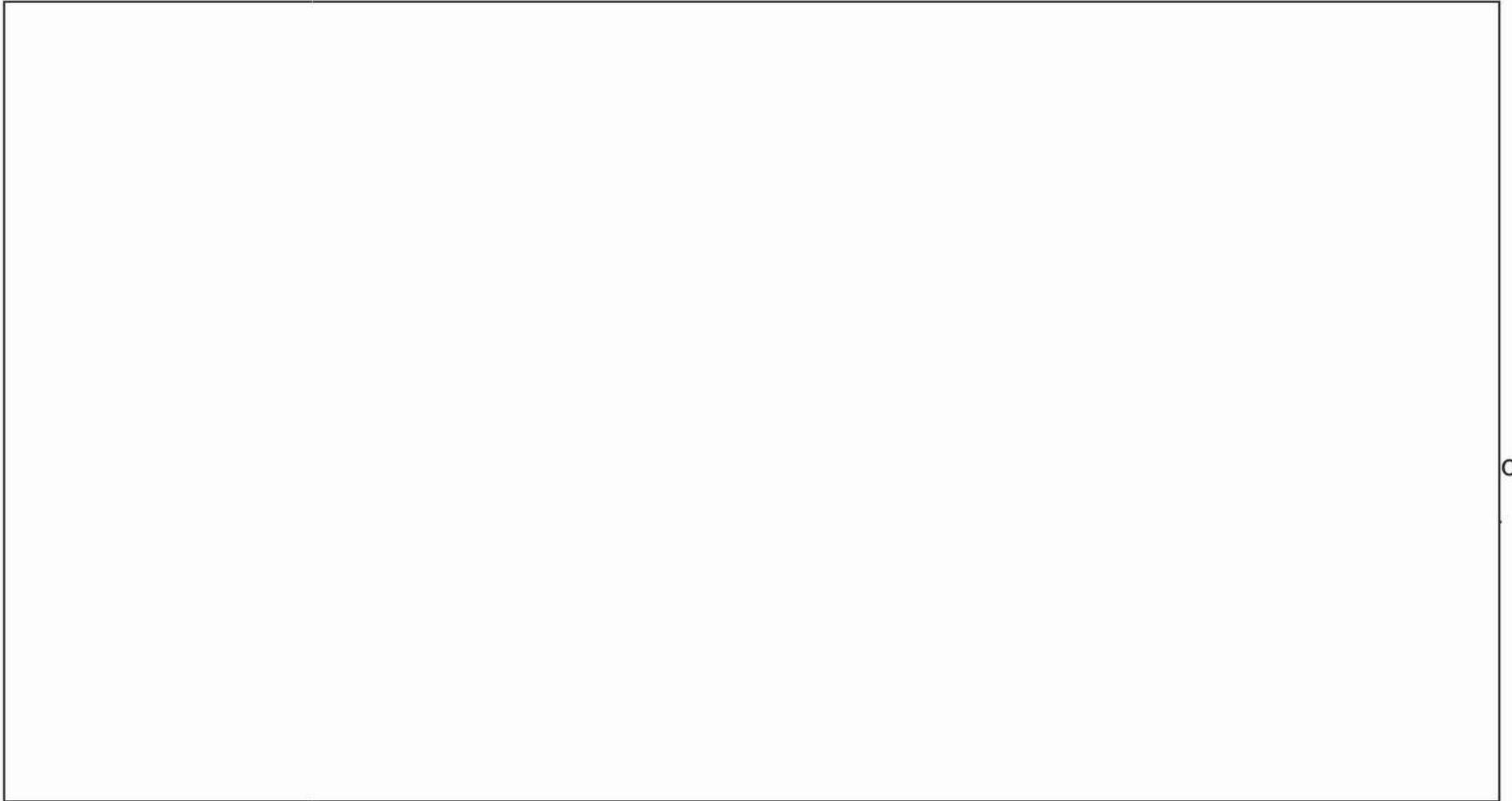
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# FDNS Screening Branch



**Immigrant Investor Program Office**

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## Who we are

- Intelligence Research Specialists with expertise in intelligence and counterintelligence, analytic tradecraft, FinCEN, social media, target area expertise, and foreign language skills

## What we do

- Utilize unclassified and classified networks, tools, and systems to research potential national security concerns, such as espionage, illegal information/technology transfer, and terrorism within the EB-5 program
- Examine information from a wide variety of sources, analyze it, and create raw and finished intelligence products in addition to providing national security assessments
- Research and respond to Committee on Foreign Investment in the United States (CFIUS) filings on behalf of USCIS



# Identifying National Security Concerns

- Adjudicators, Economists, and Compliance Officers play a critical role
  - As case reviewers, they serve as our first line of defense, and so we work closely with them, as well as provide them annual National Security indicator training
- Officers utilize a host of tools to determine whether a risk exists

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- Officers are taught to review systems, but do not rely SOLELY on “hits” to determine if a national security risk exists
  - Officers review documents, such as resumes, work histories, educational backgrounds and research associated institutions and organizations.
  - They proactively submit a request for evidence if information, including financial transactions, do not add up and refer cases to FDNS as required.

# Case Examples



## Immigrant Investor Program Office

# Illegal Information & Technology Transfer

## JASON Oil & Gas Equipment

- Feb. 2019, IPO FDNS opened an administrative investigation to research overlapping interests between an EB-5 entity, JASON O&G Equipment (JOG), and the JERAH GROUP, a subject of a 2018 settlement between Treasury/OFAC and Commerce/BIS and cited for possible violations.
- The entities shared employees and the EB-5 petitioner received investment monies from the group.
- Initial efforts with OFAC and HSI didn't gain traction as no violations were found and insufficient evidence was cited. IPO FDNS closed the case in Feb. 2020.
- Oct. 2020, DOJ charged EB-5 entity with conspiracy, theft of trade secrets and attempted theft.
- FDNS learned of possible NS Concerns due to AO referral based on OFAC and BIS Entities list connections to companies.

# Sensitive Technology Transfer

Haokun WANG

- WANG was in the U.S. on F1 visa beginning in 2009 and he submitted a I-526 in February 2015.
- Night vision devices and thermal imaging rifle scopes were shipped to China. WANG and an accomplice are the subject of [REDACTED] related to his involvement in a sensitive technology transfer scheme. (b)(7)(E)
- WANG was the accomplice of Kan CHEN who was arrested in Saipan on 16 JUN 2015. CHEN pled guilty to the illegal export of over 180 export-controlled items worth approximately \$275,000. (b)(7)(E)
- [REDACTED]

# Military technology transfer

Shuren QIN

- Used EB-5 to enter U.S. and became Lawful Permanent Resident
- Arrested in October 2018 for violating export laws
  - Conspired with PLA Navy to illegally export goods to the PRC
  - Exported dual use military technology
- Made false statements to obtain a visa to enter the U.S. and become a lawful permanent resident(LPR).
- FDNS learned of EB-5 nexus to NS concerns via press reports and indictment.

# Counterproliferation

Wei WANG

- By-name inclusion into the Bureau of Industry and Security entities list for activities contrary to the national security and foreign policy interests of the United States.
- WANG's company, Timi Technologies, is also included in the Bureau of Industry and Security entities list for activities contrary to the national security and foreign policy interests of the U.S.
- Timi Technologies knowingly did business with Iran, supplying U.S.-origin items to an Iranian party associated with the Iranian defense industry and identified by the Department of Treasury as Specially Designated Nationals.
- FDNS learned of possible NS Concerns based on fraud referral from Adjudications.

# Current Actions



## Immigrant Investor Program Office

# USCIS/EB-5 Actions

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- Policy to provide adjudicators ability to mitigate concerns
- Action with our federal partners



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***Questions ?***

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# THE EB-5 IMMIGRATION CATEGORY— AN OVERVIEW



**This training module is intended solely for informational purposes. It is not intended to, does not, and may not be relied upon to create or confer any right(s) or benefit(s), substantive or procedural, enforceable at law by any individual or other party in benefit applications before USCIS, in removal proceedings, in litigation with the United States, or in any other form or manner. This training module does not have the force of law, or of a DHS directive.**

# The EB-5 Immigration Category

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What is EB-5?

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Two Pathways: the 'Standalone' and the Regional Center Program

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Requirements for participation: Immigrant Investors and Regional Centers

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Regional Center Structures

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Motivations: Investors and Businesses

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Application Numbers and Trends

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## What is EB-5?

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## What is EB-5 - the 2 Pathways to Lawful Permanent Resident (LPR) status

The EB-5 Program provides immigrant investors with two pathways to acquire Lawful Permanent Resident (LPR) status in the United States through:



a 'Standalone' investment



an investment sponsored by a  
Regional Center.

# The 'Standalone' and Regional Center pathways – Similarities and Differences



## Similarities

- Investment minimum = \$1 million (or \$500,000 if the investment in a targeted employment area (TEA));
- Equity investment in a single new commercial enterprise;
- Investment 'at-risk';
- Investment sustained over the two-year conditional permanent residence period;
- Create or preserve – a minimum of 10 jobs for each immigrant investor.

# The 'Standalone' and Regional Center pathways – Similarities and Differences



## Differences

'Standalone' –  
minimum of 10 direct  
jobs per investor;

Regional Center –  
minimum of 10 direct,  
indirect and induced jobs  
per investor;



# The Process for Immigrant Investors

Investor invests in a stand-alone new commercial enterprise (NCE) or selects a regional center-sponsored NCE for investment

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graph TD; A[Investor invests in a stand-alone new commercial enterprise (NCE) or selects a regional center-sponsored NCE for investment] --> B[Investor files a Form I-526 petition with USCIS to petition USCIS for classification as an EB-5 immigrant investor to obtain status for a conditional permanent resident visa]; B --> C[If approved, the Investor may obtain a conditional permanent resident (CPR) status when a visa number is available by filing for a visa at a U.S. Consulate (overseas) or filing for adjustment of status in the U.S. (domestic)]; C --> D[Within 90 days of the second anniversary of obtaining CPR status, the Investor files a Form I-829 to remove the conditions to his/her permanent residency by demonstrating sustainment of the investment and creation or preservation of the required number of jobs];
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Within 90 days of the second anniversary of obtaining CPR status, the Investor files a Form I-829 to remove the conditions to his/her permanent residency by demonstrating sustainment of the investment and creation or preservation of the required number of jobs

# Regional Center Designation

Participation in the Regional Center Program requires:

An application (Form I-924) with a proposal (business case).

Proposal must contain:

- a focus on a specific, delineated geographical region of the United States;
- verifiable detail on how jobs will be created directly or indirectly;
- a statement regarding the amounts and sources of capital committed to the regional center;
- description of the promotional efforts taken and planned;
- prediction on how the regional center will have a positive impact on the economy in its designated geographical region; and
- support from economically or statistically valid forecasting tools.

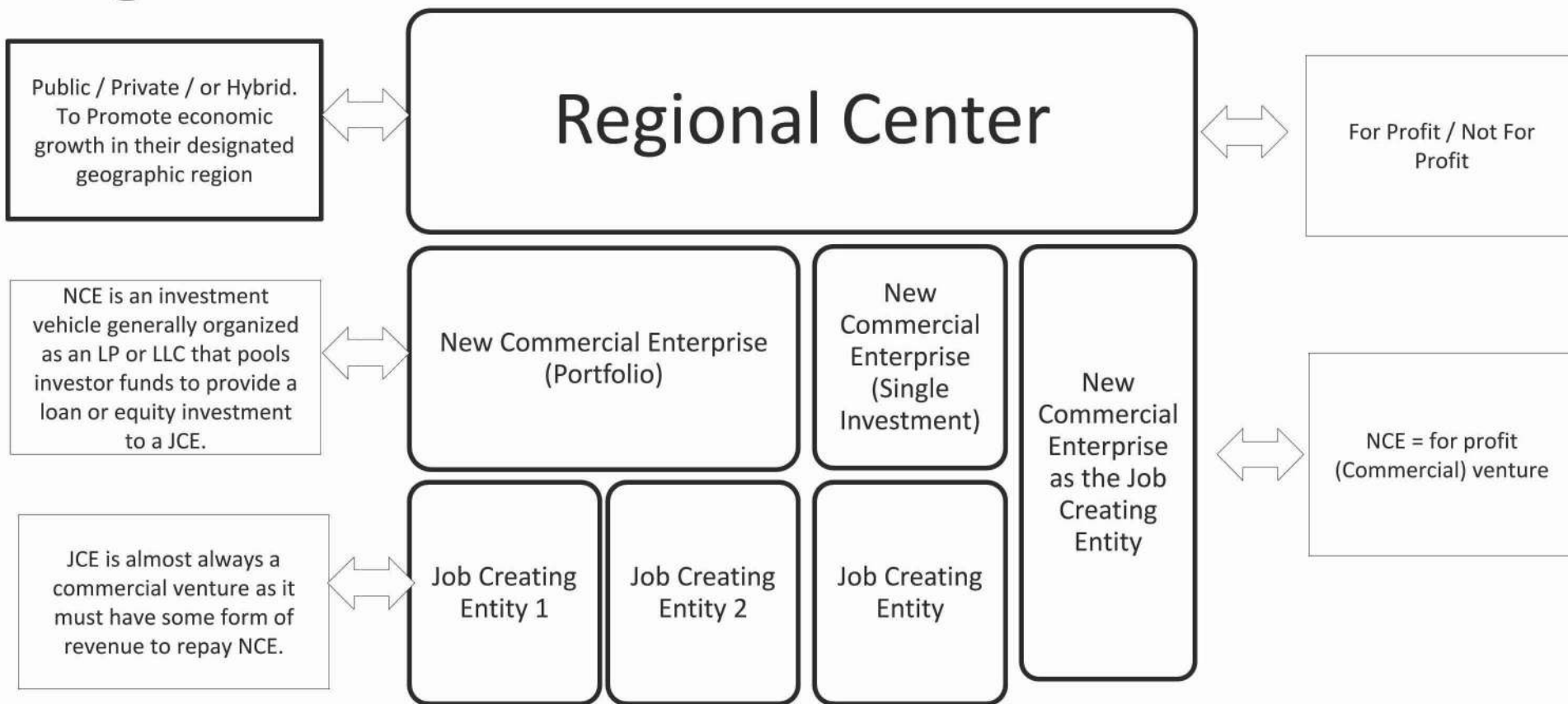
# More on Regional Center Application Proposals

## Different types of Proposals for Different Objectives

Hypothetical Business Plan:  
Valid for initial designation of a  
Regional Center.

Actual Business Plan:  
Valid for initial designation of a  
Regional Center or as a  
presentation of a project for USCIS  
approval;  
*Matter of Ho* compliant;  
Can be part of an *exemplar*.

# Regional Center Structure



# Why EB-5? – Investor Motivation

For immigrant investors, the greatest financial incentive is the implicit value of Legal Permanent Resident (LPR) status, so investors are willing to accept modest monetary returns on their capital investment.

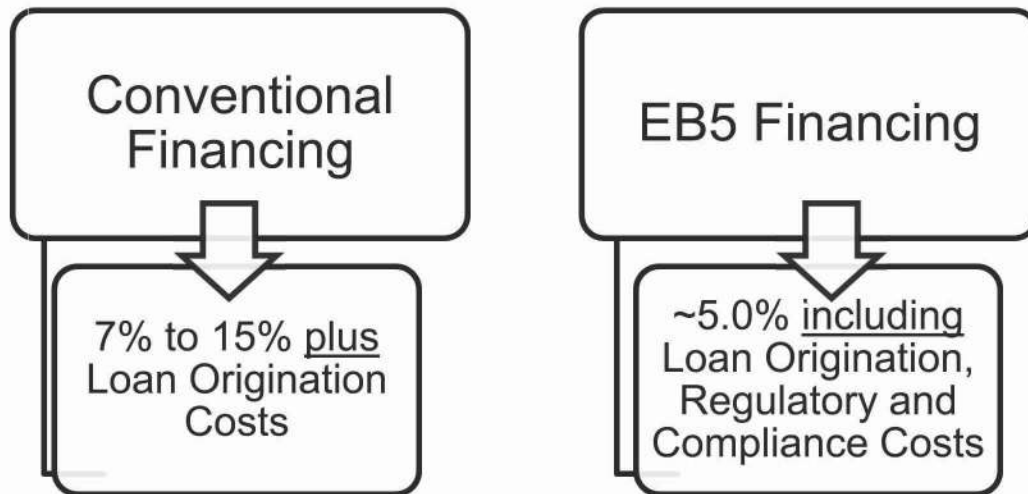
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For some countries, EB-5 processing times are faster than other immigration categories.

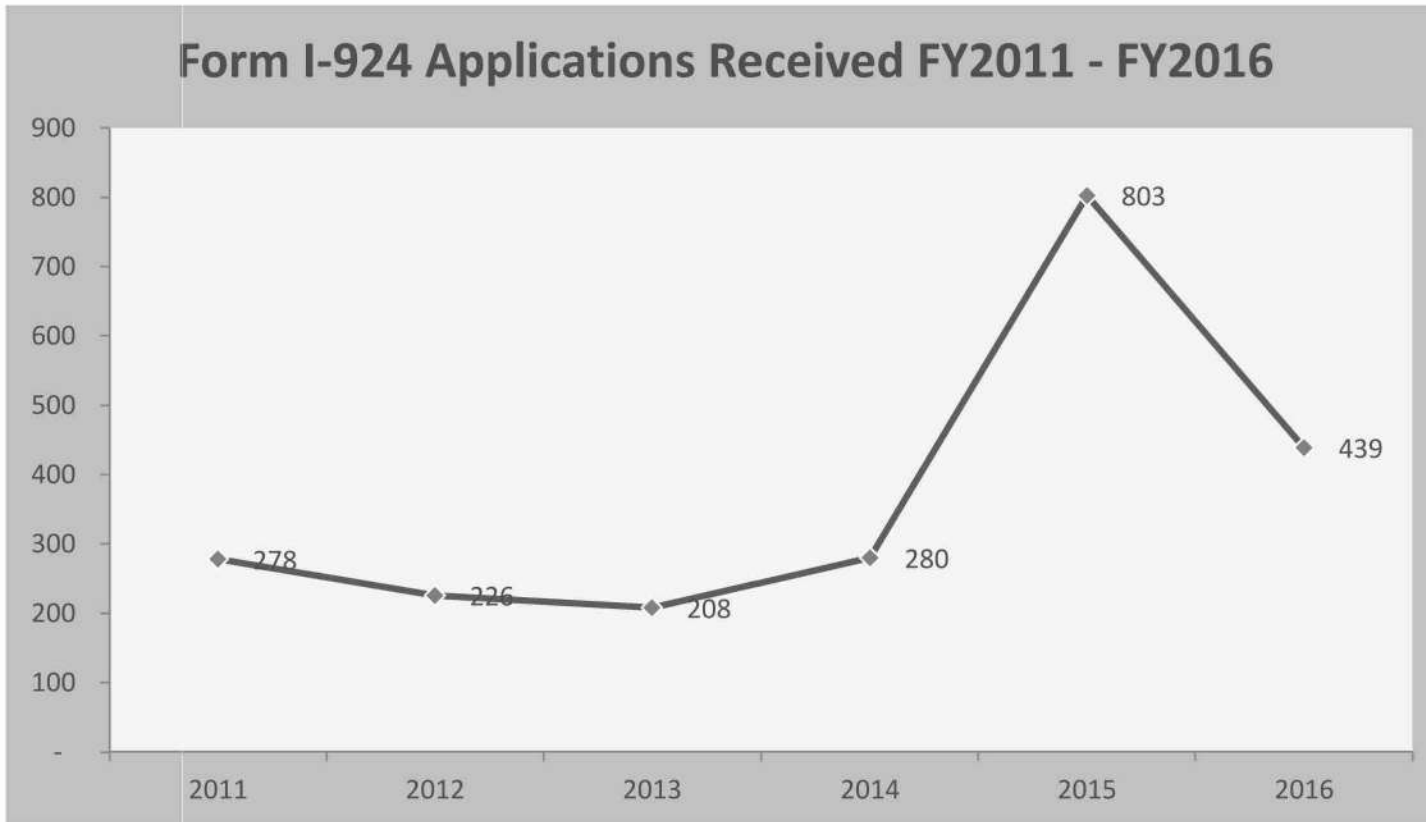
# Why EB-5? – Business Motivation

In the Regional Center Program, the advantages to developers of using EB-5 capital are:

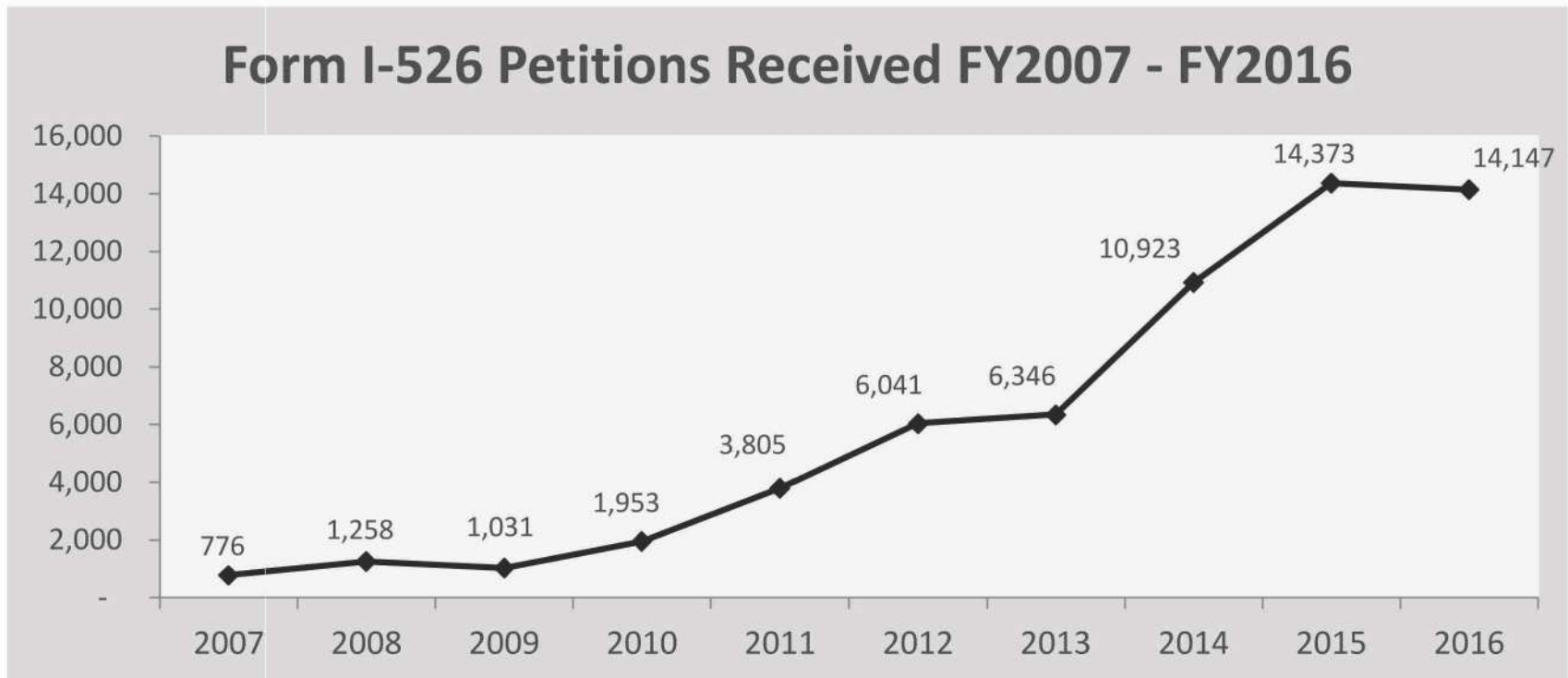
- the lower cost of EB-5 capital compared with comparable conventional sources;



# Regional Center Applications Received



# Individual Investor Petitions Received





# Questions?



# **COMPLIANCE DIVISION OVERVIEW**

# Compliance Division Overview

Established as a division in FY17. The Compliance unit was formed in July 2015 to:

- Increase regulatory compliance
- Decrease bad actors footprint in the program
- Reduce impact on Adjudications
- Dedicated team to handle actions
- Increased Efficiencies
- Enhance Information Sharing – internally and with external partners
- In FY19 the division stood up a BCU

# What we do

1. Review annual filings of regional centers;
2. Research and analysis to support adjudications of petitioner and regional center filings
3. Regional center compliance reviews by a dedicated team of auditors;
4. Termination of Regional Centers that fail to promote economic growth or fail to comply with applicable laws or regulations
5. After action reports and red flags
6. Background Check Unit

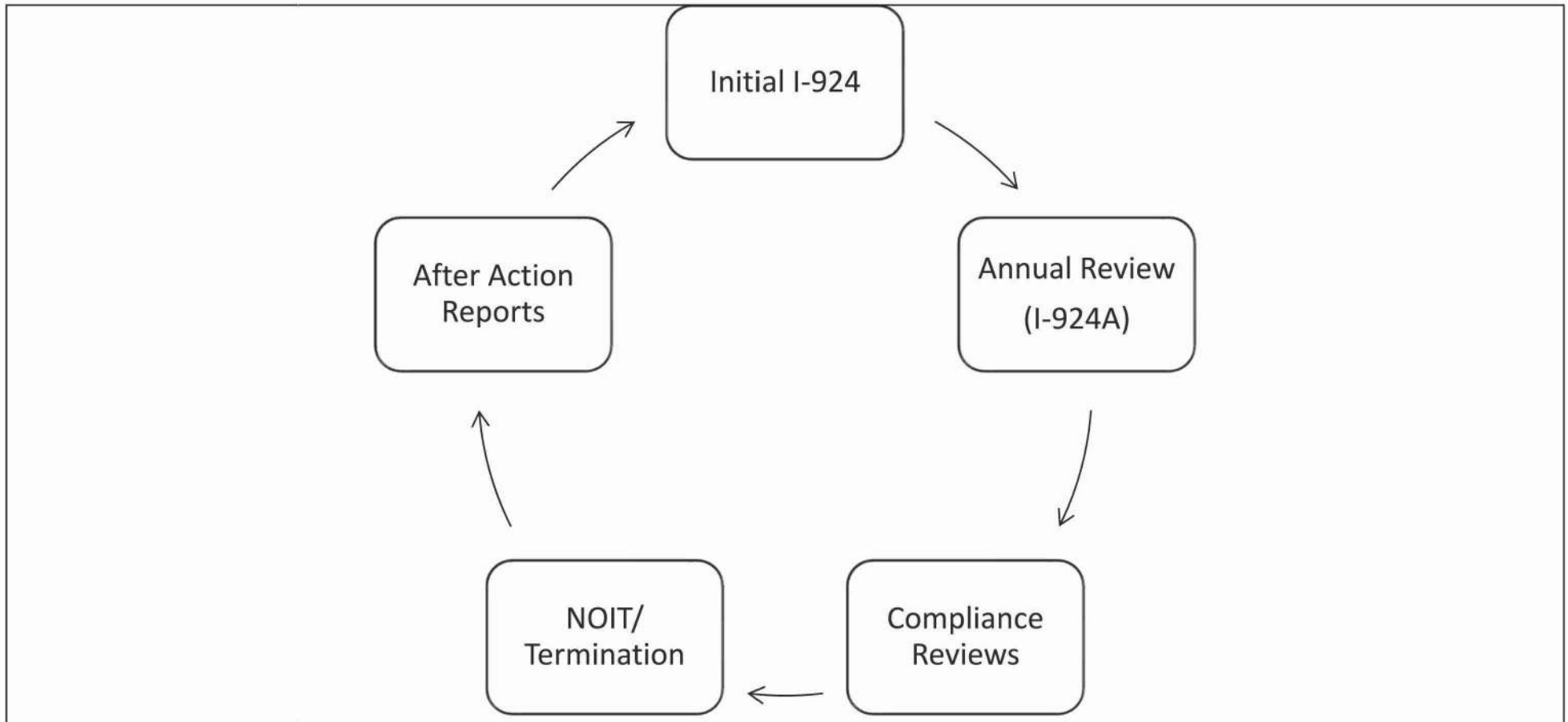
# USCIS MEASURES TO ENSURE PROGRAM INTEGRITY

	<b>Fraud Detection and National Security Division</b>	<b>Economists and Adjudication Divisions</b>	<b>Compliance Division</b>
<b>Pre-Adjudication</b>	Monitors risks, investigates tips and referrals regarding NS/Fraud/EPS concerns, issues OVRs, resolves SGNs		Background screening for I-526, I-924 and I-829 petitions
<b>Adjudications</b>		Economists and Adjudications Officers review Regional Center and project documents and investor petitions	Review of initial designation for regional centers
<b>Post-Adjudication (Ongoing)</b>	Conducts random and for-cause site visits Administers information sharing with law enforcement agencies; Intelligence Research Specialists who assess and report national security concerns Writes SOFs, RTIs		Reviews of annual filings of Regional Centers; Compliance reviews of Regional Center activity; Terminations of Regional Centers that fail to promote economic growth, inactive , or fail to comply with law or regulations

# By the Numbers

- FY18 - 887 active RCs
- FY17-FY18 EB-5 Investment
  - 18,579 I-526 Filings
  - Average \$500,000 + \$50,000 administrative fees
  - =>\$10,000,000,000 + into U.S. economy
- 2017 – ~616,000 jobs created
- >\$33.6 billion was contributed to the U.S. economy by capital investment and related spending of the Program in FY14 and FY15\*

# Regional Center Lifecycle



# Regional Center Annual Filings (Form I-924A)

Regional Centers are required to submit an I-924A annually. The I-924A includes information on:

- Principal of the RC
- Management of the RC
- Amount of EB-5 capital invested
- Amount of non-EB-5 capital invested
- Jobs created
- Industries the RC is involved in
- NCEs and JCEs affiliated with the RC
- Total actions taken on Petitioner filings

Year	#RC End of FY
2007	11
2008	24
2009	67
2010	121
2011	171
2012	200
2013	370
2014	589
2015	742
2016	863
2017	843
2018	908



# Items considered during the annual review

Completeness and accuracy of mandatory annual filings (I-924As)

Continued promotion of Economic Growth

Changes to regional center ownership or management

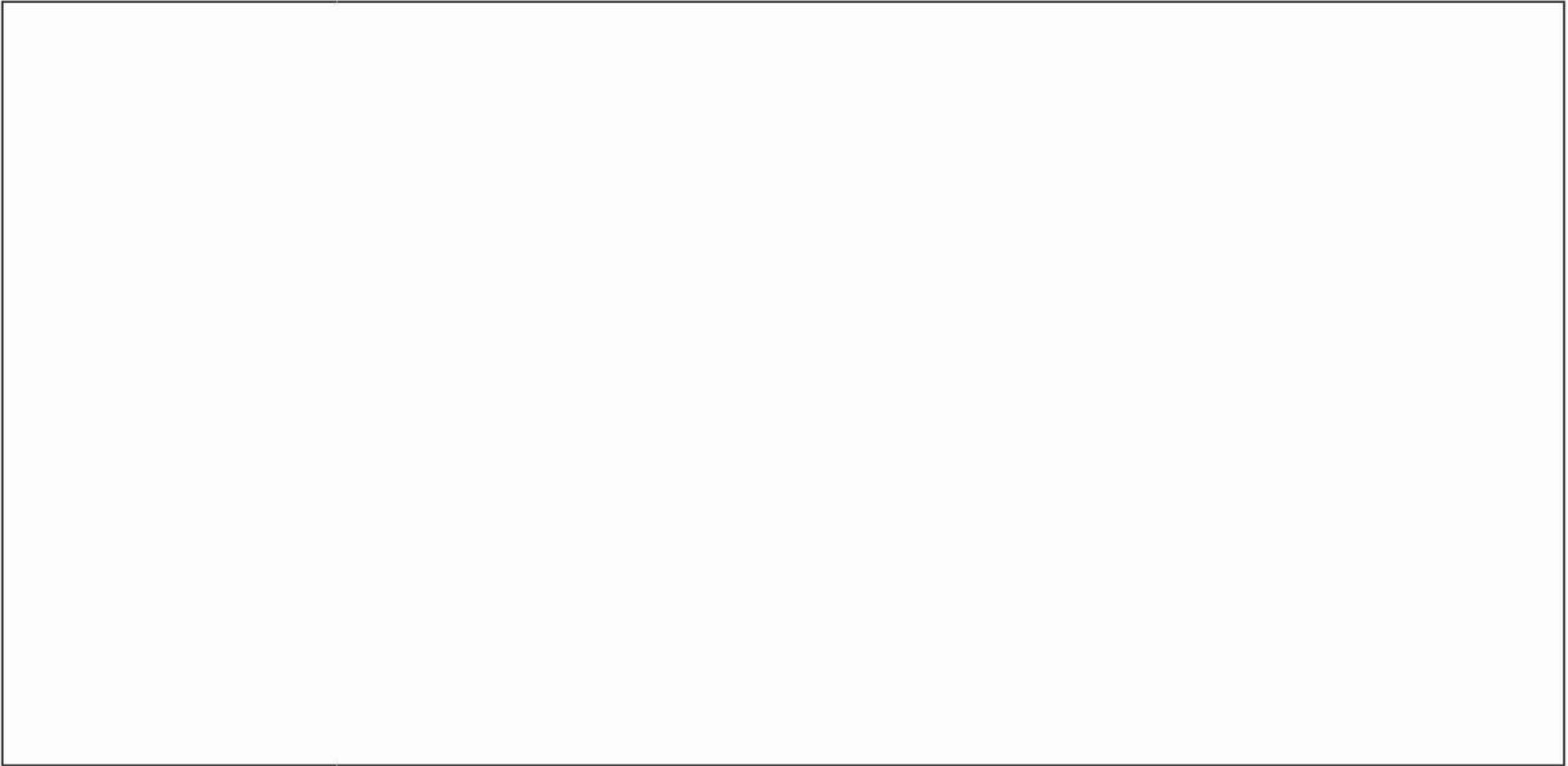
Potential Compliance Issues:

- Impermissible website language (example: guarantees)
- Misuse of USCIS or other governmental seals
- Improper naming conventions
- Derogatory Information or Potential Indicators of Concern

# Regional Center Compliance Reviews

- Launched in FY17
- Conducted by IPO auditors
- Purpose is to further enhance program integrity and verify information in regional center applications and annual certifications.
- Verifies compliance with applicable laws and authorities to ensure continued eligibility for regional center designation and participation in the EB-5 regional center program
- Includes an on-site compliance assessment of the regional center

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# Termination of Regional Center Designation

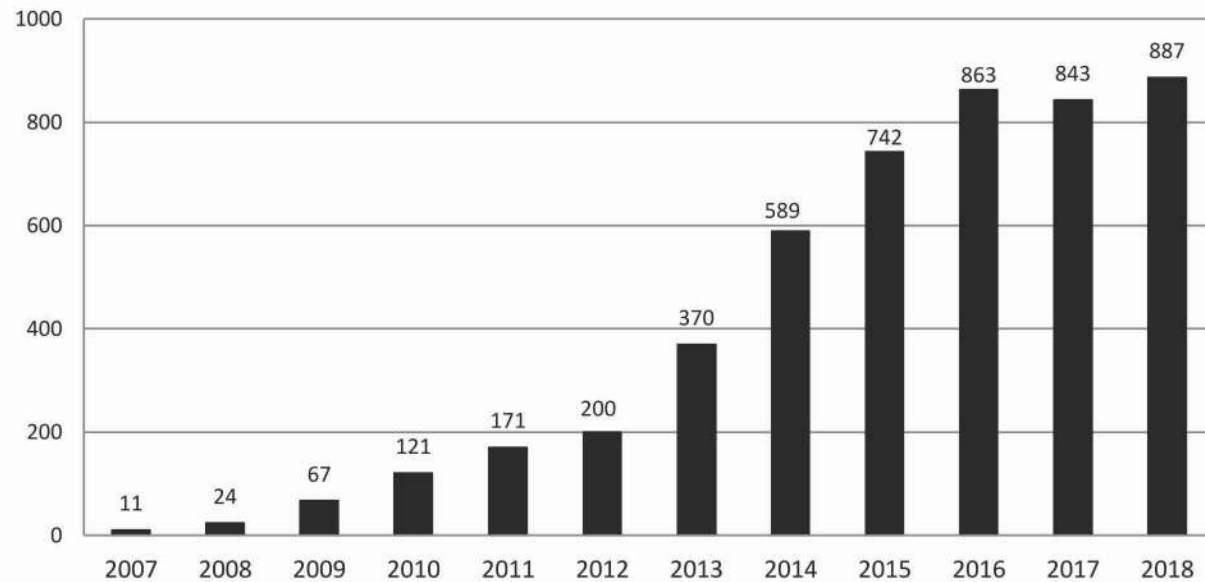
Under 8 CFR 204.6 (m)(6): USCIS will issue a Notice of Intent To Terminate (NOIT) a regional center's participation in the program if:

- USCIS determines a regional center no longer serves the purpose of promoting economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.
- Regional center fails to submit Form I-924A in a timely manner, i.e., by December 29 (about 3 months after the end of the fiscal year).
- Regional Center fails to pay the fee associated with the I-924A filing.

# IPO Regional Center Growth since 2007

## Approved Regional Centers

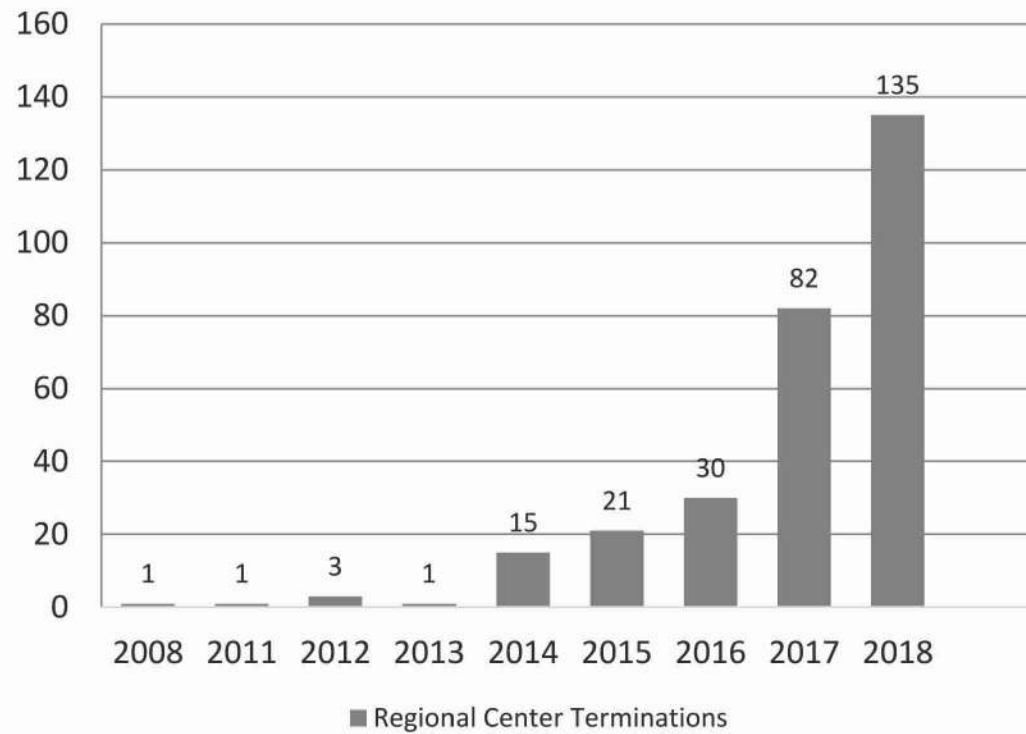
Year	Regional Centers at close of Fiscal Year
2007	11
2008	24
2009	67
2010	121
2011	171
2012	200
2013	370
2014	589
2015	742
2016	863
2017	843
2018	887



Source: iCLAIMS October 3, 2018

# RC Terminations by CY

Year	RC Terminations Calendar Year
2008	1
2011	1
2012	3
2013	1
2014	15
2015	21
2016	30
2017	82
2018	135



Source: Iclaims as of October 3, 2018

## RC Terminations Overview

Fiscal Year	Total Number of Terminations	Terminations for Failure to File	Terminations for Failure to Promote Economic Growth	Withdrawals
1992-2007	0	0	0	0
2008-2013	5	0	5	0
2014	10	7	3	0
2015	19	5	14	0
2016	33	13	20	0
2017	81	32	46	2
2018 (to date)	96	47	37	12

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# Approved and Terminated Regional Centers

## USCIS approved regional centers:

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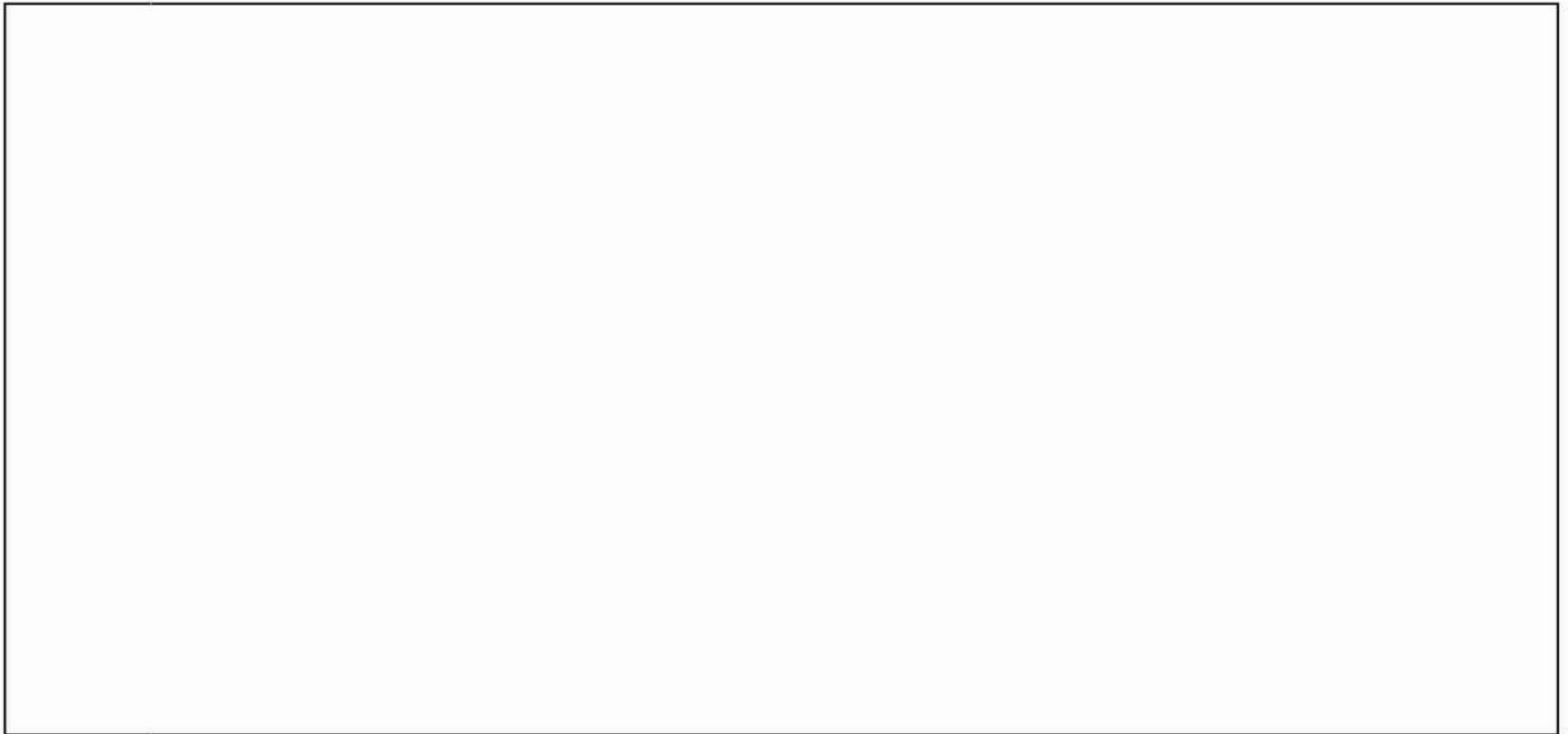
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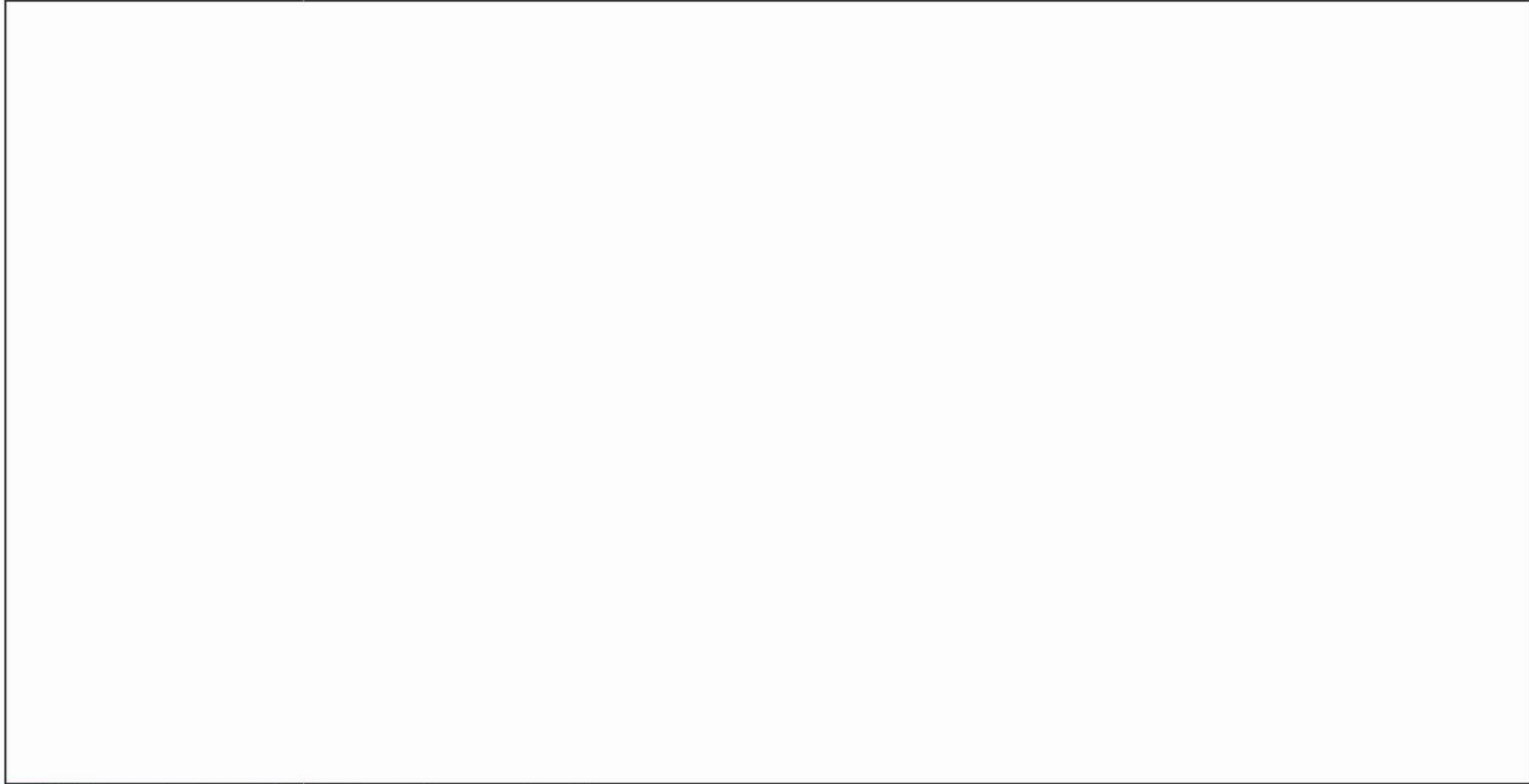


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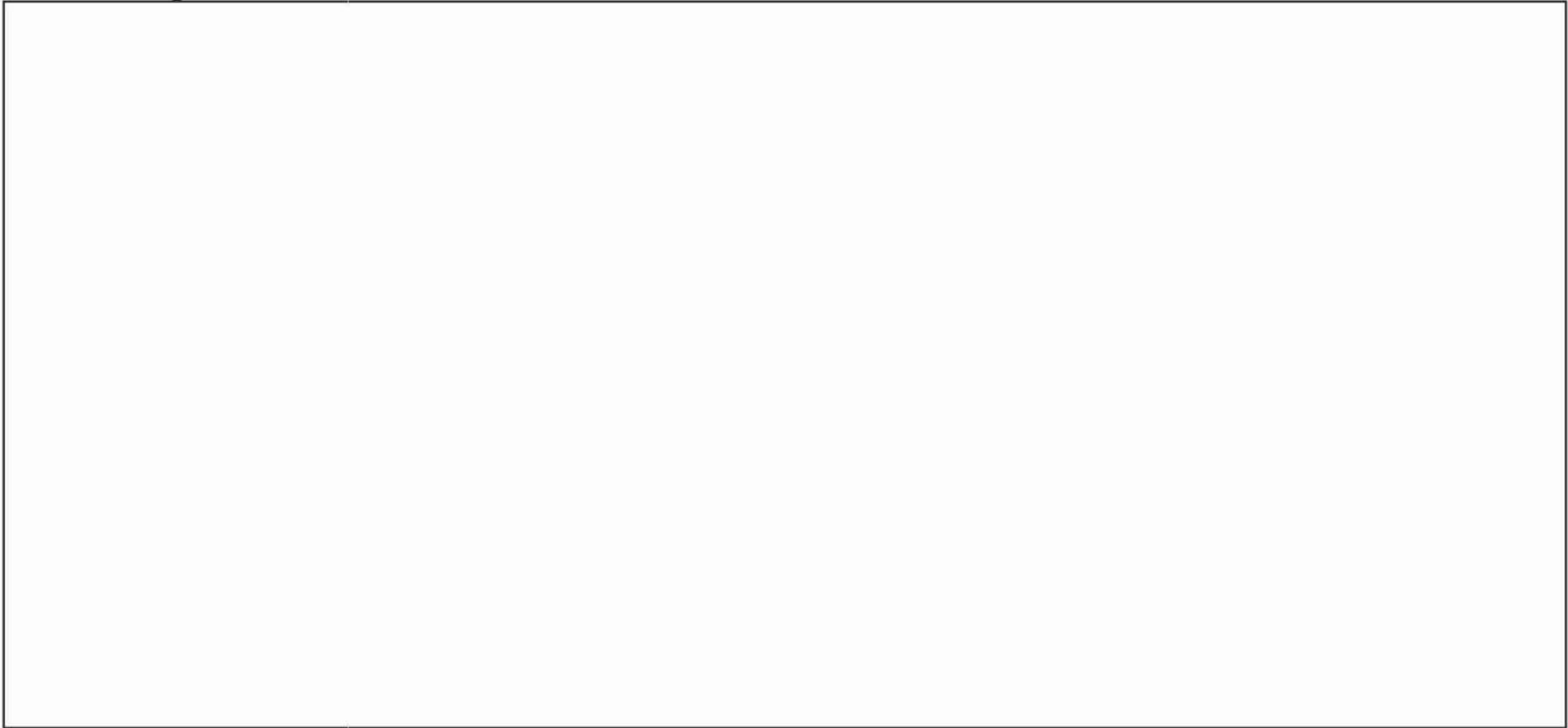
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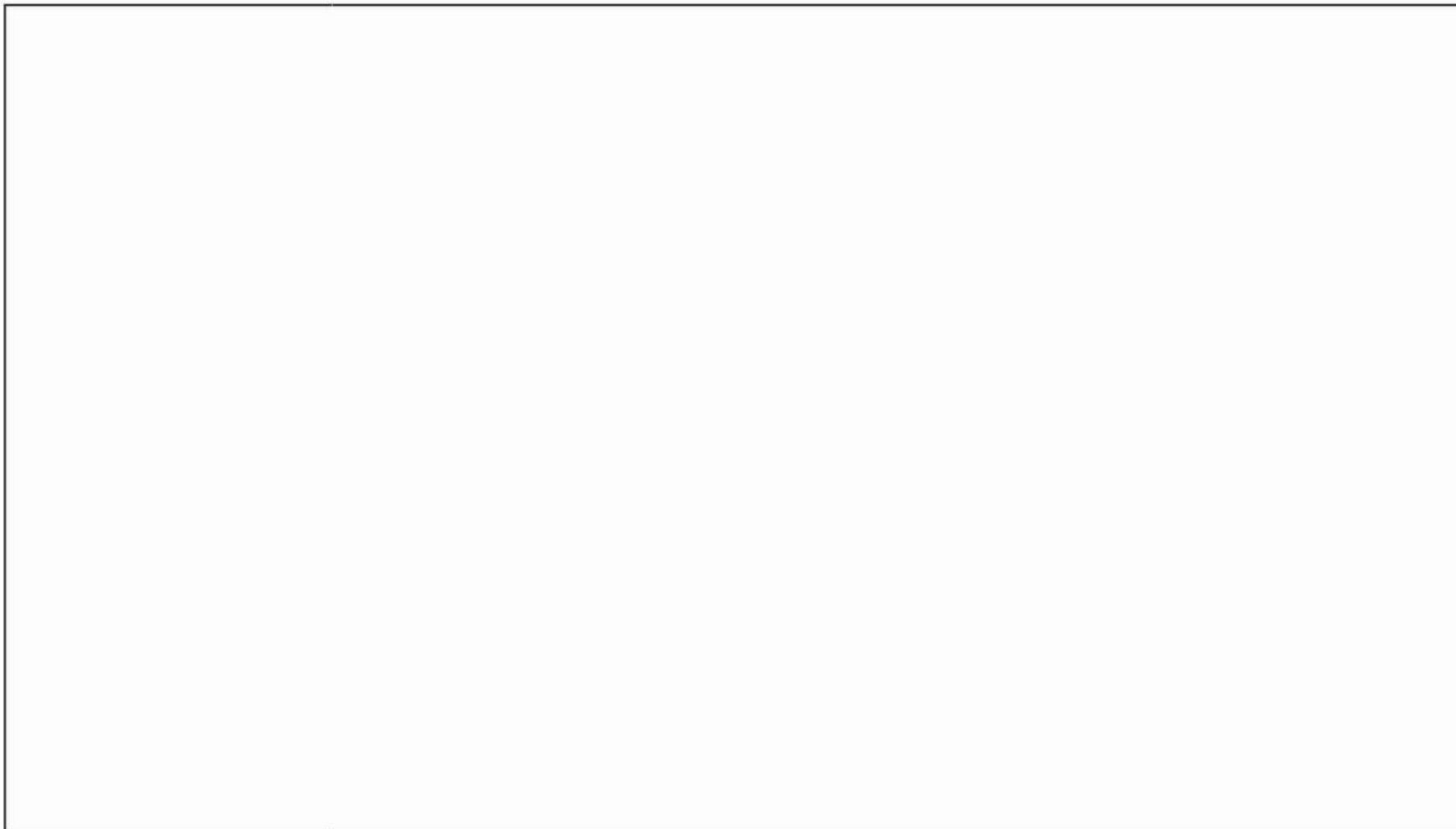
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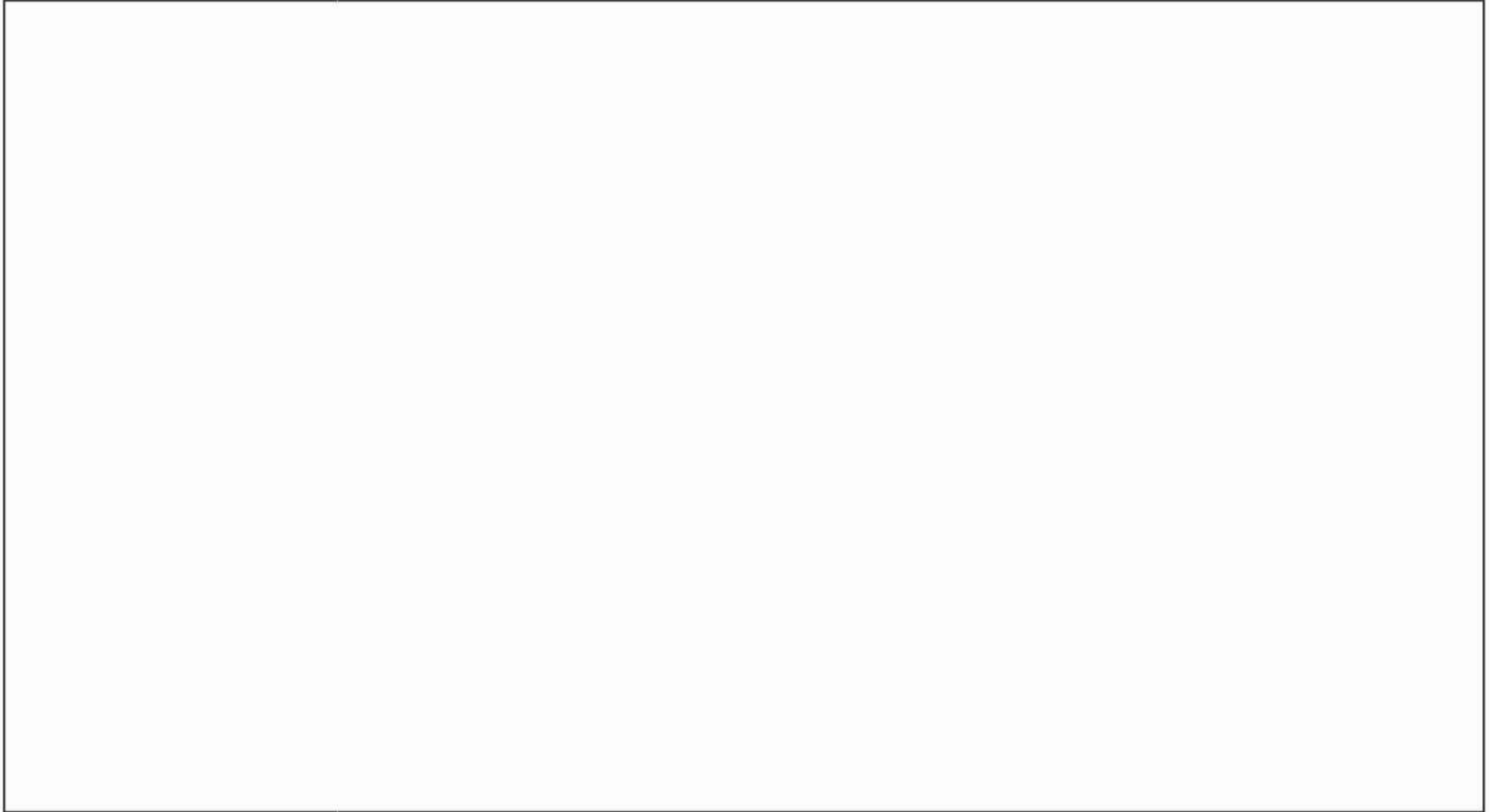
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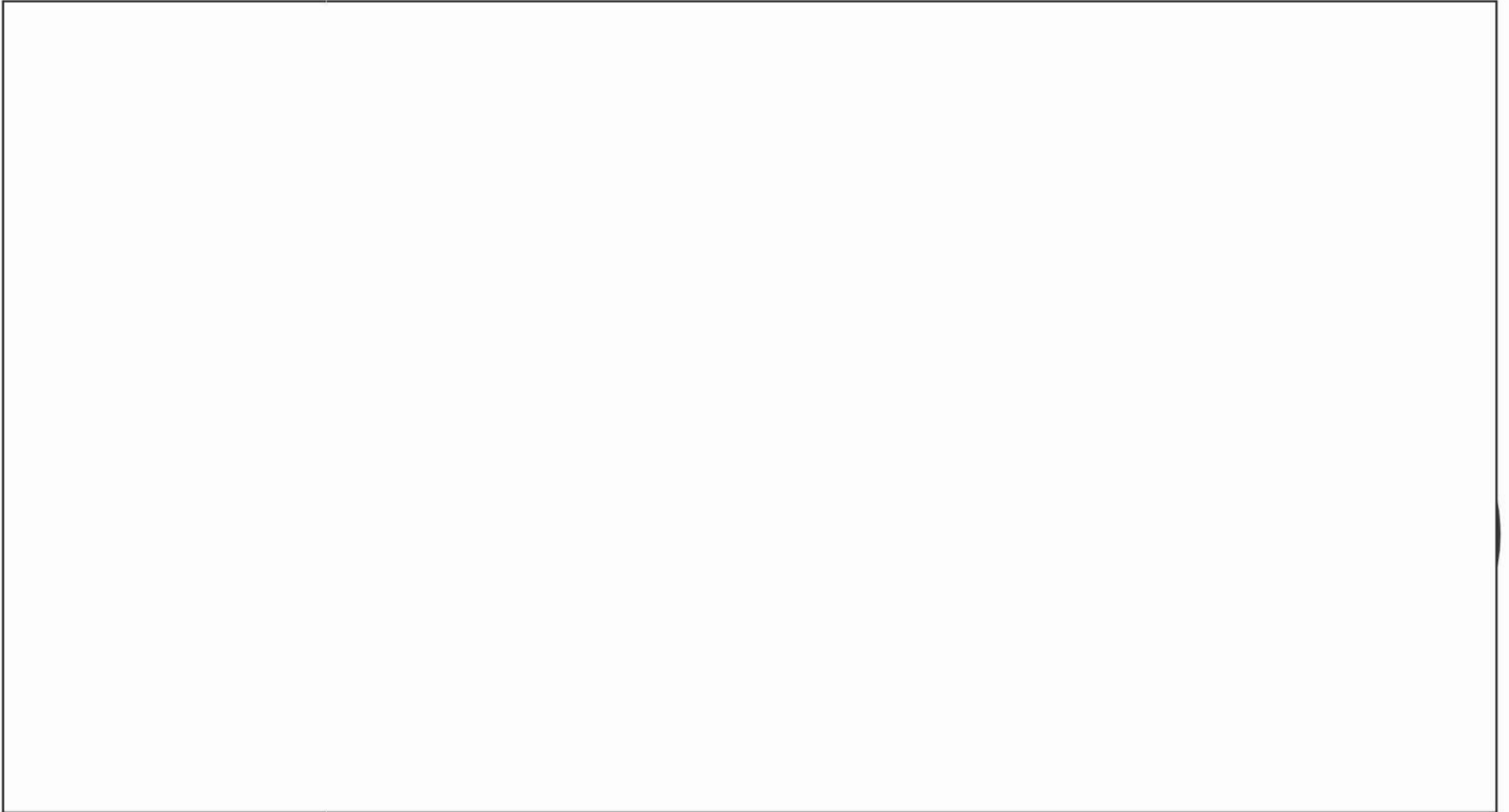
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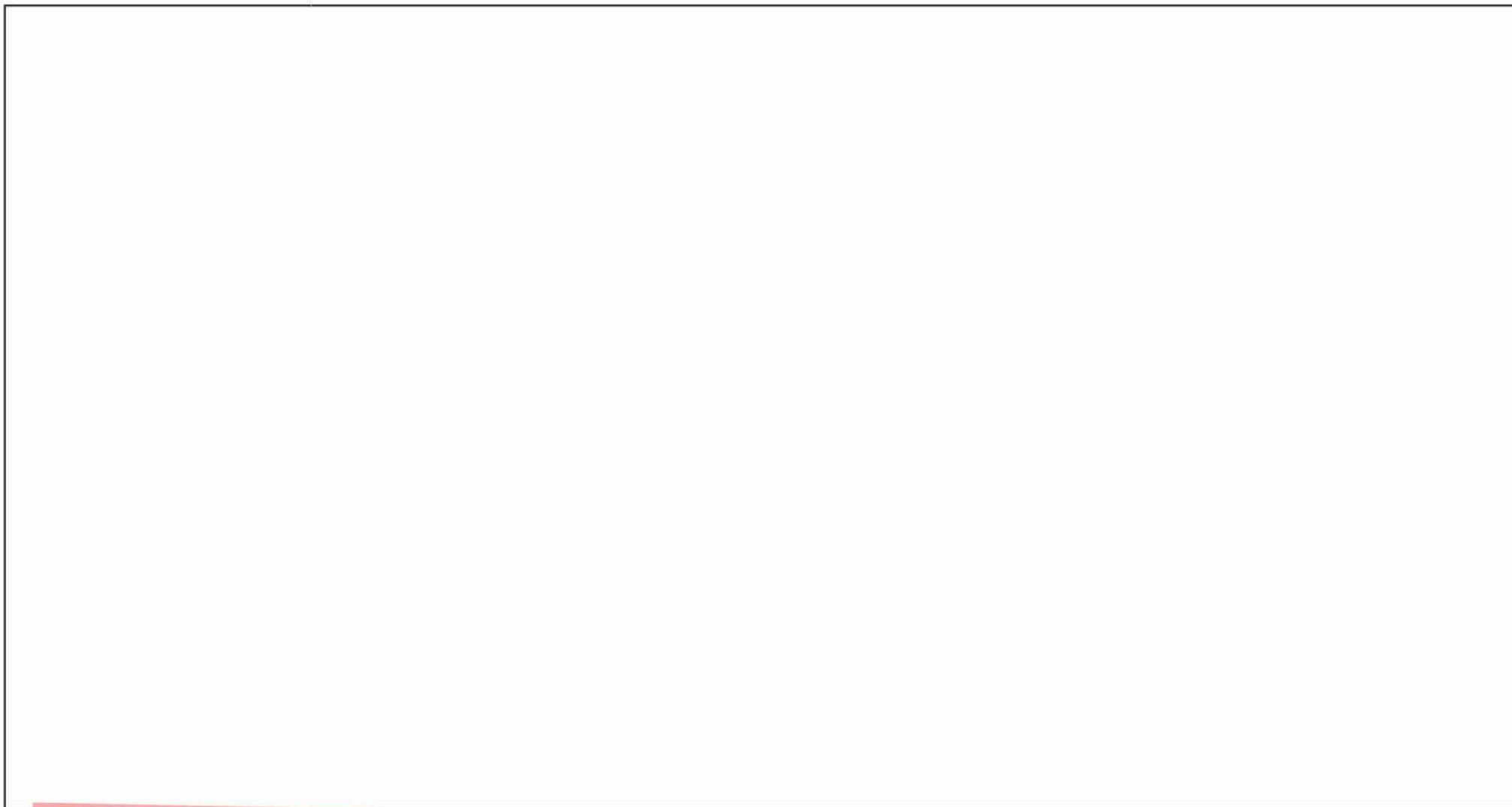
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(b)(5) (b)(7)(E)



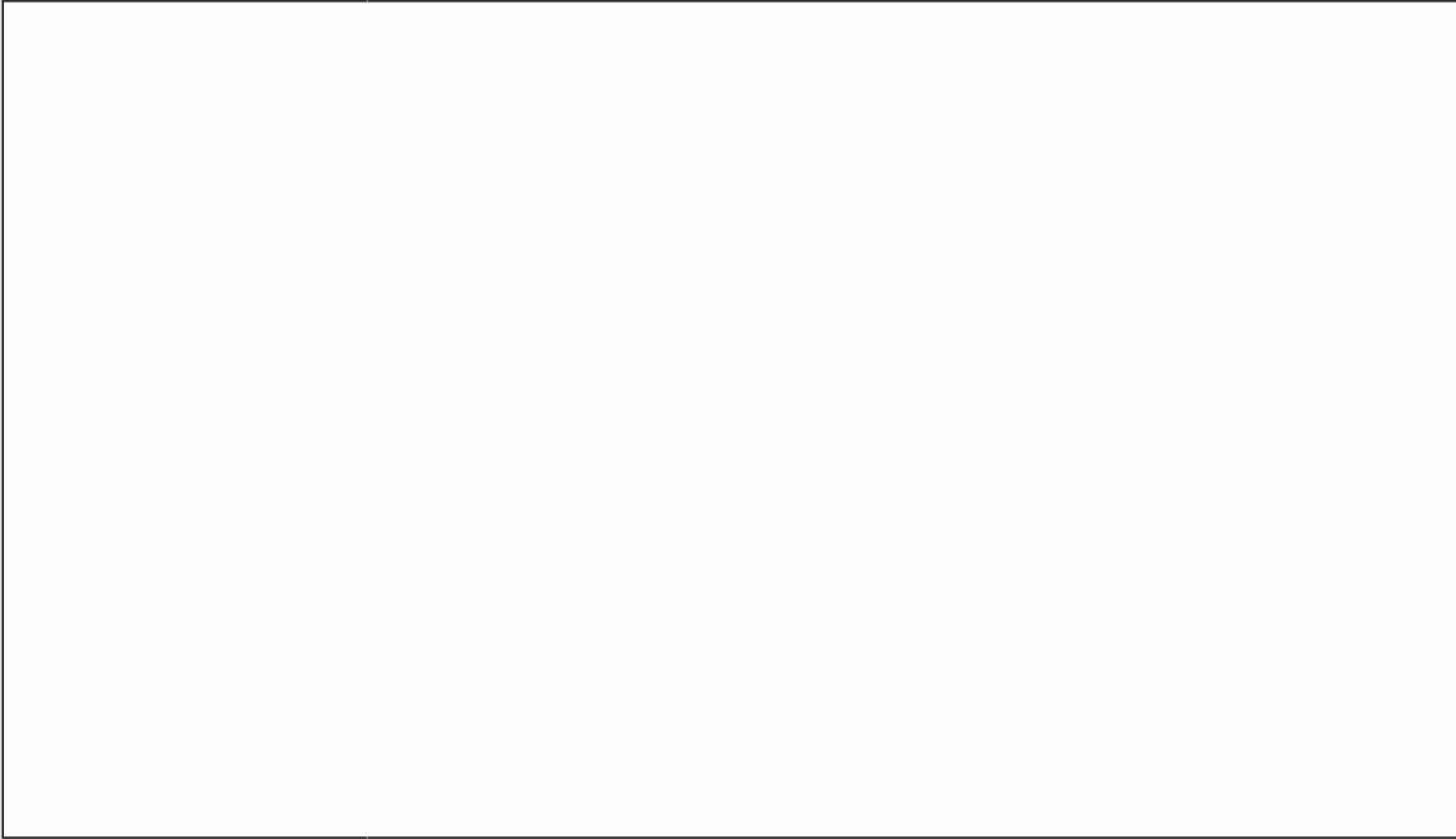
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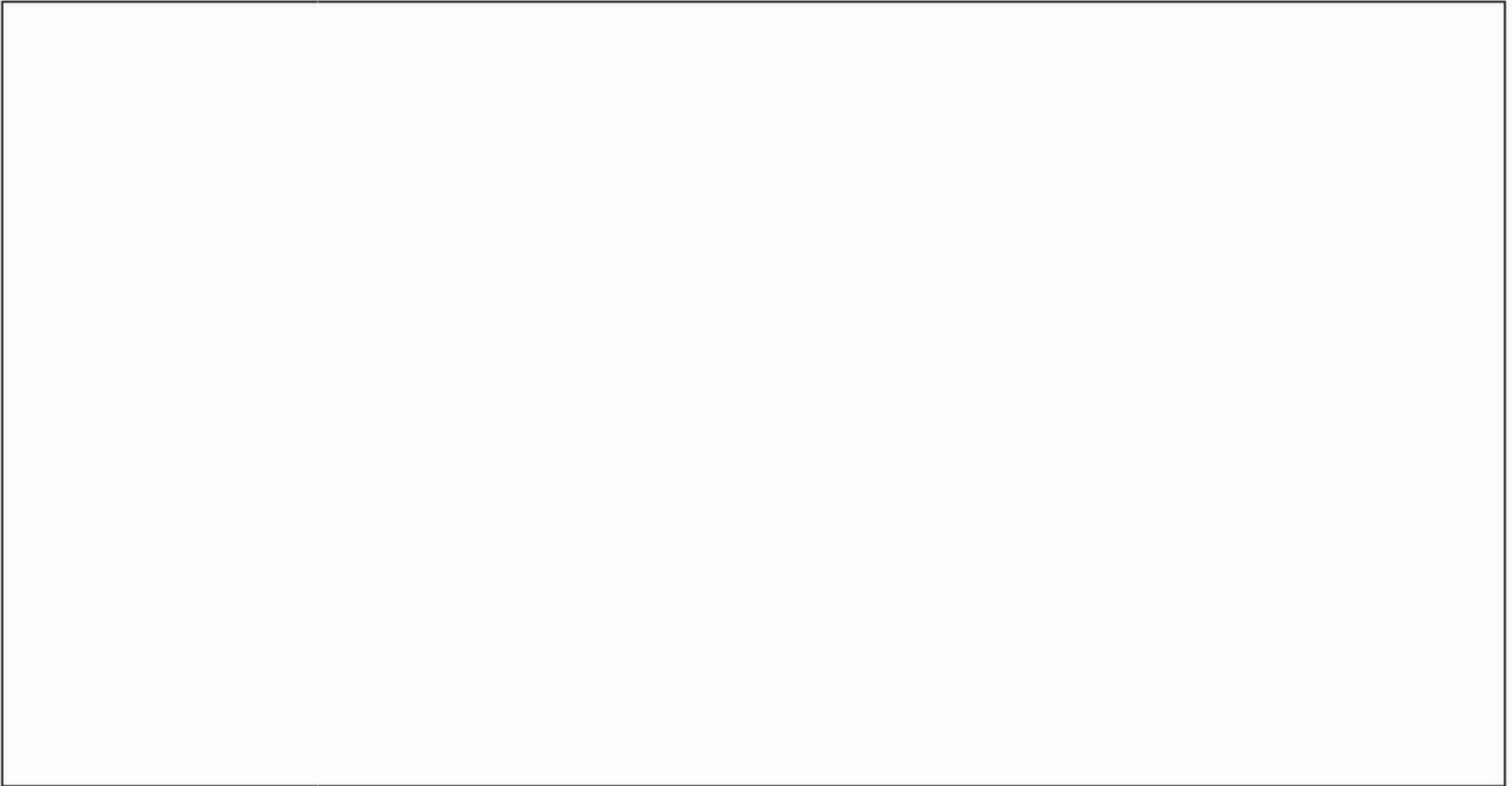


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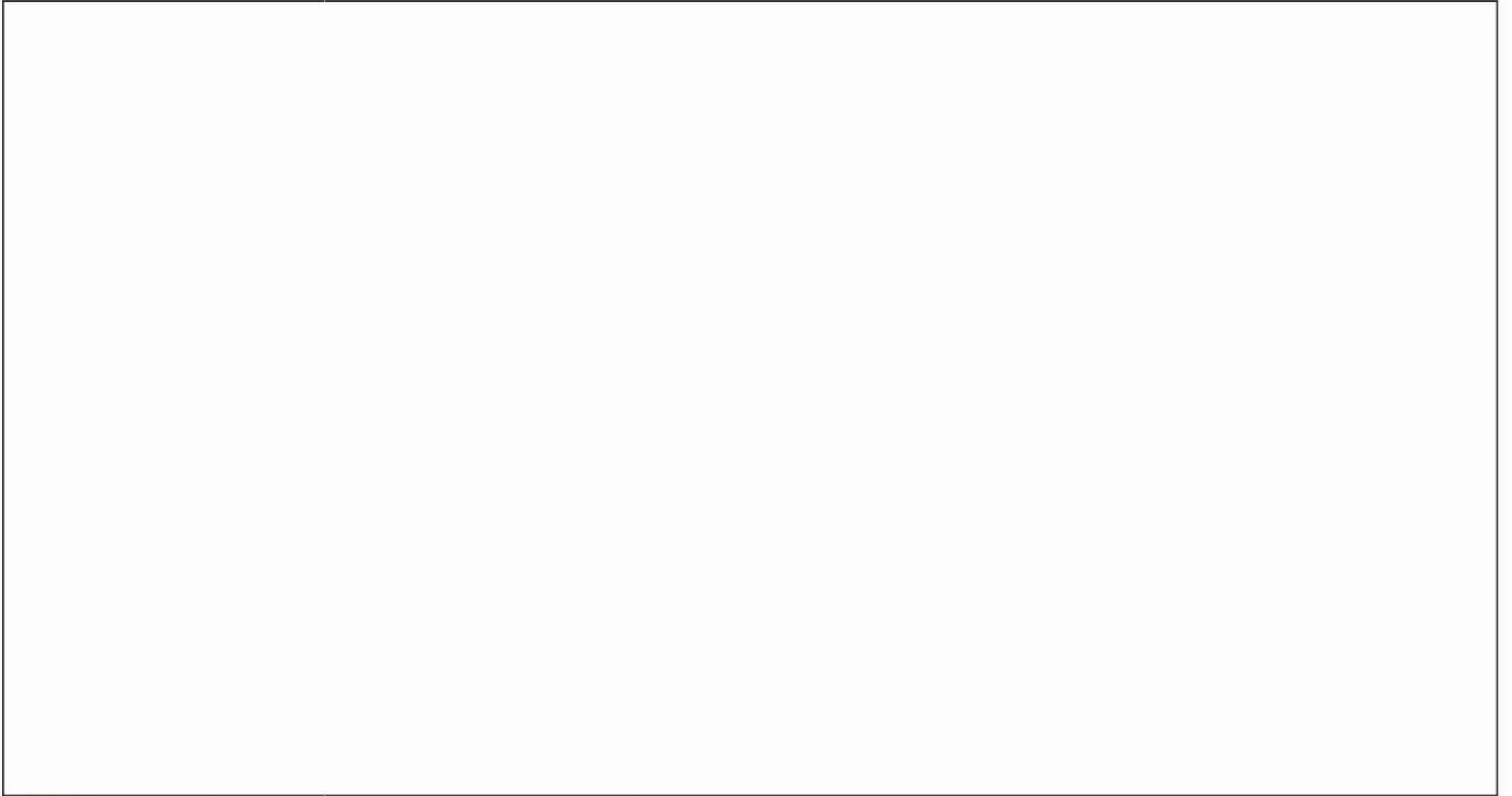
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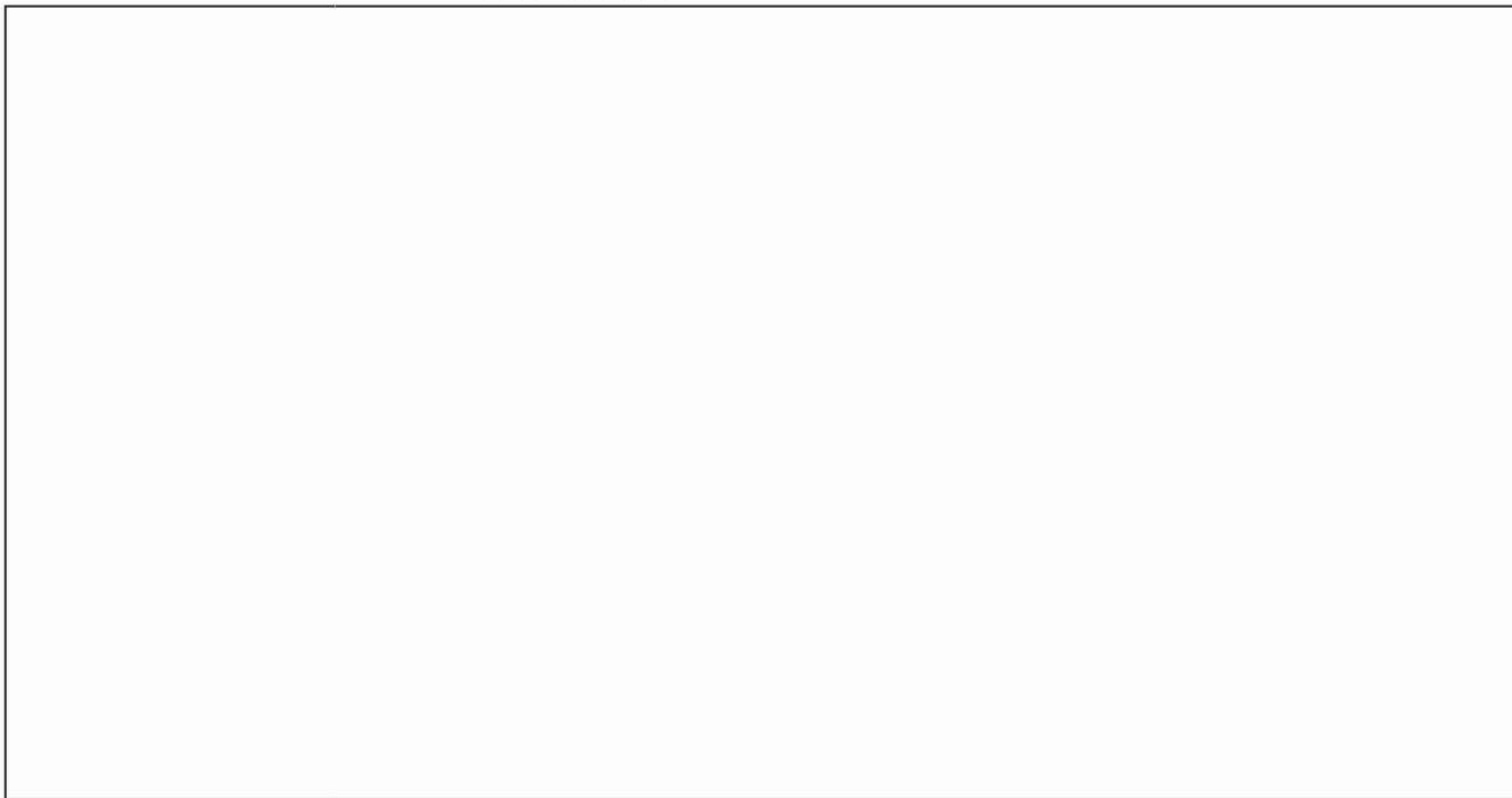
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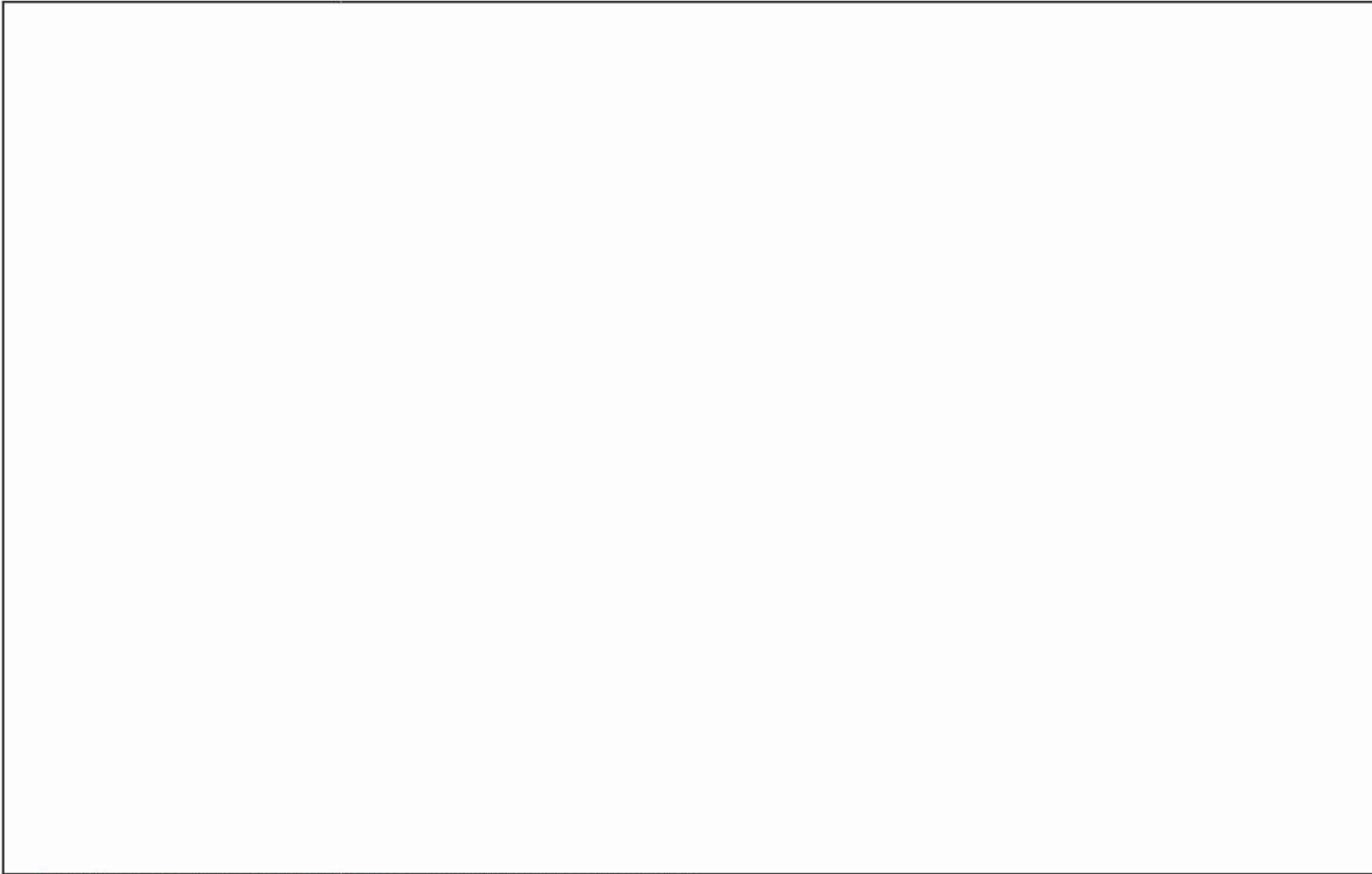


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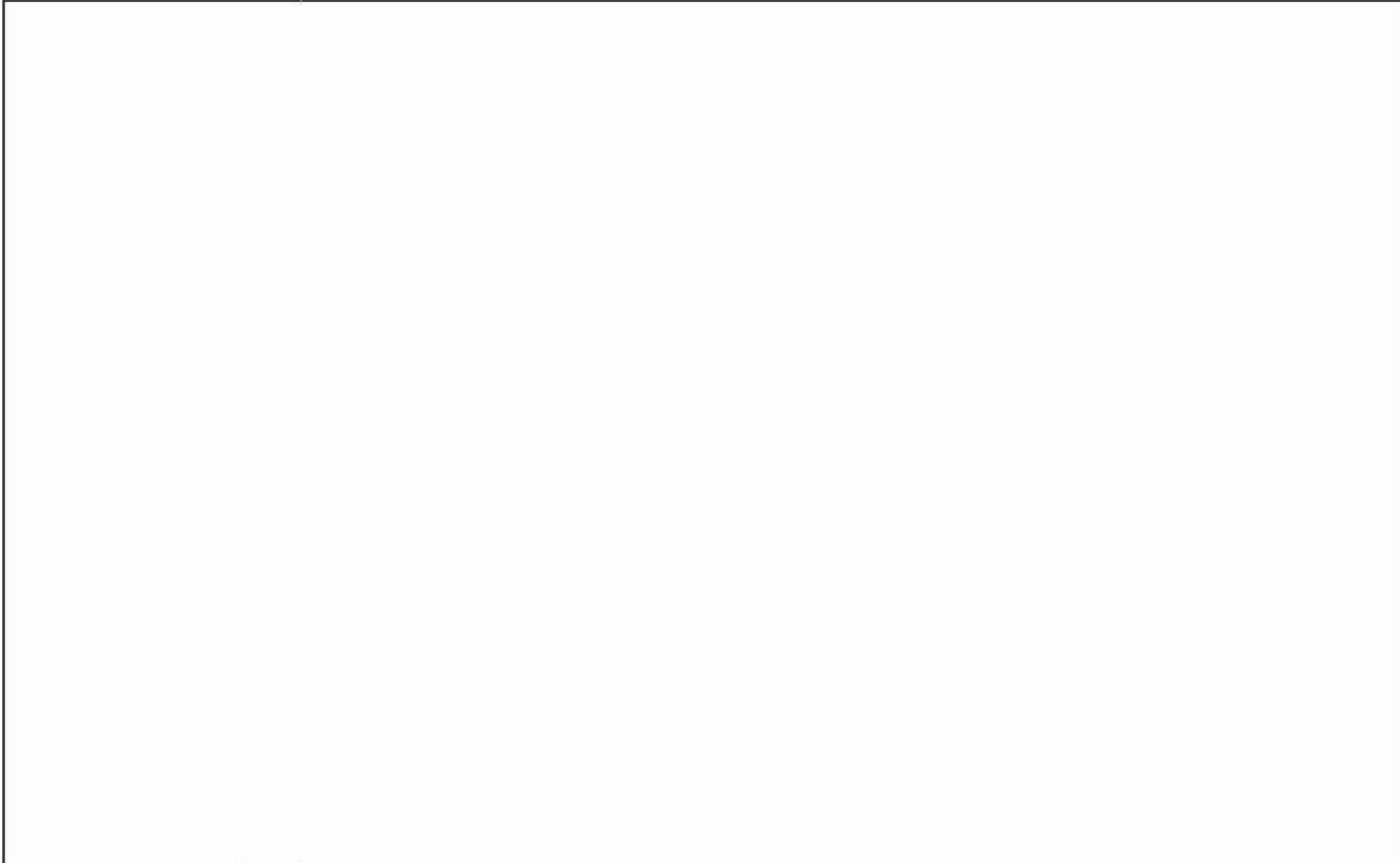


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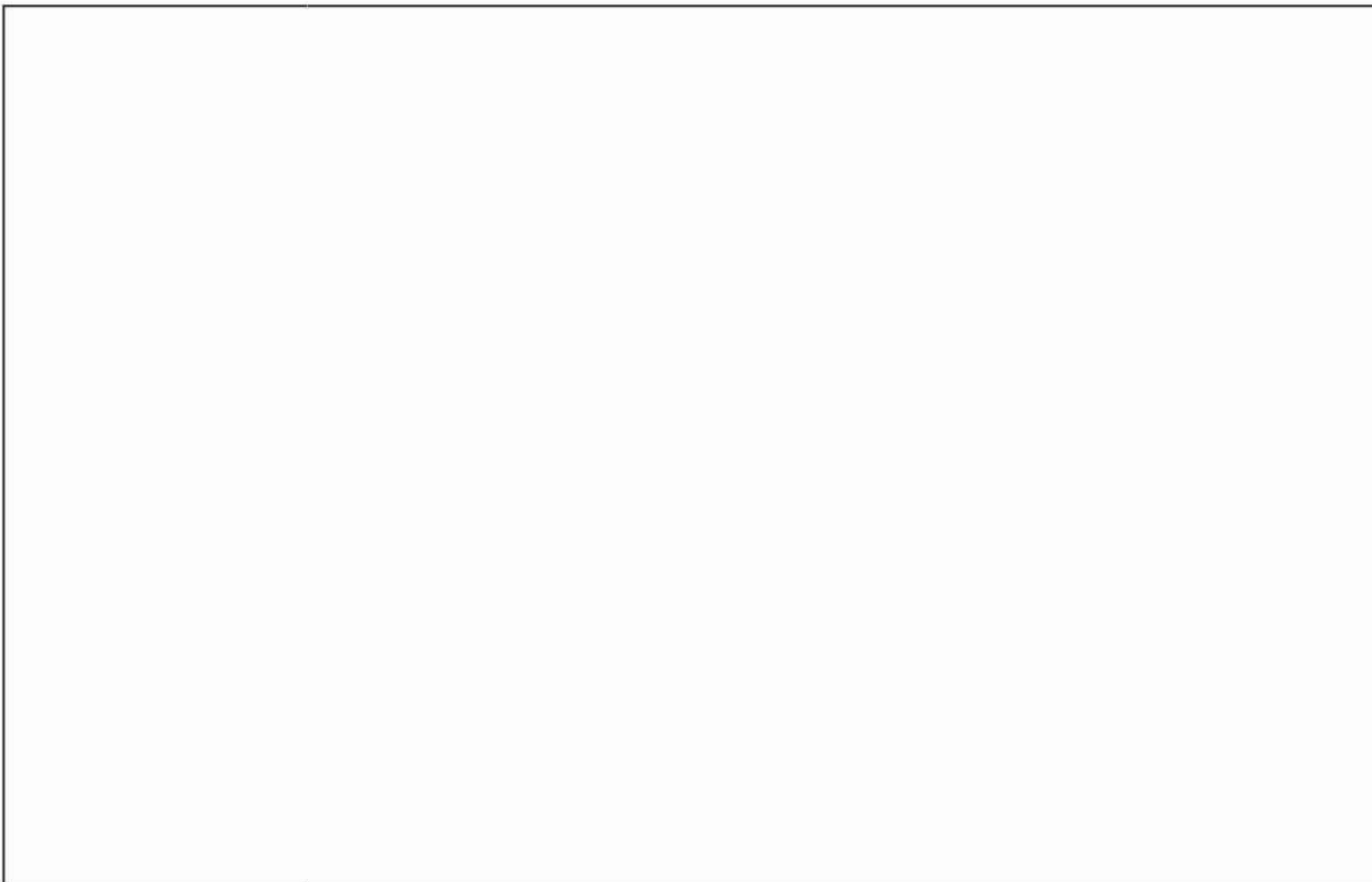
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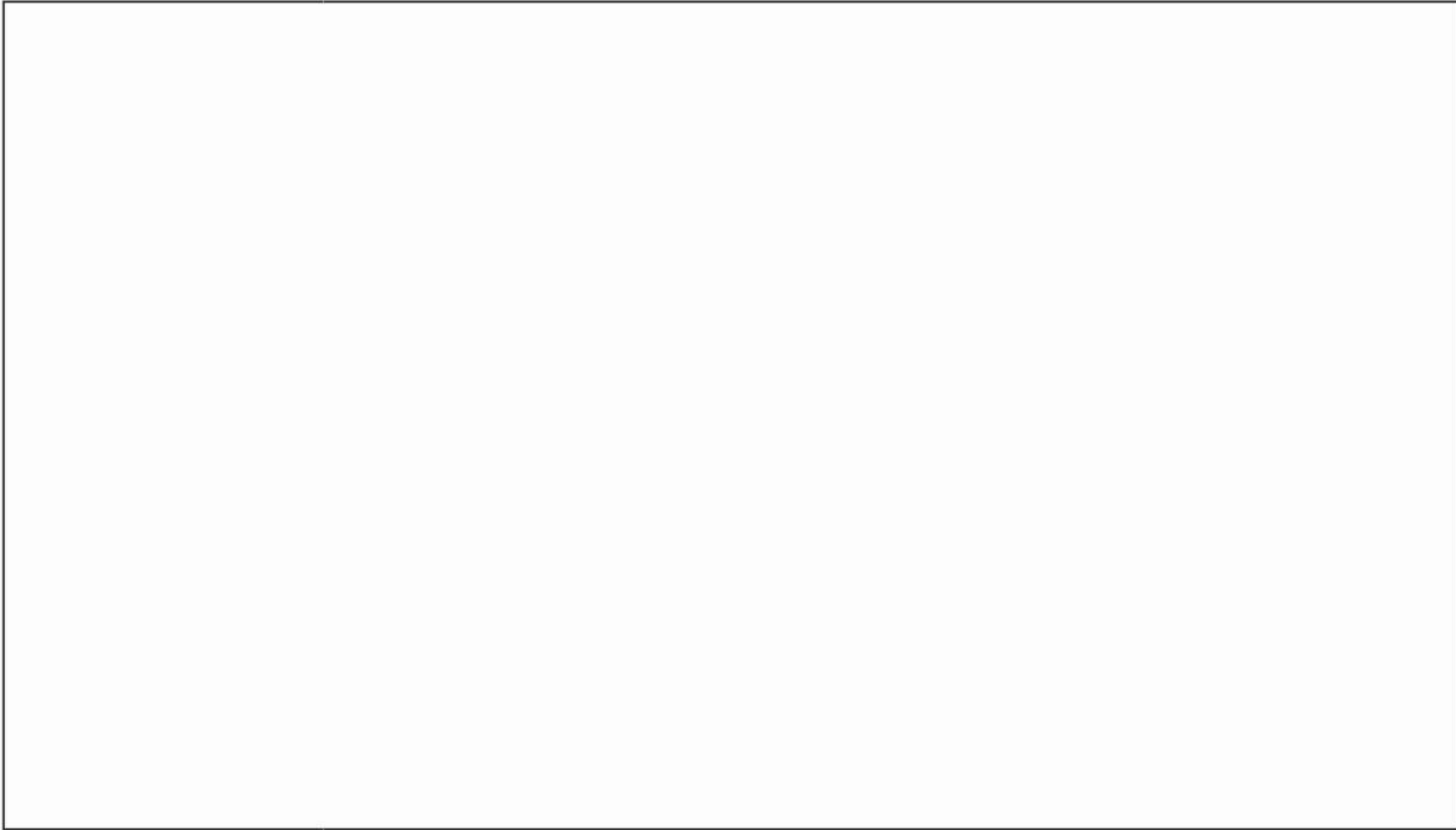




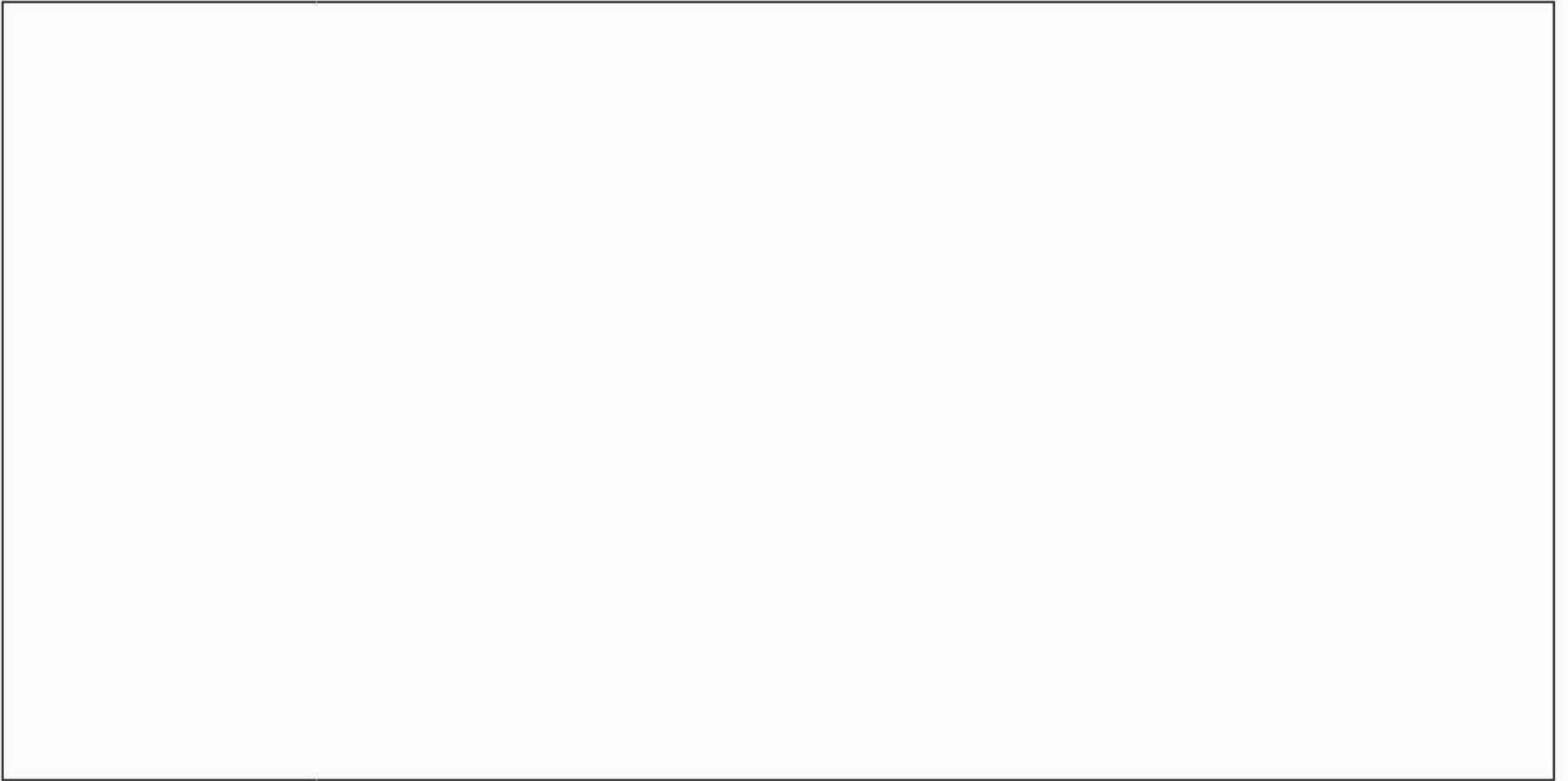
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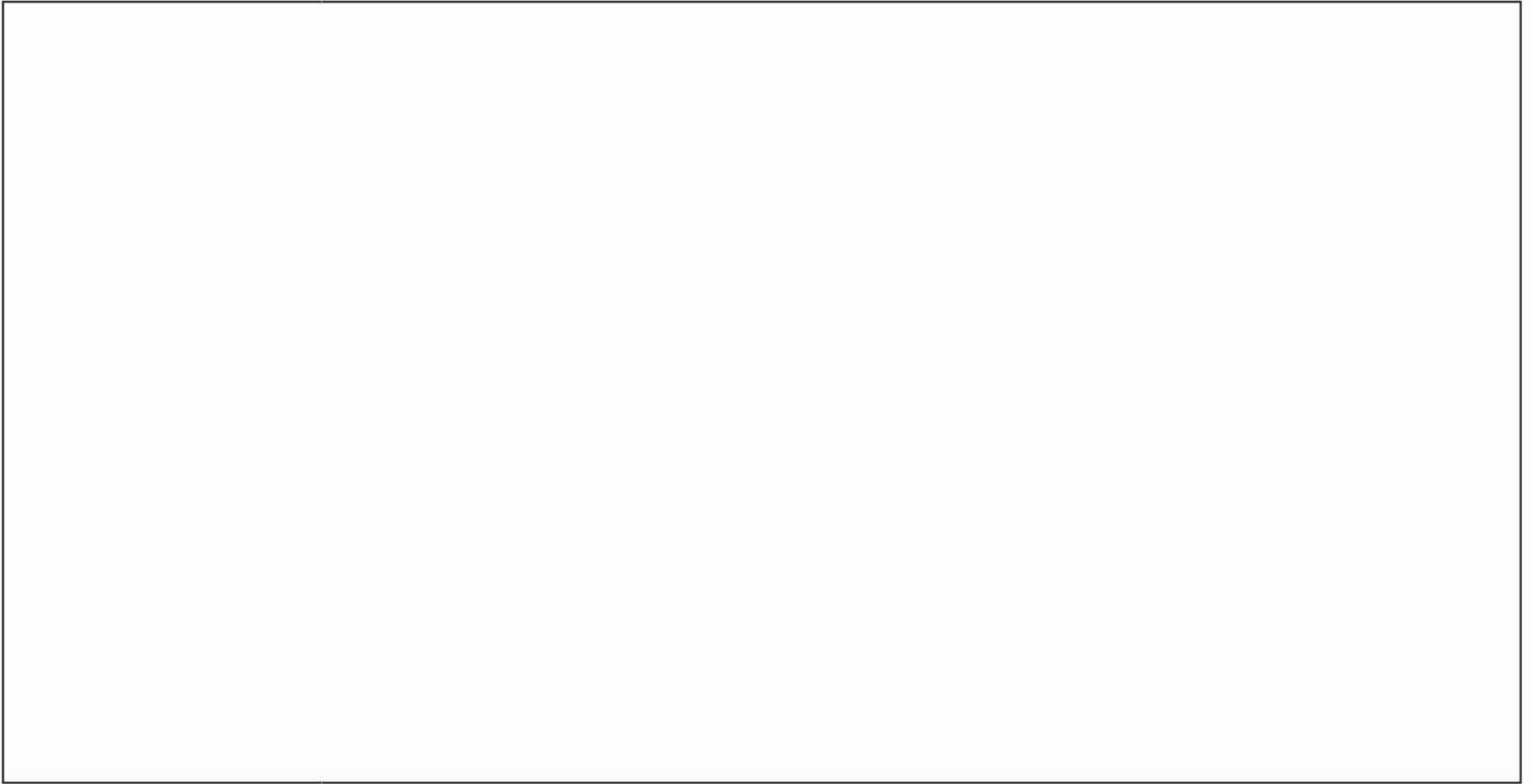
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(b)(5) (b)(7)(E)

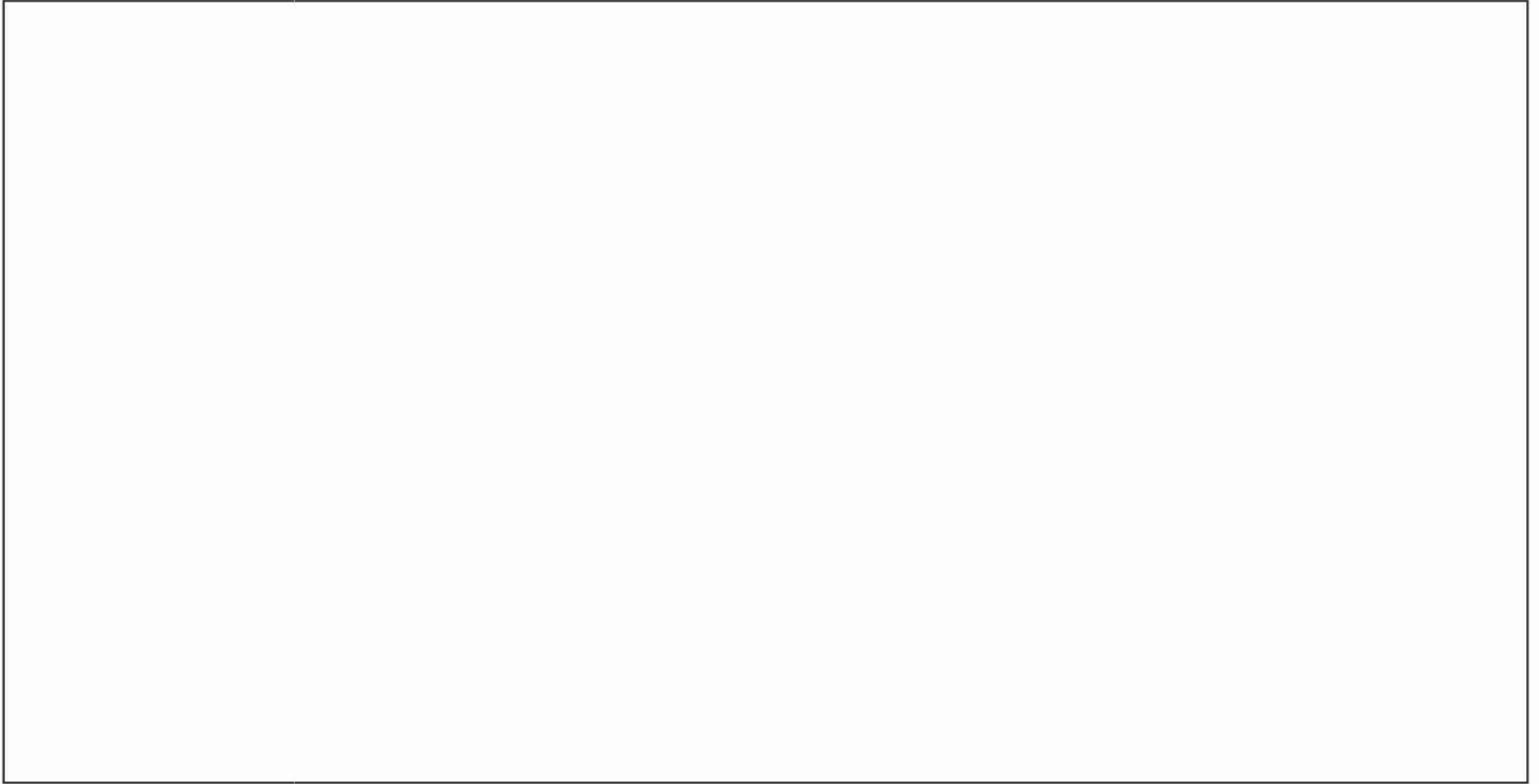


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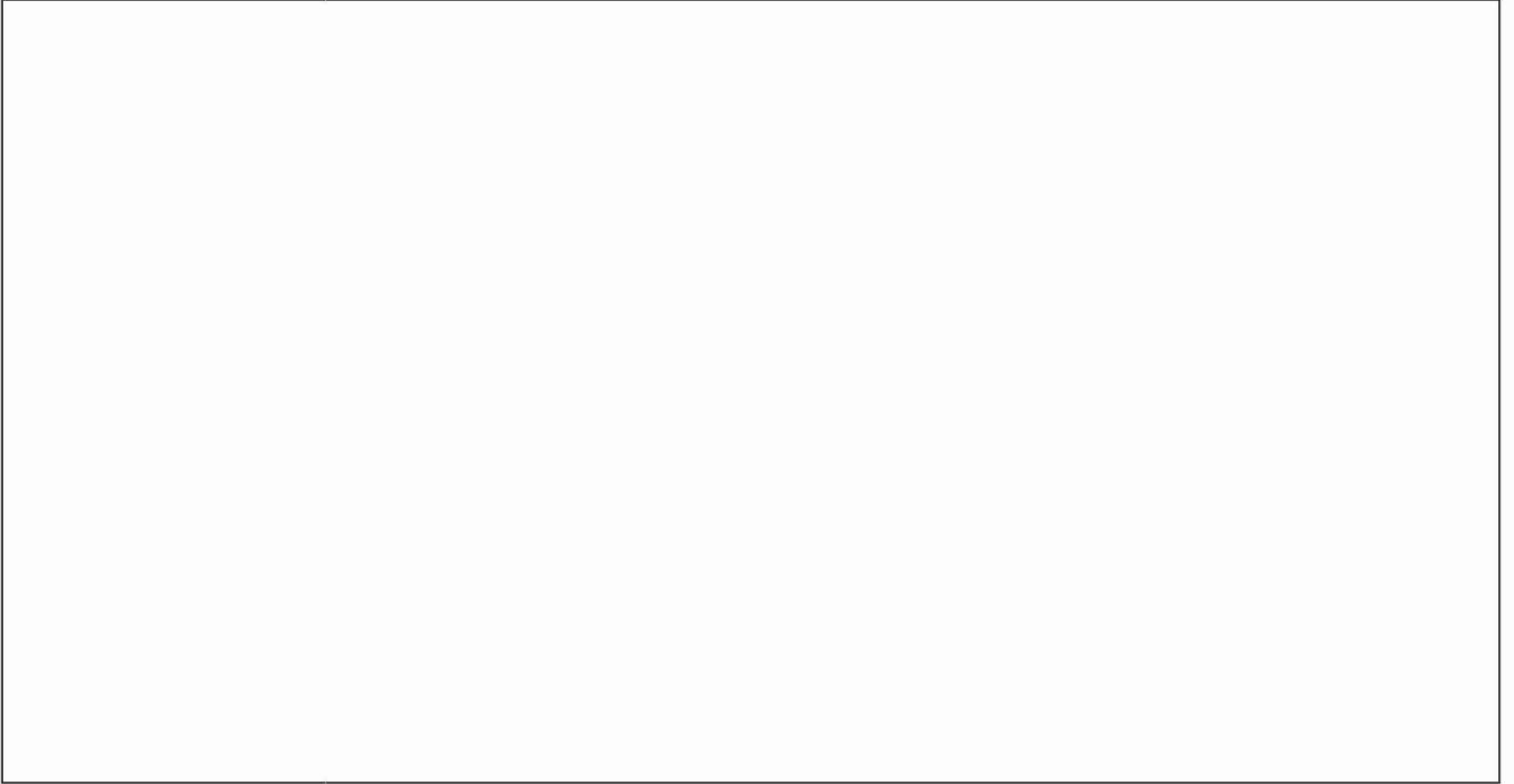
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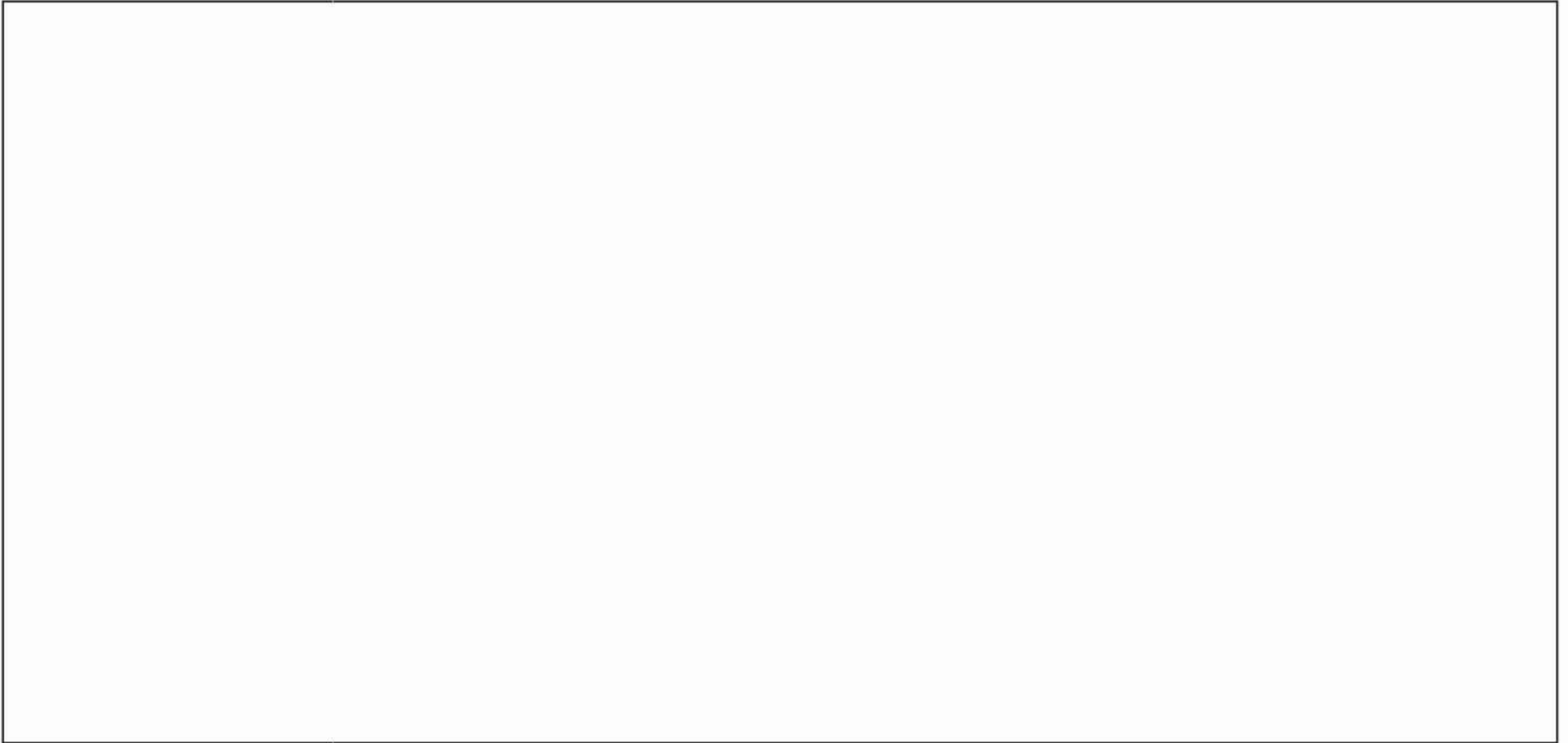
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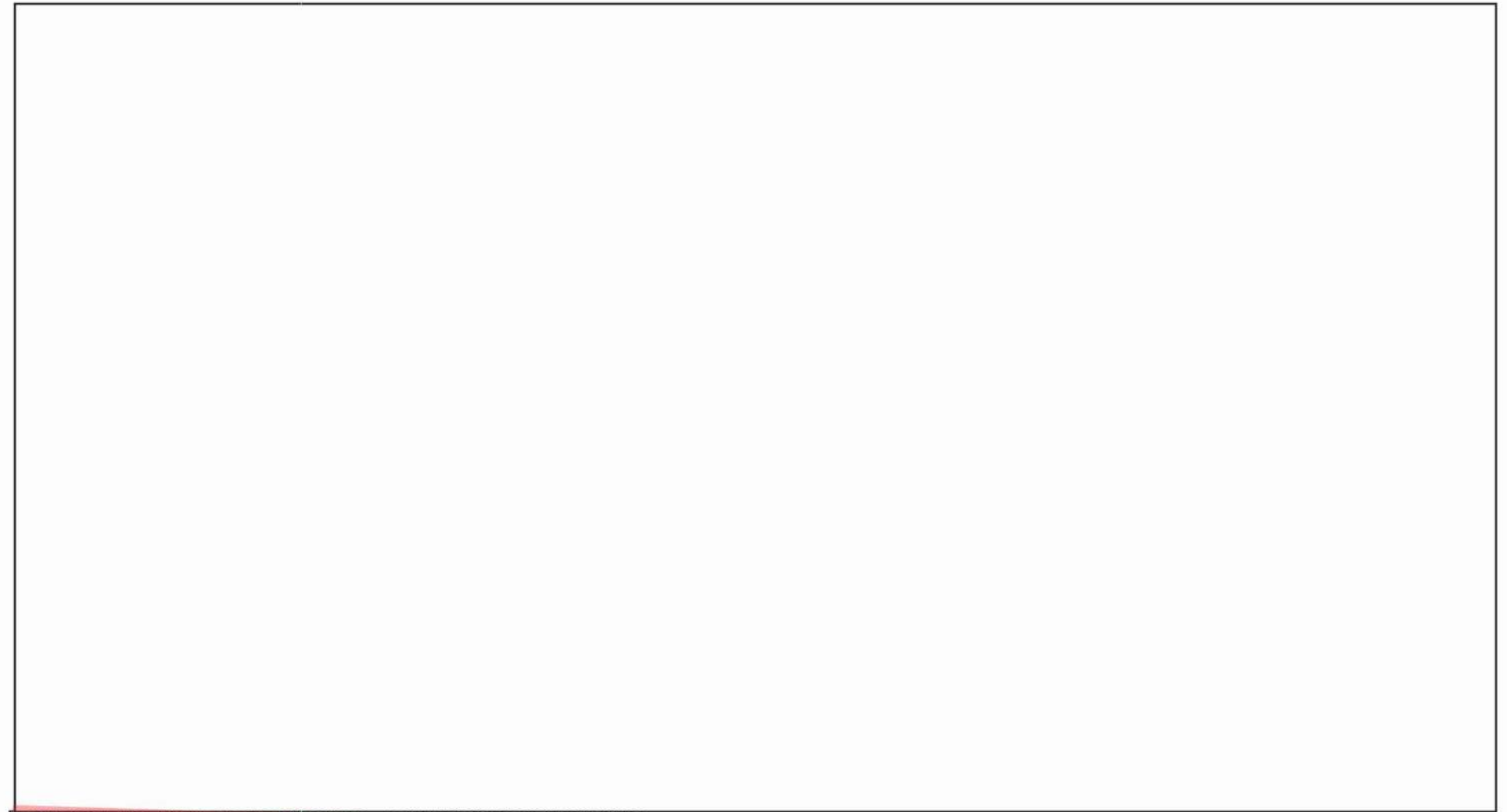


(b)(5)

(b)(7)(E)



(b)(5) (b)(7)(E)



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## File Requests (Just send me the files ...)

- Information Sharing Requests
- File scans
- Volume and content
- Contractors
- Time lines and expectations



# Questions?

(b)(6)



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