

1-129 H1B RFE STANDARDS

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129 H1B RFE INTRODUCTION

Request for Evidence
Form I-129, Petition for a Nonimmigrant Worker
H-1B, Temporary Worker in a Specialty Occupation

On XXX[Insert filing date]XXX, you, XXX[Insert petitioner's name]XXX, filed a Petition for a Nonimmigrant Worker (Form I-129), with U.S. Citizenship and Immigration Services (USCIS), seeking to classify XXX[Insert beneficiary's name]XXX (beneficiary) as a temporary worker in a specialty occupation (H-1B).

A specialty occupation is one that requires the theoretical and practical application of a body of highly specialized knowledge and which requires the attainment of a bachelor's or higher degree in a specific specialty, or its equivalent, as a minimum, for entry into the occupation in the United States.

You seek XXX[INSERT AS APPROPRIATE: new employment for the beneficiary / a continuation of previously approved employment without change with the same employer / a change in previously approved employment / new concurrent employment / a change of employer / to amend the prior petition]XXX and request that USCIS XXX[notify the consulate / extend the beneficiary's stay / change the beneficiary's status / amend the beneficiary's stay]XXX.

Documentation submitted with your petition indicates that you provide XXX[Indicate the type of service provided such as: information technology consulting services, information technology staffing solutions, information technology solutions, healthcare staffing solutions]XXX with XXX[INSERT NUMBER OF WORKERS LISTED ON THE I-129]XXX employees. You seek to employ the beneficiary as a XXX[INSERT JOB TITLE]XXX from XXX[INSERT I-129 REQUESTED START DATE]XXX to XXX[INSERT I-129 REQUESTED END DATE]XXX.

To process your petition and determine if you and the beneficiary are eligible, additional information is required. This request provides suggested evidence that you may submit to satisfy each requested item. You may:

- Submit one, some, or all of these items;
- Submit none of the suggested items and instead submit other evidence to satisfy the request;
- Explain how the evidence in the record already establishes eligibility; or
- Request a decision based on the record.

Please note that you are responsible for providing evidence showing that you and the beneficiary meet all requirements and are eligible for the requested benefit at the time you filed the Form I-129. Also, note that statements made in cover letters should be supported with additional documentary evidence.

USCIS checks all petitions filed for this classification in its Validation Instrument for Business Enterprises (VIBE) system. VIBE uses commercially available data to validate basic information about organizations petitioning to employ foreign workers. For more information about this program, please visit USCIS's website at www.uscis.gov/VIBE.

129 H1B RFE FILING REQUIREMENTS (FR)

Filing Requirements

The Form I-129 requires the following item(s). These item(s) are either missing or incomplete. Please properly complete or provide the following:

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129 H1B RFE (FR) Early Filing

Early Filing: USCIS's ~~DHS~~ regulations state that an H-1B petition may not be filed ~~earlier~~ more than six months before the date of actual need for the beneficiary's services or training.

XXX[DISCUSS THE EVIDENCE OF EARLY FILING]XXX

Provide an explanation with supporting documentary evidence and correction on the Form I-129 (if ~~needed~~ applicable) to establish that you filed the H-1B petition in accordance with the regulations.

129 H1B RFE (FR) Fraud Prevention and Detection Fee

Fraud Prevention and Detection Fee: An H-1B petition requires a Fraud Prevention and Detection fee of \$500, which must be paid by petitioners seeking a beneficiary's initial grant of the H-1B classification or when seeking to change a beneficiary's employer within the H-1B classification. Other than petitions to amend or extend stay filed by an ~~existing~~ the beneficiary's current H-1B employer, there are no exemptions from the \$500 fee.

In the present case, you filed the I-129 petition, seeking XXX[CHOOSE: an initial grant of H-1B classification OR a change of the beneficiary's employer within the H-1B classification]XXX without the Fraud Prevention and Detection fee of \$500.

Please remit the \$500 Fraud Prevention and Detection fee or provide evidence that the instant Form I-129 is exempt from the Fraud Prevention and Detection fee.

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129 H1B RFE (FR) Public Law 111-230 Fee

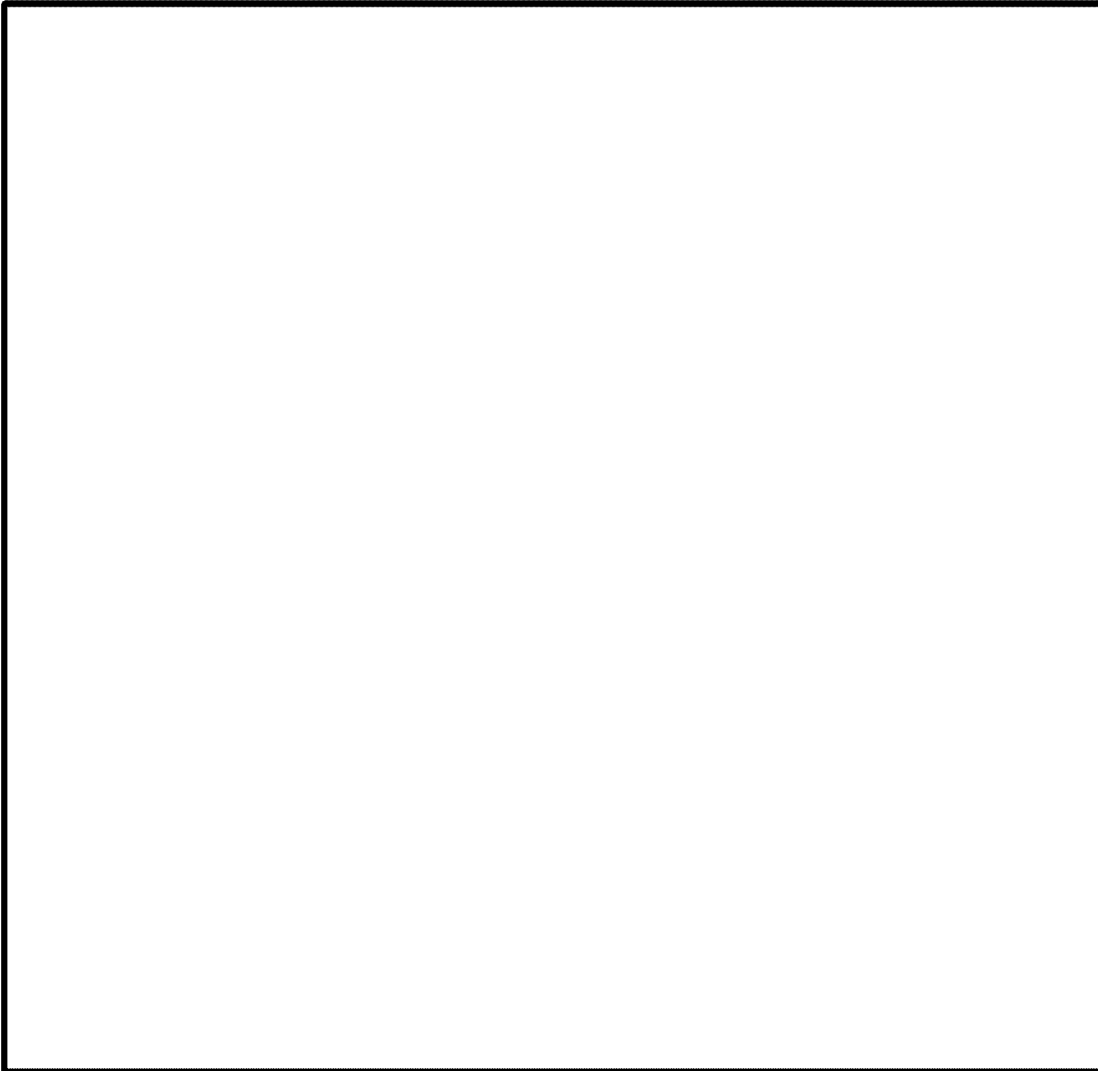
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Last Name	First Name	Current Status (i.e., United States Citizen, Lawful Permanent Resident, H-1B, L-1)	USCIS Receipt Number (if applicable)

129 H1B RFE (FR) Public Law 114-113 Fee



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- A table as shown below for all employees employed by you at the time you filed this Form I-129. Please arrange the last name in alphabetical order.

Last Name	First Name	Current Status (i.e., United States Citizen, Lawful Permanent Resident, H-1B, L-1)	USCIS Receipt Number (if applicable)

129 H1B RFE (FR) ACWIA Fee

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XXX[To show you are a primary or secondary school, you submitted:]XXX

- XXX[list submitted evidence]XXX

XXX[The evidence you submitted is insufficient. [Officer must insert the reason(s) why the evidence listed is not sufficient.]]XXX

Accordingly, it appears that you do not qualify for exemption from payment of the additional fee. Please submit the proper ACWIA fee.

If you believe that you are not required to pay the ACWIA fee, please provide documentary evidence to establish you meet the exemption requirement. Evidence to show you are exempt from the ACWIA fee may include, but is not limited to:

- Evidence from the appropriate state or local licensing agency to establish that you are authorized to operate as a primary or secondary education institution or evidence that such authorization is not required.
- A more detailed description about your business. Include evidence such as copies of your catalog, brochures, internet website, or any other printed materials published by you to establish that you are operating as a primary or secondary education institution.

129 H1B RFE (FR) ACWIA Institution of Higher Education



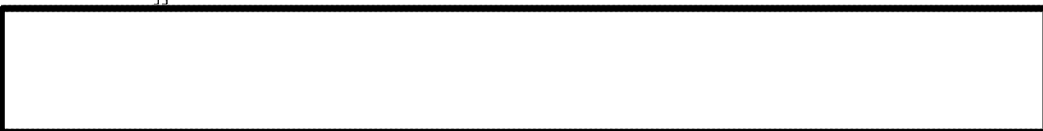
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XXX[You did not submit any evidence to show that you are an institution of higher education.]XXX

XXX[To show you are institution of higher education, you submitted:]XXX

- XXX[list submitted evidence]XXX

XXX[The evidence you submitted is insufficient. [Officer must insert the reason(s) why the evidence listed is not sufficient.]]XXX



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- You admit as regular students only persons having a certificate of graduation from a secondary school, or the recognized equivalent of such a certificate, or persons who meet the requirements of secondary school graduation from a home school setting that is treated as a home school or private school under state law;
- You are legally authorized within a state to provide a program of education beyond secondary education;
- You provide an educational program for which you award a bachelor's degree or provide not less than a two-year program that is acceptable for full credit toward such a degree, or award a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary of the U.S. Department of Education;
- You are a public or other nonprofit institution; and
- You are accredited by a nationally recognized accrediting agency or association, or if not so accredited, you are an institution that has been granted pre-accreditation status by such an agency

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The following standards are used to determine if an H1B applicant is eligible for a visa under the H1B program. These standards are based on the requirements of the Immigration and Nationality Act (INA) and the regulations of the Department of Homeland Security.

- 1. The applicant must be a foreign national who is currently outside the United States.
- 2. The applicant must be a specialty occupation, which means that the applicant must have a minimum of a bachelor's degree or its equivalent in a specific field of study.
- 3. The applicant must have a job offer from a U.S. employer who is sponsoring the applicant for an H1B visa.
- 4. The applicant must have a job offer that is in the same field of study as the applicant's degree or equivalent.

These standards are used to determine if an H1B applicant is eligible for a visa under the H1B program.

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1. The employer must demonstrate that the beneficiary is a specialty occupation.
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The employer must demonstrate that the beneficiary is a specialty occupation.

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5. The employer must demonstrate that the beneficiary is a specialty occupation.

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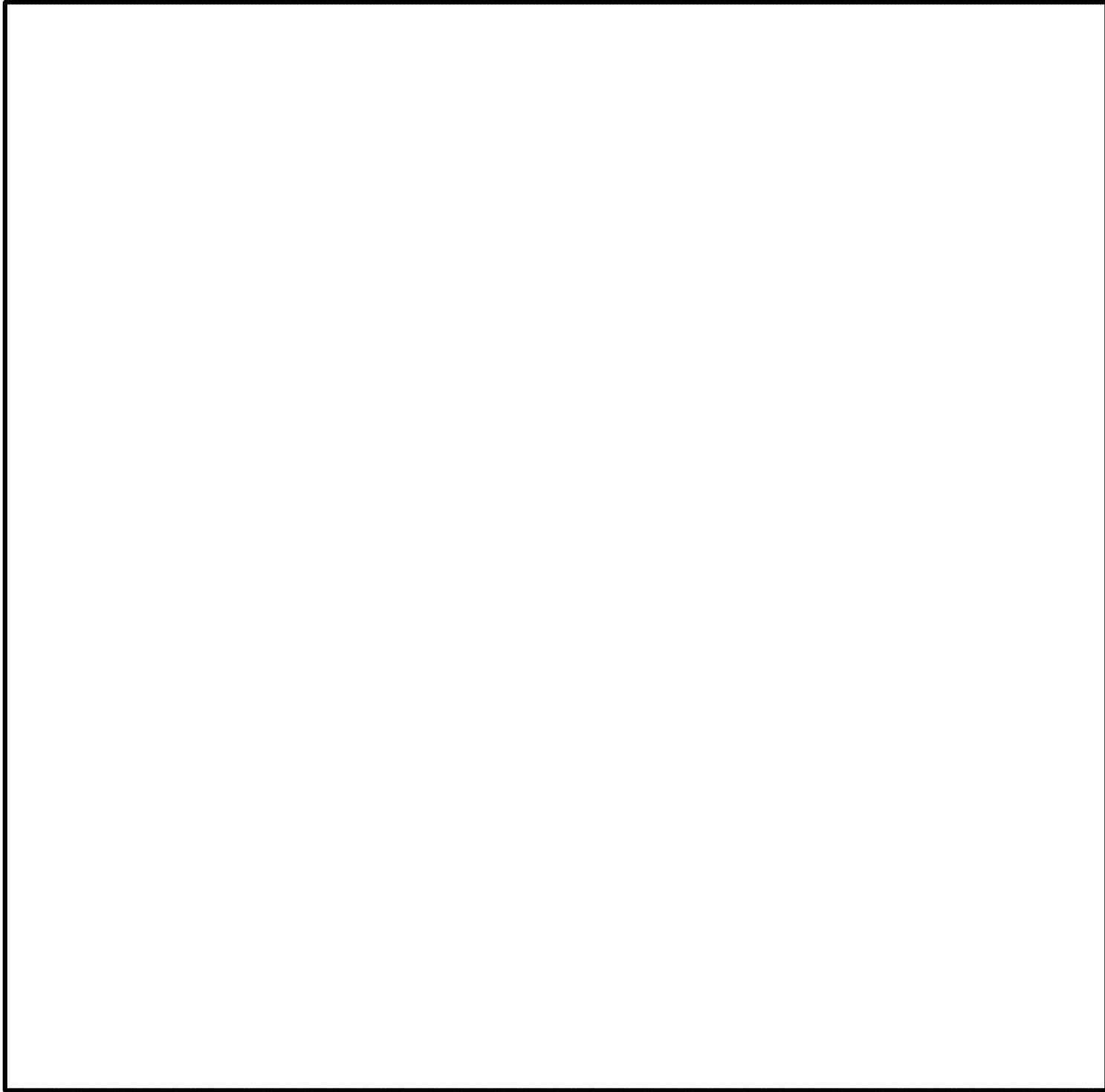
6. The employer must demonstrate that the beneficiary is a specialty occupation.

7. The employer must demonstrate that the beneficiary is a specialty occupation.

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Applied research is research to gain knowledge or understanding to determine the means by which a specific, recognized need may be met. Applied research includes investigations oriented to discovering new scientific knowledge that has specific commercial objectives with respect to products, processes, or services.

As evidence, you provided:

- XXX[Lists evidence provided to show research]XXX

However, the evidence provided does not establish that you qualify as an organization that primarily engages in basic and/or applied research. XXX[Explain why.]XXX You have two options: (1) remit the required \$1,500 or \$750 ACWIA fee, as applicable; or (2) submit evidence to show that you are exempt from the required ACWIA fee. Evidence to show you are exempt from the ACWIA fee may include, but is not limited to, the following:

- Documentation that establishes your research activities, such as copies of organizational documents, including articles of incorporation or articles of organization; and organizational literature, such as books, articles, brochures, research papers, and other literature describing the purpose and nature of your research activities.
- A complete copy of your most recent Form 990, Return of Organization Exempt from Income Tax. The copy of the tax return should include all required schedules and statements that identify your primary exempt purpose.
- Work products from research projects, such as published research papers in journals, magazines, newspapers, and websites.
- Evidence that you received research grants from governmental, educational, or other for-profit or nonprofit grantors.
- Photographs of research.
- Written testimonials attesting to the research that you conducted. The testimonials should include the writer's name, address, and qualifications.

XXX[Adjudicators: do not request the following if you already know the petitioner is a nonprofit organization]XXX

Nonprofit organization or entity is an organization that is qualified as a tax exempt organization under section 501(c)(3), (c)(4) or (c)(6) of the Internal Revenue Code of 1986, as amended, and has received approval as a tax exempt organization from the Internal Revenue Service, as it relates to research or educational purposes.

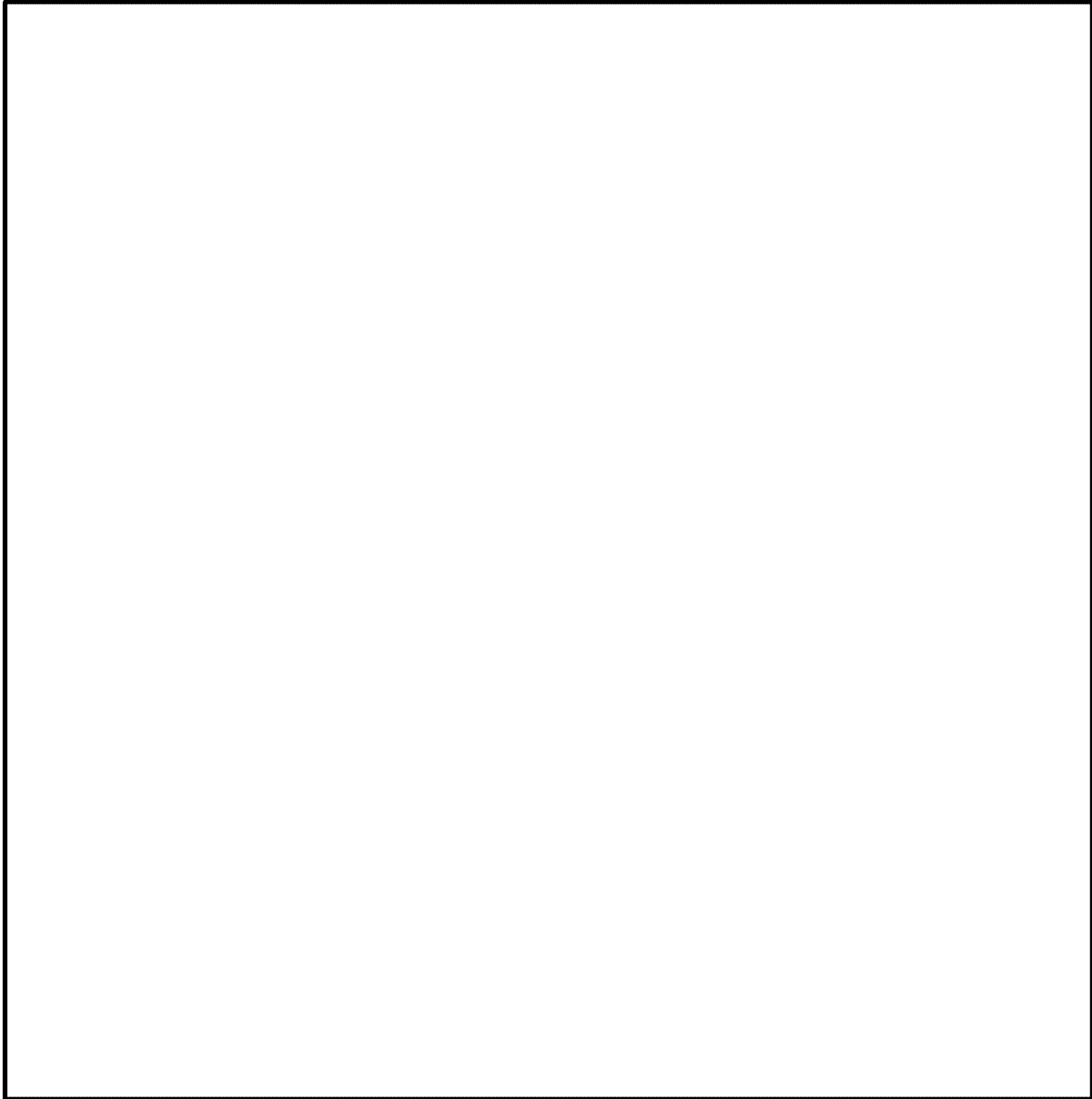
To establish that you are a nonprofit entity, you provided:

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- XXX[List evidence provided regarding nonprofit status]XXX

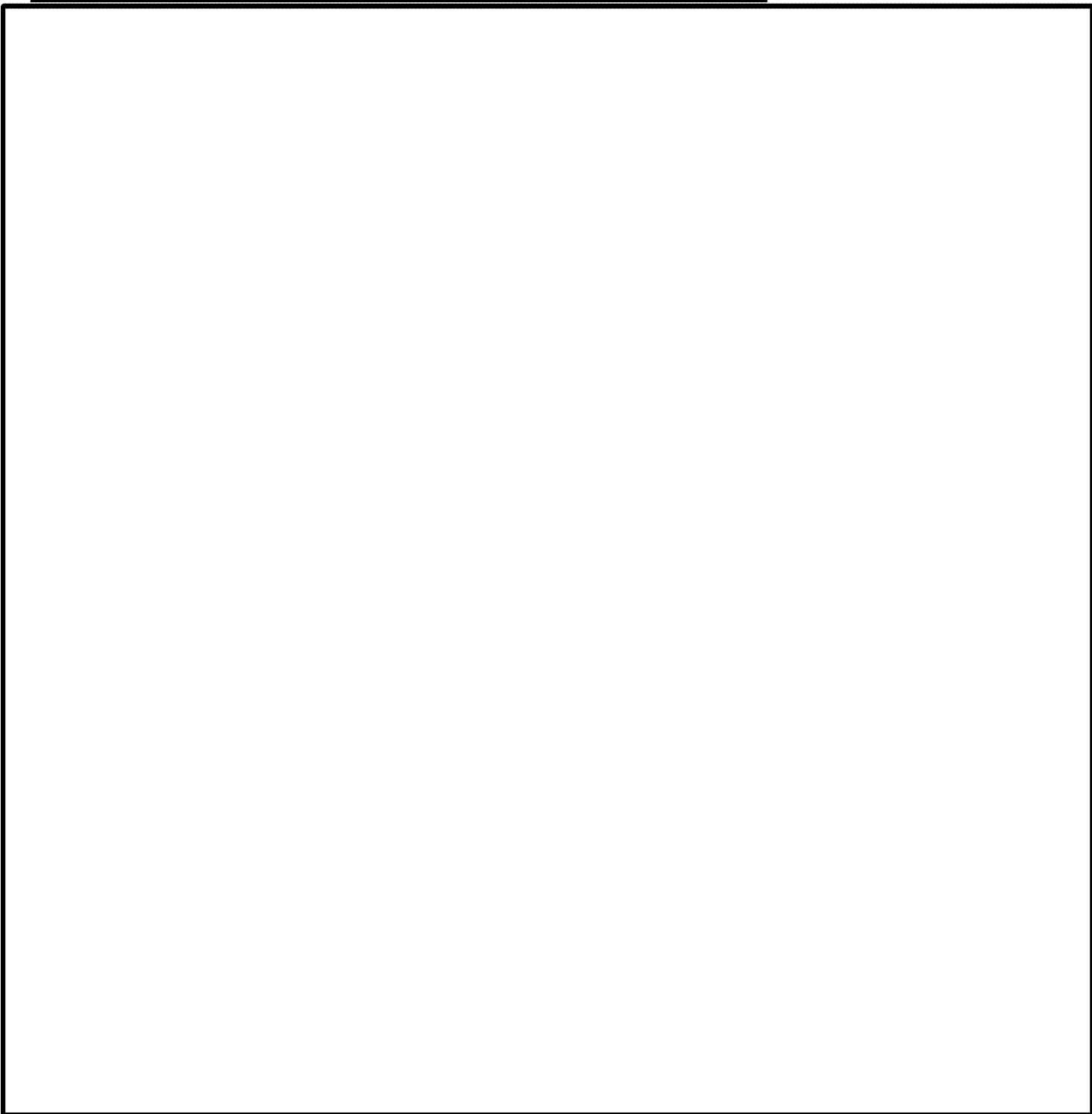
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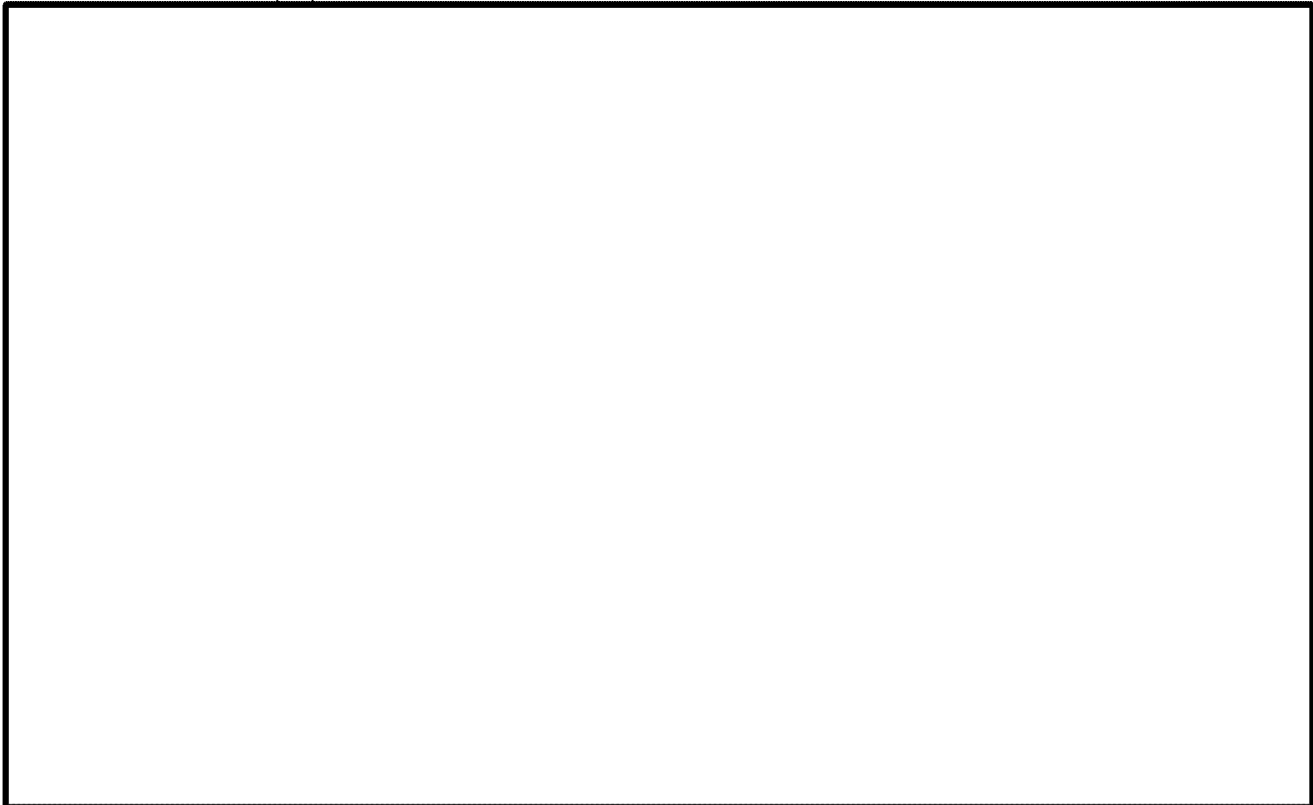
However, the record of proceeding does not establish that you qualify as an organization that engages in curriculum-related clinical training of students. XXX[OFFICER MUST EXPLAIN WHY EVIDENCE IS NOT SUFFICIENT.]XXX



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- Detailed descriptions and substantiating evidence regarding the curriculum-related clinical training program. Provide evidence such as program literature, brochures, applications, requirements, or contracts.
- Lists of students who are currently enrolled in the curriculum-related clinical training.
- Evidence that you qualify as a nonprofit organization with federal tax exempt status in the form of a signed letter from the Internal Revenue Service showing that you are exempt from taxation in accordance with the Internal Revenue Code as it relates to such nonprofit organizations.
- A complete copy of your most recent Form 990, Return of Organization Exempt from Income Tax. The copy of the tax return should include all required schedules and statements that identify your primary exempt purpose.

129 H1B RFE (FR) ACWIA Amended Petitions NOT EOS



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Export Control: Any Form I-129 filed ~~in~~on behalf of an H-1B beneficiary on or after February 20, 2011 must include a response to Part 6, "Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons in the United States."

You did not answer the question in Part 6 of the Form I-129. Please complete Part 6 of the Form I-129 and submit it in response to this request for evidence. If the Part 6 of the Form I-129 is not returned, or if it is returned without one of the blocks checked, the petition will be denied as incomplete.

129 H1B RFE CAP EXEMPTIONS (CE)

H-1B Cap Exemptions

H-1B Numerical Limitation: Each year, USCIS grants a limited number of H-1B visas (H-1B Cap) for specialty occupation workers. Most employers and beneficiaries are subject to the H-1B Cap. However, several H-1B Cap exemptions are available to certain employers or beneficiaries. You seek to begin employing the beneficiary within the XXX[INSERT FISCAL YEAR START DATE]XXX fiscal year. On XXX[INSERT CAP CLOSURE ANNOUNCEMENT DATE]XXX, USCIS announced that it had reached the H-1B Cap for fiscal year XXX[INSERT FISCAL YEAR START DATE]XXX. USCIS stopped accepting H-1B filings for employment beginning in fiscal year XXX[INSERT FISCAL YEAR START DATE]XXX on XXX[INSERT H-1B CAP CLOSED DATE]XXX.

129 H1B RFE (CE) Higher Education Institution

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- XXX[List evidence provided]XXX

However, the record does not show that you are an institution of higher education because XXX[Explain why]XXX. Please provide additional evidence regarding this exemption. The evidence must show that:

- You admit as regular students only persons having a certificate of graduation from a secondary school, or the recognized equivalent of such a certificate, or persons who meet the requirements of secondary school graduation from a home school setting that is treated as a home school or private school under state law;
- You are legally authorized within a state to provide a program of education beyond secondary education;
- You provide an educational program for which you award a bachelor's degree or provide not less than a two-year program that is acceptable for full credit toward such a degree, or award a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary of the U.S. Department of Education;
- You are a public or other nonprofit institution; and
- You are accredited by a nationally recognized accrediting agency or association, or if not so accredited, you are an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary of the U.S. Department of Education for the granting of pre-accreditation status, and the Secretary of the U.S. Department of Education has determined that there is satisfactory assurance that you will meet the accreditation standards of such an agency or association within a reasonable time.

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129 H1B RFE (CE) Nonprofit Affiliated to Higher Education Institution

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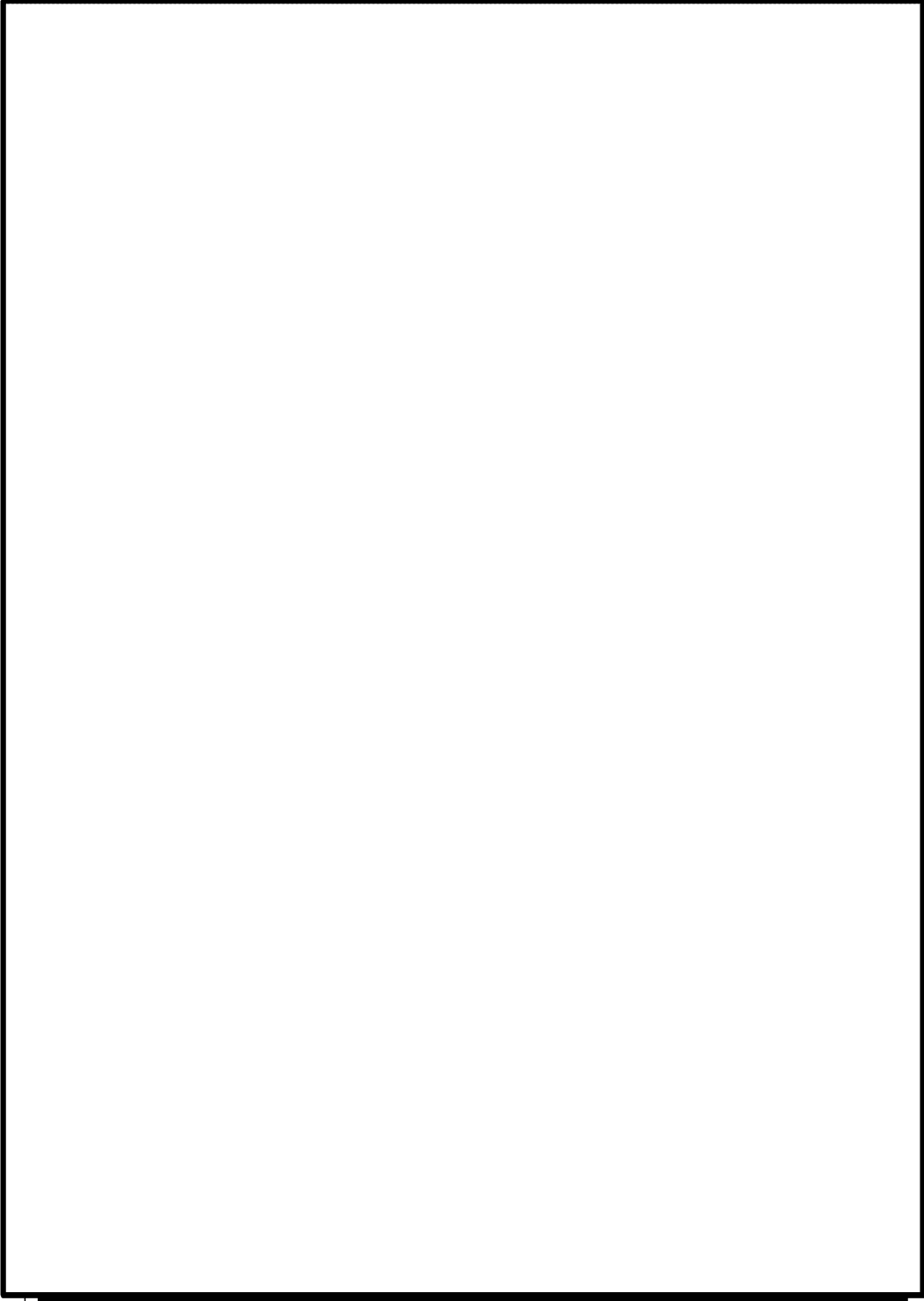


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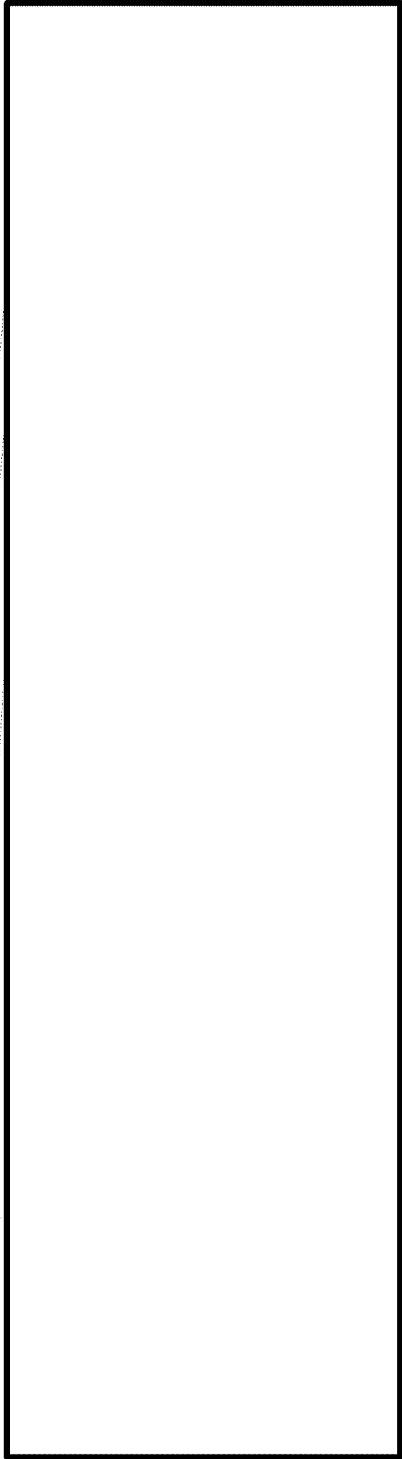
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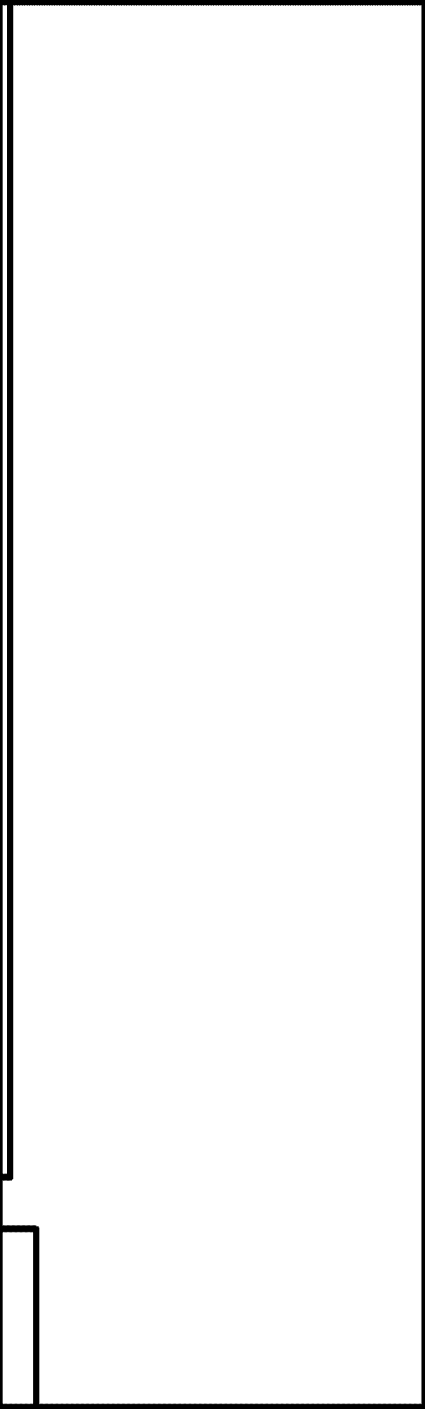
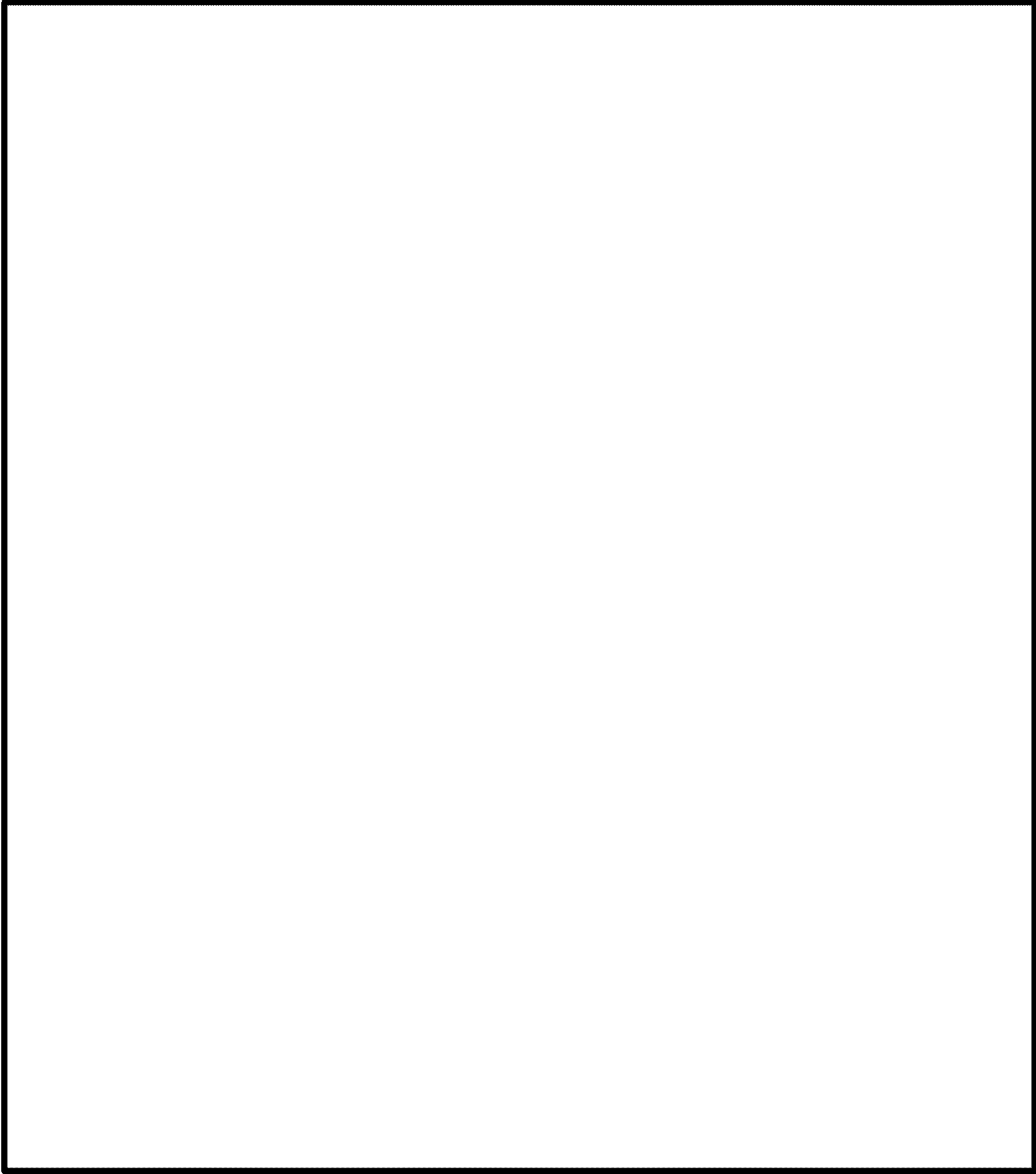


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129 H1B RFE (CE) Nonprofit Research Organization



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Basic research is general research to gain more comprehensive knowledge or understanding of the subject under study, without specific applications in mind. Basic research also is research that advances scientific knowledge but does not have specific immediate commercial objectives although it may be in fields of present or potential commercial interest.

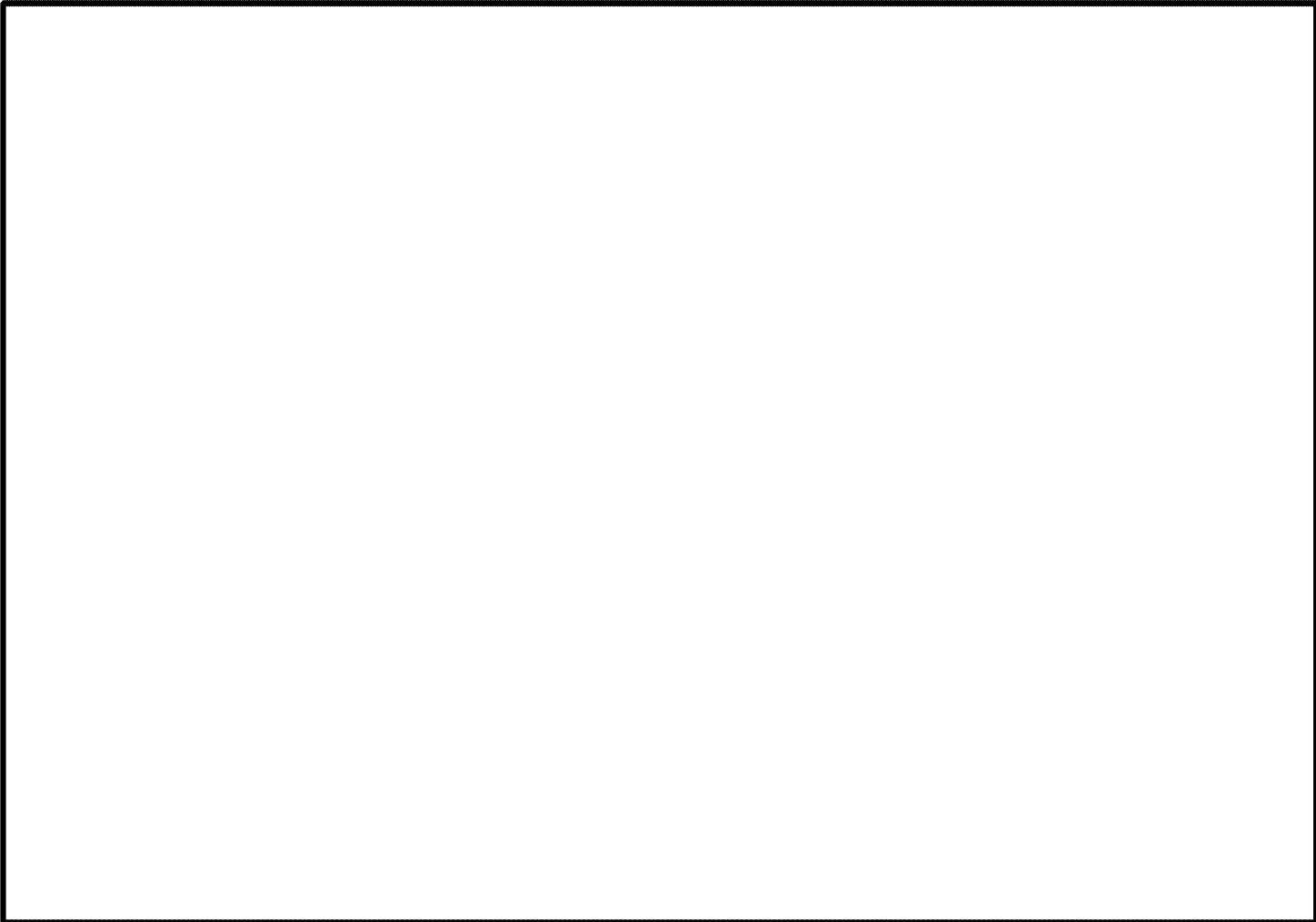
Applied research is research to gain knowledge or understanding to determine the means by which a specific, recognized need may be met. Applied research includes investigations oriented to discovering new scientific knowledge that has specific commercial objectives with respect to products, processes, or services.

You provided the following evidence to show that you primarily engage in basic and/or applied research:

- XXX[Lists evidence provided to show research]XXX

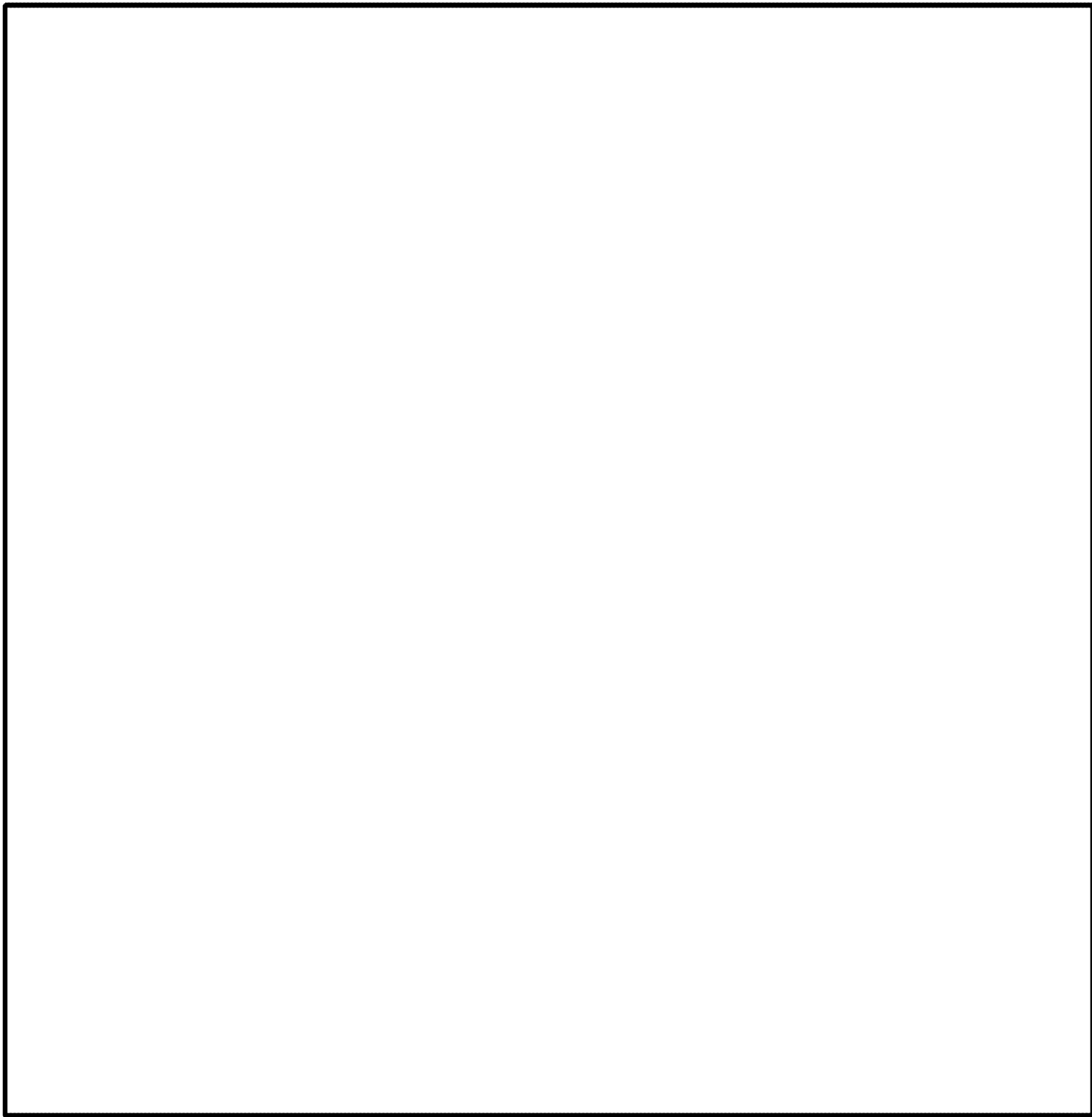
However, the record of proceeding does not establish that you qualify as an organization that primarily engages in basic and/or applied research. XXX[Explain why.]XXX Please submit evidence to show that you qualify as a nonprofit organization that primarily engages in basic and/or applied research. Evidence may include, but is not limited to, the following:

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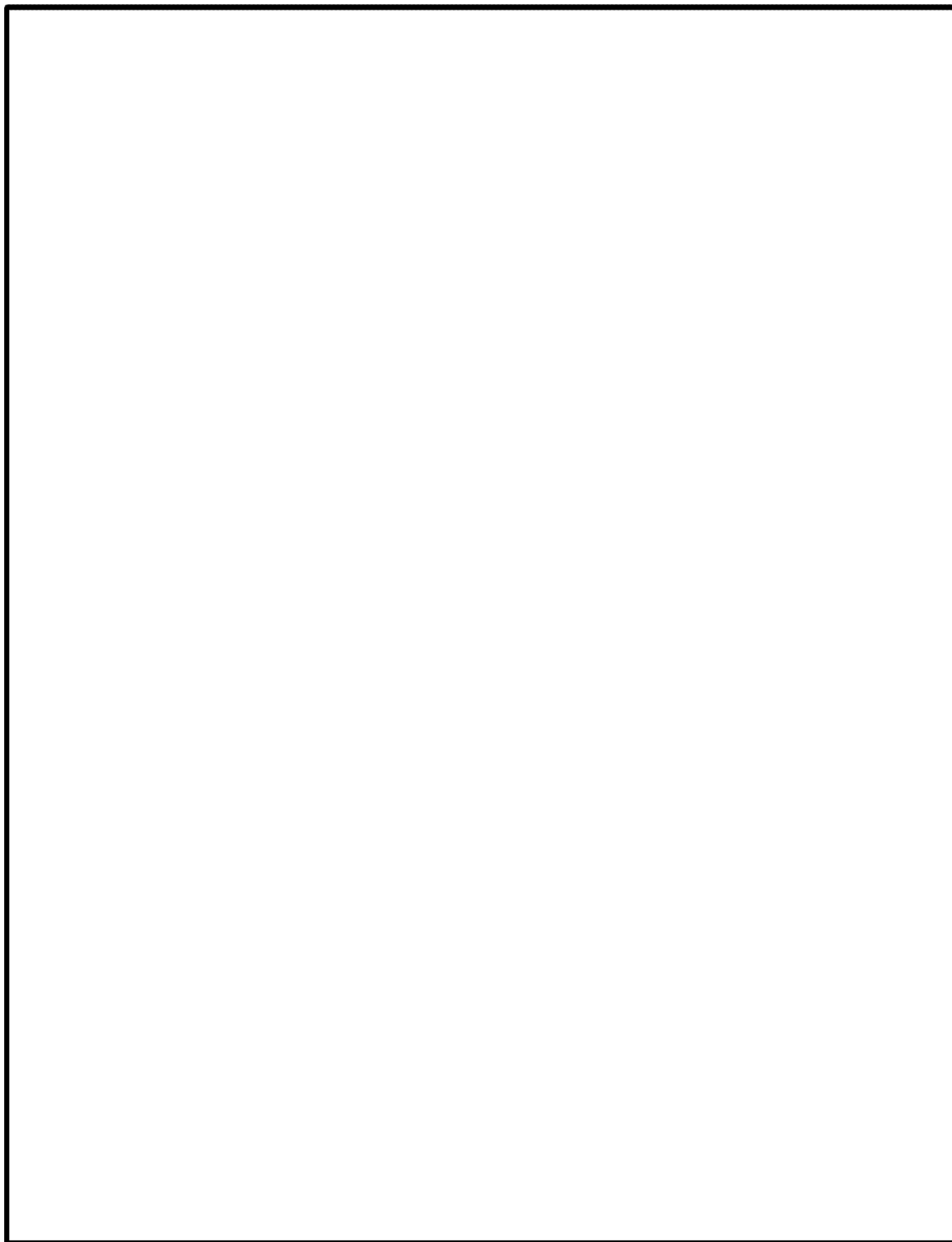


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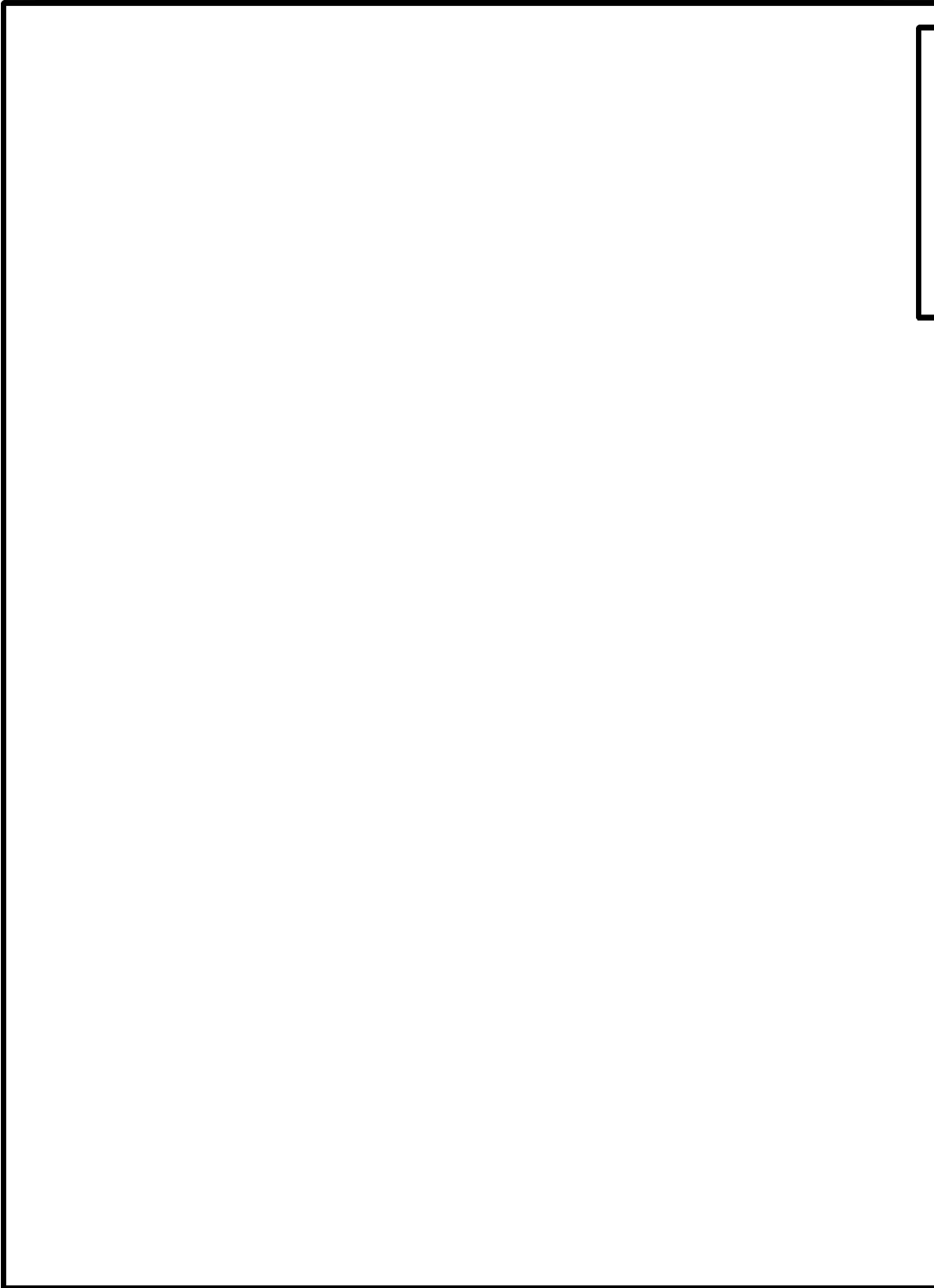
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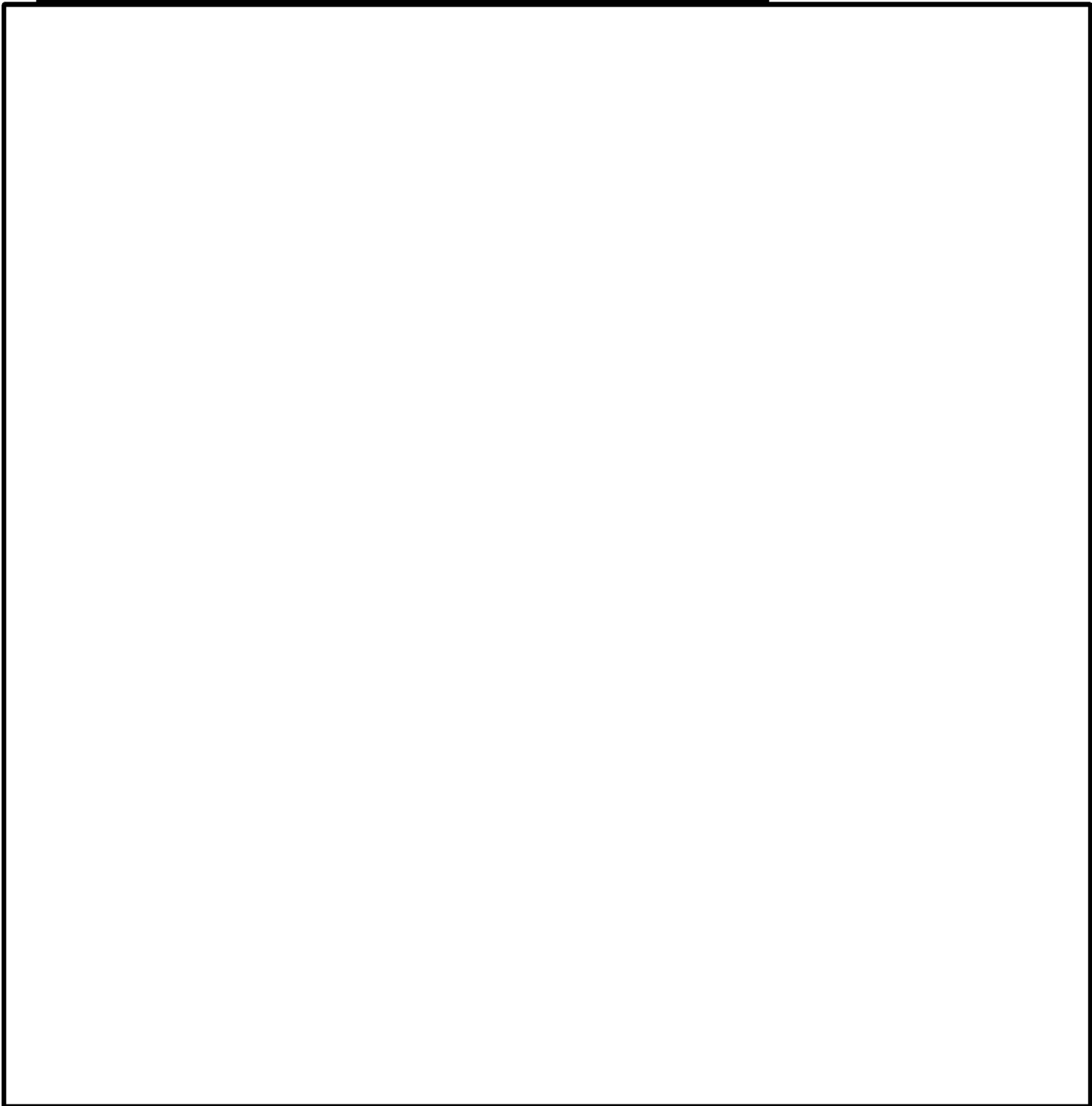
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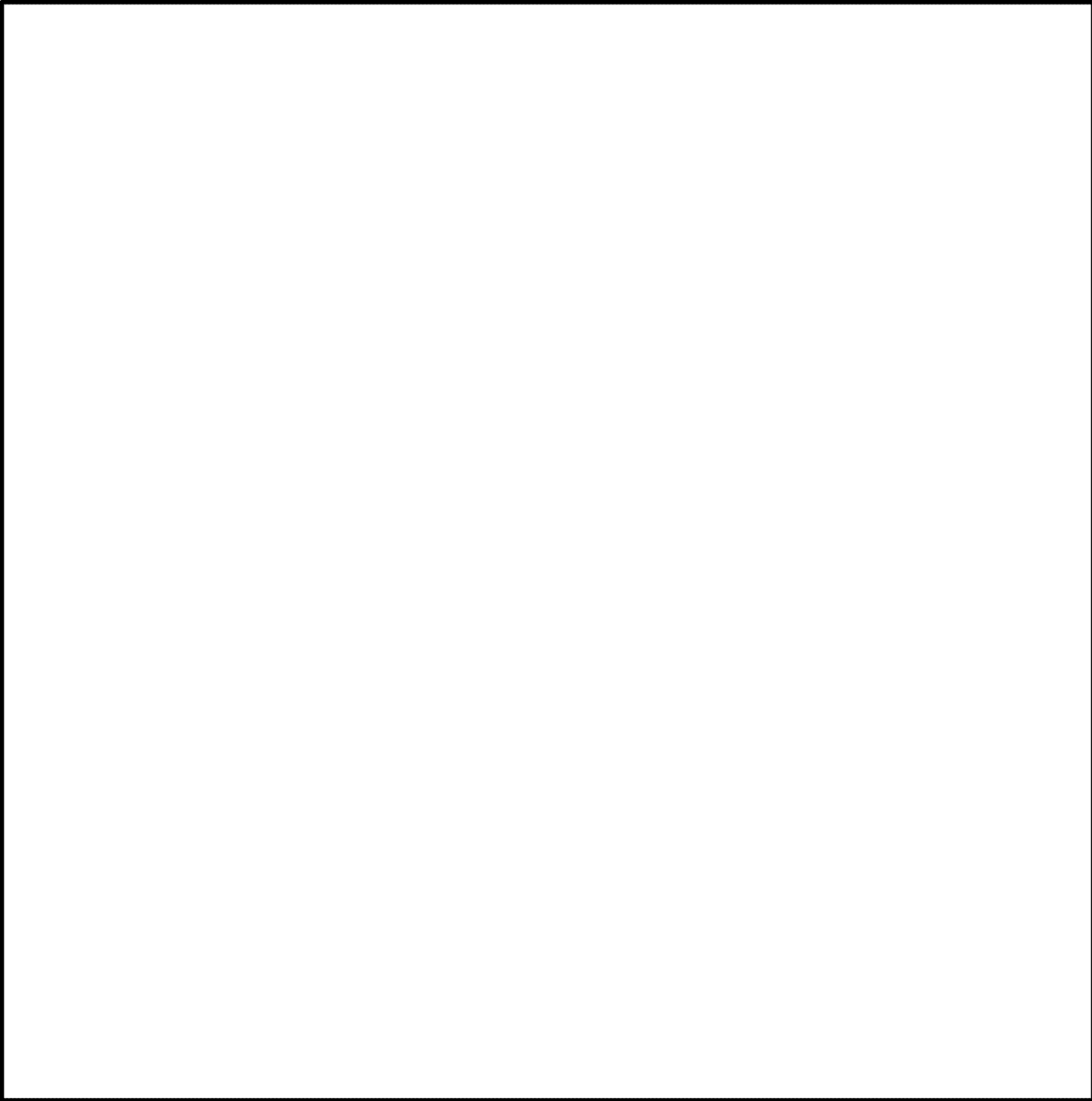
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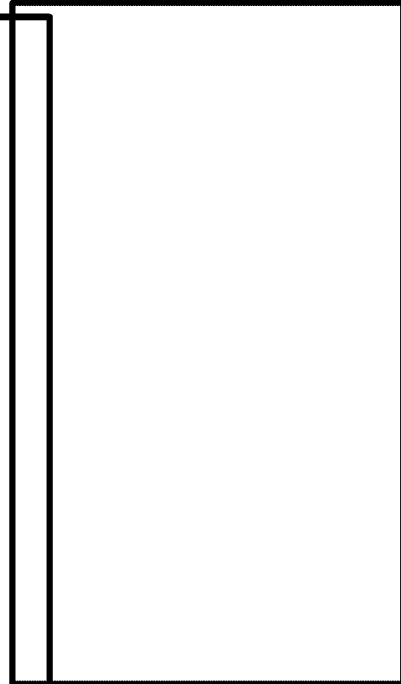
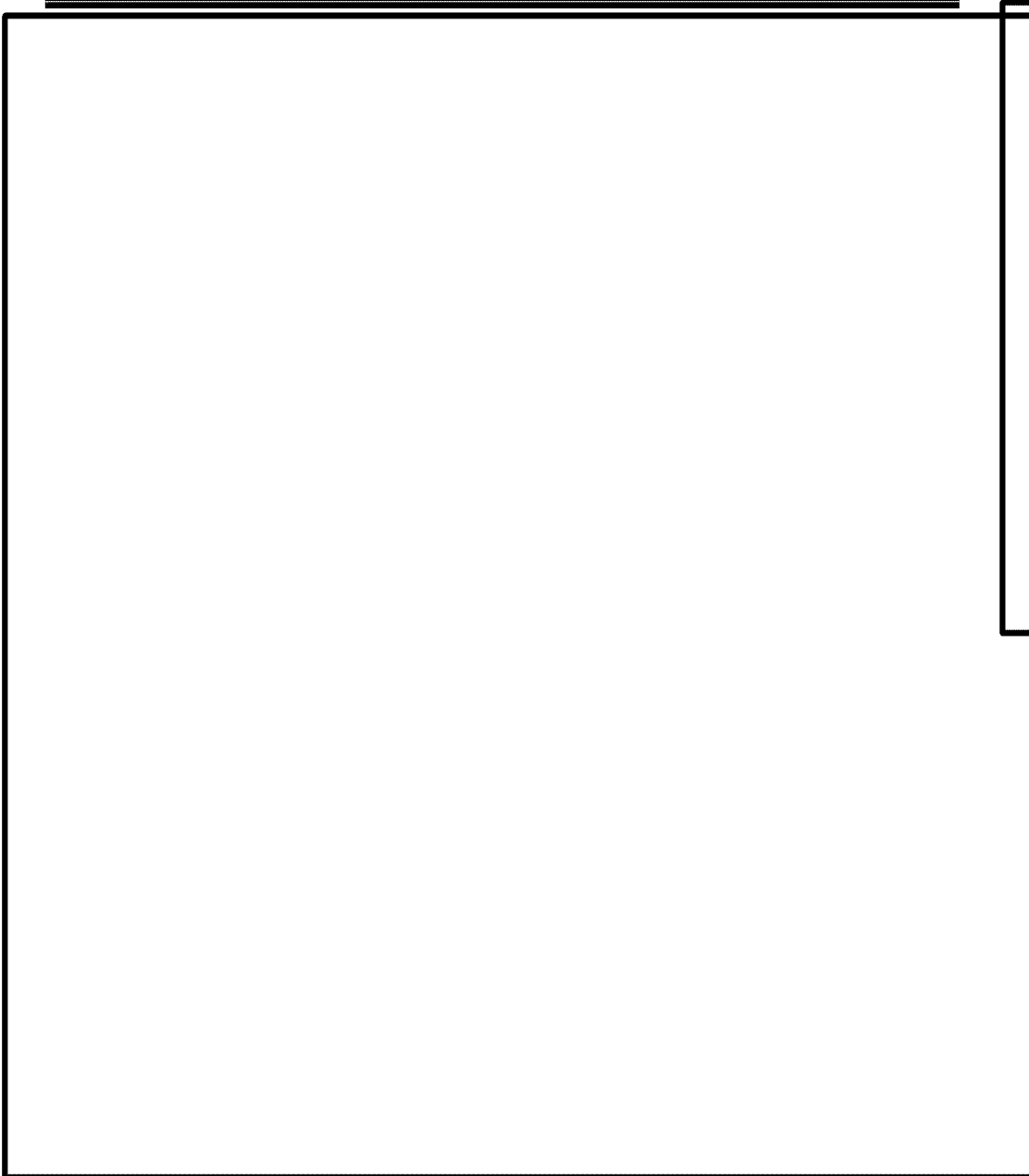


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129 H1B RFE (CE) GUAM-CNMI Employment

Employer Subject to Guam-CNMI CAP Exemption: You indicate that the petition is exempt from the H-1B Cap because the employment is for an employer subject to the Guam-Commonwealth of the Northern Mariana Islands (CNMI) H-1B Cap exemption pursuant to Public Law 110-229.

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However, you do not meet this requirement for H-1B Cap exemption because XXX[CHOOSE: the work location stated in the petition and in the Labor Condition Application (LCA) is [insert location] OR [INSERT YOUR OWN REASON]XXX.

Therefore, provide additional evidence to establish that the petition satisfies this criterion. Evidence you may submit to satisfy this requirement includes, but is not limited to, a combination of the following or similar types of evidence:

- Evidence that the employment is at a facility located on Guam or CNMI.
- A new Labor Condition Application that corresponds to the proffered position and work location(s) and was certified on or before the date of filing the petition.

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129 H1B RFE (CE) Master's Cap Exemption

You indicate on the H-1B Data Collection and Filing Fee Exemption Supplement that the beneficiary qualifies for the Master's Cap because the beneficiary earned a XXX[INSERT MASTER'S OR HIGHER DEGREE]XXX degree from XXX[INSERT SCHOOL NAME]XXX.

However, it does not appear that the beneficiary qualifies for Master's Cap exemption because XXX[Officer must insert the reason(s) why the evidence is not sufficient]XXX].

Therefore, provide additional evidence to establish that the petition satisfies this criterion. Evidence you may submit to satisfy this requirement includes, but is not limited to:

- Evidence that the beneficiary earned a master's or higher degree from a United States institution of higher education as defined in 20 U.S.C. § 1001(a) ~~the HIA~~, which may include a copy of the master's degree or academic transcript confirming the master's degree has been earned.
- A letter from the school's office of the registrar or an official of the school in charge of educational records addressing: 1) the completion of all degree requirements towards the master's degree; and 2) the date the degree requirements were completed.
- Evidence that a bachelor's degree is required in order to obtain the master's or higher degree earned by the beneficiary.

129 H1B RFE PETITIONER REQUIREMENTS (PR)

129 H1B RFE (PR) LCA

Petitioner Requirements

You are required to submit the following with an H-1B petition involving a specialty occupation:

- A certification from the Secretary of Labor that you have filed a labor condition application (LCA) with the Secretary.
- A statement that you will comply with the terms of the LCA for the duration of the beneficiary's authorized period of stay.

The following item(s) identify deficiencies within these requirements. Please review each section and address it accordingly.

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129 H1B RFE (PR) LCA – No LCA Submitted

No LCA Submitted: Submit a certification from the U.S. Department of Labor (DOL) to establish that a Form ETA 9035, Labor Condition Application (LCA), has been properly filed, completed, and endorsed by the DOL. Eligibility for H-1B employment must be established as of the date of filing the Form I-129. Thus, the LCA must have been certified prior to the filing of the Form I-129.

129 H1B RFE (PR) LCA – Not Certified by DOL

LCA Not Certified by DOL: The Form ETA 9035, Labor Condition Application (LCA), that you submitted has not been certified by the U.S. Department of Labor (DOL) ~~to show the validity dates of employment.~~ Please submit a certified LCA from the DOL. Eligibility for H-1B employment must be established as of the date of filing the Form I-129. Thus, the LCA must have been certified prior to the filing of the Form I-129.

129 H1B RFE (PR) LCA – Expired Dates

Expired Dates on LCA: The validity dates on the Form ETA 9035, Labor Condition Application (LCA), from the U.S. Department of Labor that you submitted have expired. Submit evidence of a certified LCA for the beneficiary's specialty occupation that is valid for the period of intended employment. Eligibility for H-1B employment must be established as of the date of filing the Form I-129. Thus, the LCA must have been certified prior to the filing of the Form I-129.

129 H1B RFE (PR) LCA – Invalid Information on LCA

Invalid Information on LCA: The Form ETA 9035, Labor Condition Application (LCA), submitted with your petition is unacceptable because it contains invalid information such as illegible endorsements by the U.S. Department of Labor (DOL). DOL has indicated that invalid information occurs when you do not have the latest version of Adobe Acrobat Reader installed. Please submit an LCA that contains valid information with your response. Eligibility for H-1B employment must be established as of the date of filing the Form I-129. Thus, the LCA must have been certified prior to the filing of the Form I-129.

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129 H1B RFE (PR) LCA - Multiple Beneficiaries

Multiple Beneficiaries on LCA: The Labor Condition Application (LCA) submitted indicates that more than one H-1B nonimmigrant has been certified for employment with you. USCIS regulations state that in the situation where more than one individual has been approved for H-1B classification under this LCA, it will be necessary to identify all file numbers of these beneficiaries. You did not identify all the USCIS file numbers for H-1B beneficiaries who were previously approved under this LCA. Therefore, submit a list of all file numbers for beneficiaries who have been approved using this LCA.

129 H1B RFE (PR) LCA - Multiple Locations

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129 H1B RFE (PR) LCA - Different Job Duties

Job Duties Different than Those of the Occupation Listed on LCA: You filed the petition to secure the beneficiary's services as XXX[a/an Job Title]XXX. Additionally, you described the duties of the position as follows:

- XXX[List the proffered duties here]XXX

However, the beneficiary's duties are not those of the occupational title shown in the submitted Labor Condition Application (LCA). You classified the proffered position under the SOC (ONET/OES) occupation title of XXX[occupation stated in the LCA]XXX with O*NET-SOC code XXX[SOC ONET/OES CODE XXXXXX]XXX. Under this occupational code, the duties are described as follows:

- XXX[List the duties described under the occupational code stated in the certified LCA]XXX

Prior to filing an H-1B petition, you must obtain a certified LCA from the U.S. Department of Labor (DOL) in the occupational specialty in which the H-1B worker will be employed. Here, the submitted LCA is not for the specialty occupation in which the beneficiary will be employed.

129 H1B RFE (PR) LCA - Dependent Employer

Not a Dependent Employer on LCA: You indicated on the submitted Labor Condition Application (LCA) that you are not an H-1B dependent employer. You also indicated that you are not H-1B dependent on the Form I-129.

An H-1B dependent employer is defined as an employer that:

- Has 25 or fewer full-time equivalent employees who are employed in the United States and employs more than seven H-1B nonimmigrants;
- Has at least 26 but not more than 50 full-time equivalent employees who are employed in the United States and employs more than 12 H-1B nonimmigrants; or
- Has at least 51 full-time equivalent employees who are employed in the United States and employs H-1B nonimmigrants in a number that is equal to at least 15 percent of the number of such full-time equivalent employees.

Based on your H-1B filing history with USCIS, documentation is needed to confirm your claim. To clarify this issue, it is requested that you comply with one of the following:

1. If you are an H-1B dependent employer, provide an appropriate LCA, certified by the U.S. Department of Labor prior to the filing date of the instant petition, which shows that you are H-1B dependent.

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To show that you are H-1B dependent, you must provide an appropriate response to Question 1, Subsection 1, Part I, "Additional Employer Labor Condition Statements – H-1B Employers Only". Also, if the response to Question 1, Subsection 1 is "Yes," Subsection 2 must be completed to show that you read and agreed to the "Additional Employer Labor Condition Statements"; or

2. If you are not an H-1B dependent employer, submit evidence regarding your employees. Evidence may include, but is not limited to, the following:
 - o A statement that explains how many U.S. and H-1B employees you employed at the time this Form I-129 was filed;
 - o A list of all of your H-1B employees with their names, USCIS receipt numbers, dates of birth, and identifiers such as Social Security Numbers (last four digits only);
 - o Copies of your Forms 941, Employer's Quarterly Federal Tax Returns, for the two quarters immediately prior to the filing date of this Form I-129;
 - o Copies of your state quarterly wage reports for all employees and for all states for the two quarters immediately prior to the filing date of this Form I-129.

129 H-1B RFE (PR) Simeio Compliance

Amended Petition Requirement: On April 19, 2015, USCIS's Administrative Appeals Office (AAO) published a precedent decision, *Matter of Simeio Solutions, LLC*, 26 I & N Dec. 542 (AAO 2015). In *Matter of Simeio Solutions, LLC*, the AAO held that:

1. A change in the place of employment of an H-1B beneficiary to a geographical area requiring a corresponding Labor Condition Application (LCA) be certified to the U.S. Department of Homeland Security (DHS) with respect to that beneficiary may affect eligibility for H-1B status; it is therefore a material change for purposes of Title 8, Code of Federal Regulations (8 CFR) §§ 214.2(h)(2)(i)(E) and (11)(i)(A); and
2. When there is a material change in the terms and conditions of employment, a petitioner must file an amended or new H-1B petition with the corresponding LCA.

Subsequently, on July 21, 2015, USCIS issued a Policy Memorandum (PM-602-0120), *USCIS Final Guidance on When to File an Amended or New H-1B Petition After Matter of Simeio Solutions, LLC*, which provided guidance on how USCIS would implement *Matter of Simeio Solutions, LLC*. In the Policy Memorandum, USCIS stated that a petitioner must file a new or amended H-1B petition if the petitioner changed the H-1B beneficiary's place of employment to a geographical area requiring a corresponding LCA to be certified to USCIS, even if a new LCA is already certified by the U.S. Department of Labor and posted at the new work location.

If the H-1B beneficiary's place of employment changed:

- During the period from April 9, 2015 to August 18, 2015, a new or amended H-1B petition must have been filed with USCIS by January 15, 2016.
- On or after August 19, 2015, a new or amended H-1B petition must be filed before the beneficiary begins work at the new location.

A new or amended H-1B petition is not required if one of the following conditions is met:

- An H-1B beneficiary is moving to a new job location within the same area of intended employment, a new LCA is not generally required.

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- An H-1B beneficiary may be placed at a new worksite for up to 30 days, and in some cases 60 days (where the employee is still based at the “home” worksite), without obtaining a new LCA.
- An H-1B beneficiary is going to a non-worksite location and there are no material changes in the authorized employment. A location is considered to be a “non-worksite” if:
 - The H-1B beneficiary is going to a location to participate in employee developmental activity, such as management conferences and staff seminars;
 - The H-1B beneficiary spends little time at any one location; or
 - The job is “peripatetic in nature,” such as situations where their job is primarily at one location but the H-1B beneficiary occasionally travels for short periods to other locations “on a casual, short-term basis, which can be recurring but not excessive (i.e., not exceeding five consecutive workdays for any one visit by a peripatetic worker, or 10 consecutive workdays for any one visit by a worker who spends most work time at one location and travels occasionally to other locations).”

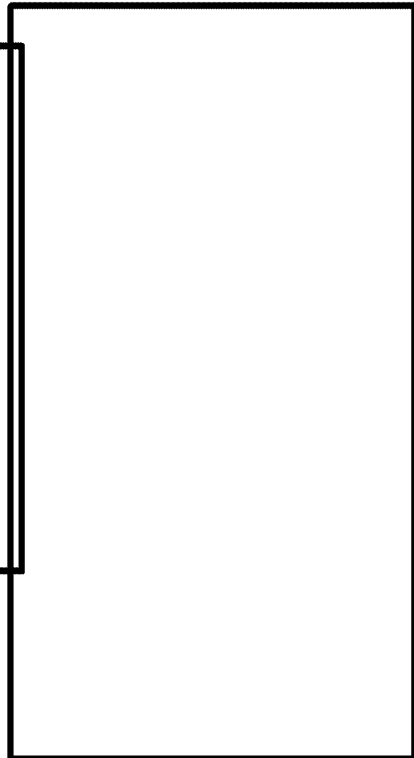
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USCIS previously approved the beneficiary to work for you in XXX[INSERT WORK LOCATIONS FROM PREVIOUS APPROVAL]XXX.

- USCIS receipt numbers for all Forms I-129 filed by you in the beneficiary’s behalf.
- Copies of the relevant parts of the previously approved Forms I-129 that show the location(s) where the beneficiary was approved to work.
- An itinerary of all work location(s) in the United States where the beneficiary has worked since the most recent Form I-129 approval.
- Copies of certified LCAs for the new work location(s).
- Copies of the beneficiary’s pay records (leave and earnings statements, pay stubs, etc.) for the period of the previously approved H-1B status.
- Copies of the beneficiary’s payroll summaries and/or Forms W-2, Wage and Tax Statements, evidencing wages paid to the beneficiary during the period of previously approved H-1B status.
- Copies of work schedules from prior years.
- Copies of your state quarterly wage reports for the period of previously approved H-1B status that show the beneficiary’s work location(s).
- Copies of the beneficiary’s two or three most recently filed federal individual tax returns with all required schedules and statements, as appropriate.

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129 H1B RFE (PR) Itinerary

Itinerary of Employment and Work Site Information: From the information provided, it appears that you will employ the beneficiary at multiple work locations. USCIS regulations provide that petitions requesting services to be performed in more than one location must include an itinerary with the dates and locations of the services to be provided.

XXX[Your petition was filed without an itinerary of employment.]XXX

To satisfy this requirement, you submitted:

- XXX[LIST EVIDENCE SUBMITTED]XXX

The evidence you submitted is insufficient. XXX[Officer must insert the reason(s) why the evidence listed is not sufficient]XXX

You may submit additional evidence to satisfy this requirement. Evidence may include, but is not limited to:

- An itinerary of services or engagements with the dates and locations of the services. The itinerary may also include documentation from you or the end-client(s) receiving the beneficiary's services that states:
 - The name of the project the beneficiary is assigned to;
 - The address where the beneficiary will perform the work;
 - The title and duties of the beneficiary's position;
 - The contracted employment dates;
 - Whether there is a vendor through whom the beneficiary's services are provided;
 - The name of the vendor(s), if applicable;
 - Contact information from the end-client, if applicable, that includes the name, address, email, and telephone number where the contact can be reached; and/or
 - The name, title, and contact information of the person who will supervise the beneficiary at the work site.

129 H1B RFE (PR) Agents

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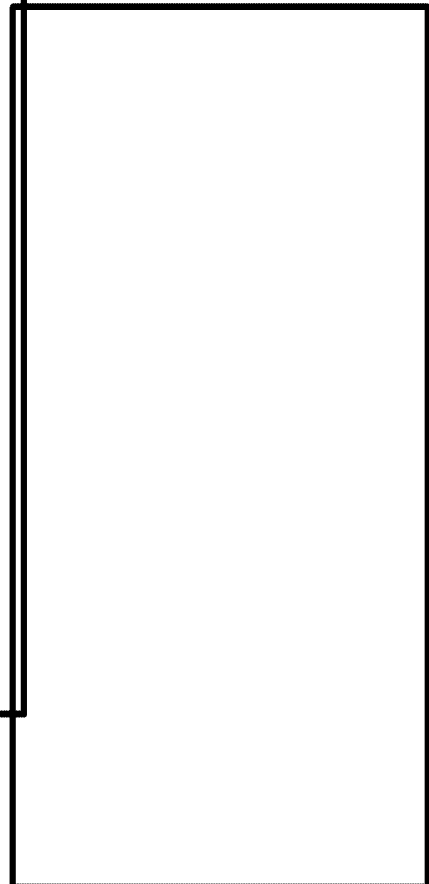
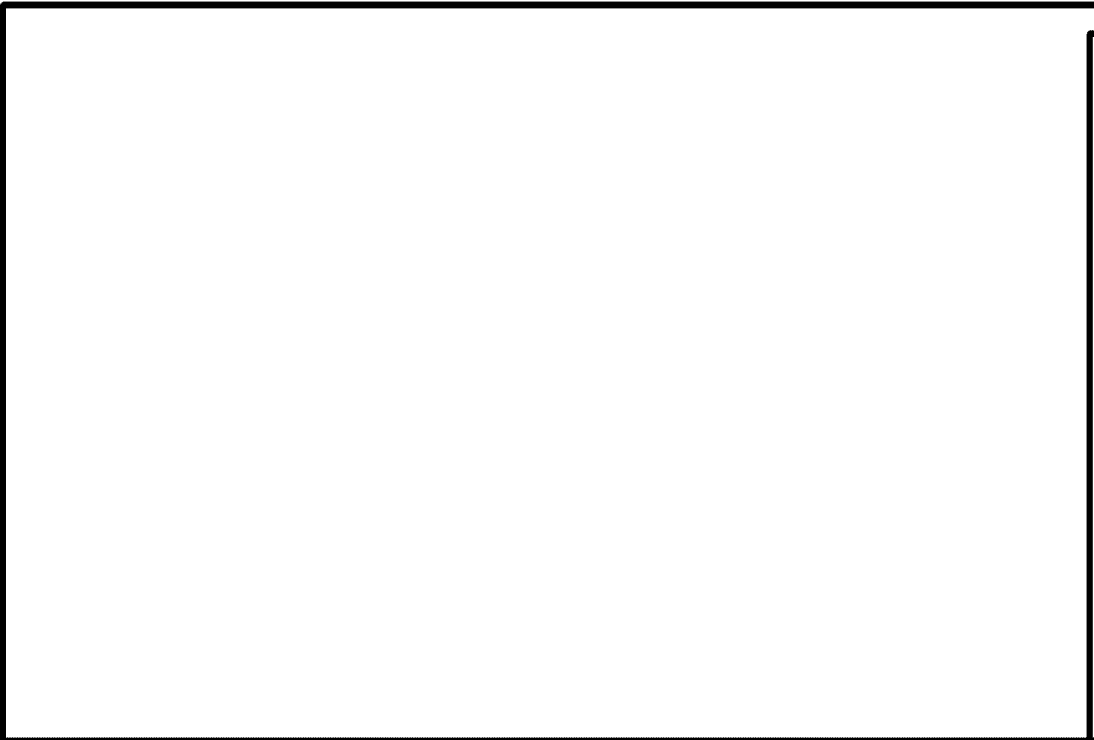
Therefore, if you are filing as a U.S. agent, you are requested to identify the category of worker you represent as an agent by providing one of the following:

1. Evidence that XXX[Insert Job Title]XXX are traditionally self-employed; or
2. Evidence that XXX[Insert Job Title]XXX use agents to arrange short term employment on their behalf with numerous employers. Include statements from each employer showing who will actually employ the beneficiary; or
3. Evidence that a foreign employer has authorized you to act on its behalf by submitting documentary evidence, such as contracts between you and the foreign employer.

A. Agents as Employers

If you are filing the petition as an agent performing the function of an employer, submit the following:

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C. Agents Representing a Foreign Employer

If you are an agent filing for a foreign employer, submit evidence that:

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- You are authorized to act on behalf of the foreign employer;
- The foreign employer will be responsible for complying with all the employer sanctions provisions in the statute INA 274A and 8 CFR part 274 regulations;

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129 H1B RFE (PR) Residential Work Site (generally used where CFDO has fraud concerns with petitioner)

Provide additional evidence to rebut this information and evidence to show that the work location listed on the petition is a fully functioning place of employment that can accommodate your current employees as well as future employees. The evidence should also show that you own, lease, or otherwise have permission to occupy the space; that you have appropriate permits or licenses to conduct business at the location; and that business is presently being conducted at the location. Such evidence may include, but is not limited to, the following:

- Indicate whether the work location is owned or leased. If owned, submit documentation to establish the owner(s) and the relationship to you. If leased, submit a copy of the lease or rental agreement. The lease or rental agreement should specify the date the lease began, subsequent renewal dates, the amount of space rented, and the monthly rent.
- Copies of your current valid city, county, state, and/or federal government business licenses.
- Provide documentation from the local authority to establish that non-resident/owner employees are permitted to work at your business location.
- A more detailed description about your business. Include evidence such as copies of company brochures, pamphlets, internet website, or any other printed work published by you that outline the products or services you provide.
- Color photos of your business premises. Color photos should show both the inside and outside of all production, warehouse, and office spaces with equipment, merchandise, products, and employees visible. Also, include any company logos, emblems, or signs displayed on and in buildings and on products.
- Clarify where the beneficiary will actually work. Define the workplace as a sales office, representative agency, distributorship, etc. Explain what type of building the office is in, office suite, warehouse, apartment, residence, etc. State how many hours the beneficiary will actually work at this location each week and specify the business hours. Provide copies of city- and county-zoning documents to verify the listed address is zoned for commercial enterprises.
- Evidence of business conducted at the work location. Evidence may include telephone bills, utility bills, rent receipts, payroll documents, bank statements, or business licenses.
- Any other evidence to support your claim that ~~this-is~~you are a bona fide employer and an ongoing business entity.

129 H1B RFE (PR) Virtual Office/Shared Work Site

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- Indicate whether the work location is owned or leased. If owned, submit documentation to establish the owner(s) and the relationship to you. If leased, submit a copy of the lease or rental agreement. The lease or rental agreement should specify the date the lease began, subsequent renewal dates, the amount of space rented, and the monthly rent.
- Copies of your current valid city, county, state, and/or federal government business licenses.
- A more detailed description about your business. Include evidence such as copies of company brochures, pamphlets, internet website, or any other printed work published by you that outline the products or services you provide.
- Color photos of your business premises. Color photos should show both the inside and outside of all production, warehouse, and office spaces with equipment, merchandise, products, and employees visible. Also, include any company logos, emblems, or signs displayed on and in buildings and on products.
- Clarify where the beneficiary will actually work. Define the workplace as a sales office, representative agency, distributorship, etc. Explain what type of building the office is in, office suite, warehouse, apartment, residence, etc. State how many hours the beneficiary will actually work at this location each week and specify the business hours. Provide copies of city- and county-zoning documents to verify the listed address is zoned for commercial enterprises.
- Evidence of business conducted at the work location. Evidence may include telephone bills, utility bills, rent receipts, payroll documents, bank statements, or business licenses.
- Any other evidence to support your claim that ~~this is you~~ are a bona fide employer and an ongoing business entity.

129 H1B RFE (PR) Entrepreneur-In-Residence (EIR)

XXX[Should be used in connection with H-1B petitions where: 1) it appears the beneficiary may be the sole or majority owner of the petitioning entity; and 2) the record fails to establish that a valid employer-employee relationship will exist between the petitioner and the beneficiary.]XXX

Employer-Employee Relationship: As a U.S. employer who seeks to sponsor a temporary worker in an H-1B specialty occupation, you are required to establish by a preponderance of the evidence that a valid employer-employee relationship will exist between you and the beneficiary, and that you have the right to control the beneficiary's employment, which includes the ability to hire, fire, pay, supervise, or otherwise control the work of the beneficiary. You should be able to establish that your right to control the beneficiary's employment will continue to exist throughout the duration of the requested H-1B validity period.

XXX[You did not submit any evidence for this requirement.]XXX

In support of the petition, the following evidence was submitted:

- XXX[LIST SUBMITTED EVIDENCE]XXX

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You may still submit evidence to satisfy this requirement. Evidence may include, but is not limited to:

- Documents that show whether or not the beneficiary has an ownership interest in your organization. If the beneficiary has an ownership interest, indicate what the percentage of ownership interest is.
- If the beneficiary is an owner, partner, or founder of your organization, evidence that you have a valid employer-employee relationship with the beneficiary in that you have the right to hire, fire, pay, supervise, or otherwise control the beneficiary.
- Documentation showing how the beneficiary will be employed by you, such as:
 - A copy of signed employment agreement between you and the beneficiary detailing the terms and conditions of employment;
 - A copy of an employment offer letter describing the nature of the employer-employee relationship and the services to be performed by the beneficiary;
 - A description of the performance review process; and/or
 - A copy of your organizational chart demonstrating the beneficiary’s supervisory chain.
- Evidence of your business structure, such as:
 - Articles of incorporation and/or articles of organization;
 - Company bylaws;
 - Shareholder agreement/founder agreement;
 - Evidence of your board of directors or governing body;
 - Minutes from business meetings; and/or
 - Joint-venture agreements.
- Evidence of shareholder ownership or investment, such as:
 - A detailed list of owners, which includes the owners’ names and what percentages they own;
 - Copies of investor term sheets;
 - Copies of stock purchase agreements;
 - Copies of investor rights agreements;
 - Copies of first-right-of-refusal and co-sell agreements;
 - A copy of a capitalization table;
 - Copies of voting agreements;
 - A copy of an equity incentive plan or copies of stock certificates; and/or
 - A copy of a stock agreement/restricted stock agreement.
- Copies of your most recently filed federal income tax returns, if available. The copies of the tax returns should include all required forms, schedules, and statements.

129 H1B RFE (PR) Not a U.S. Employer

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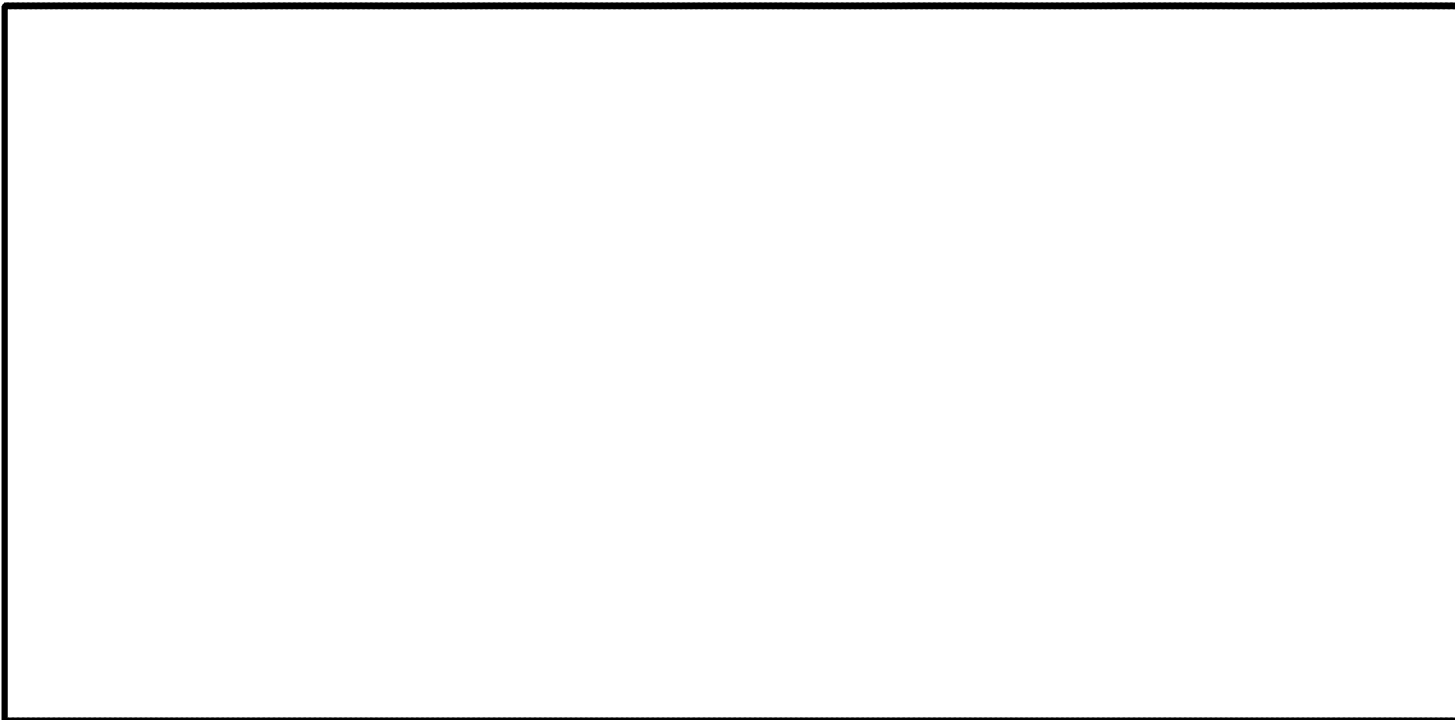
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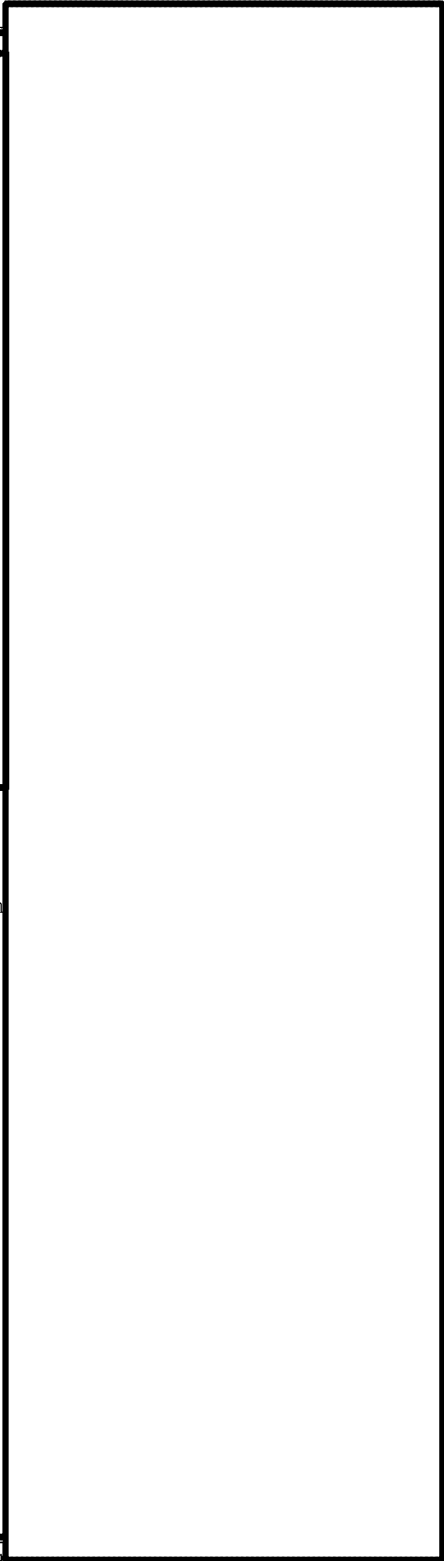
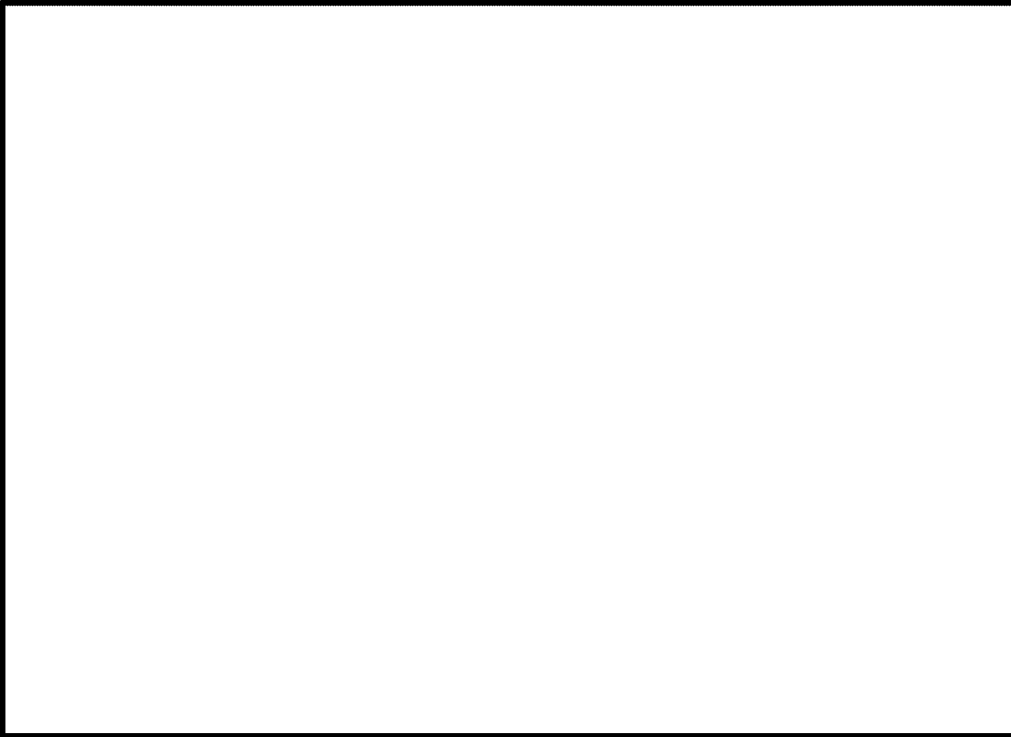
- **Federal Income Taxes:** Provide signed copies of your filed federal income taxes. The copies of the tax returns should include Forms 1120, 2220, 4562, 5472, and 1065 with all required schedules (K, K-1, L, M-1, etc.) and statements, as appropriate, for the years: ____.
- **Quarterly Wage Reports:** Submit copies of your Quarterly Wage Reports for all employees for the last ____ quarters that were accepted by the state where they were filed. The forms should include the names, social security numbers (last four digits only), and number of weeks worked for all employees.
- **Form 941, Quarterly Wage Reports:** Provide copies of your Federal Forms 941, Quarterly Wage Reports for all employees for the last ____ quarters. The forms should include the names, social security numbers (last four digits only), and number of weeks worked for all employees.
- **Business Licenses:** Submit copies of your current valid city, county, state, and federal government business licenses, as applicable.
- **Company Profile:** Provide a more detailed description about your business. Include evidence such as copies of company brochures, pamphlets, internet website, or any other printed work published by you that outlines, in detail, the products or services provided by your company.

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129 H1B RFE (PR) Employer-Employee Relationship



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To satisfy this requirement, you submitted:

- XXX[INSERT EVIDENCE SUBMITTED]XXX

The evidence is insufficient to establish that a valid employer-employee relationship will exist for the duration of the requested validity period and to establish that you have the right to control the beneficiary.

XXX[Officer must insert the reason(s) why the evidence listed is not sufficient.]XXX

You may submit additional evidence to satisfy this requirement. Evidence may include, but is not limited to:

- A complete itinerary of services or engagements that specifies the dates of each service or engagement and the names and addresses of any end-client where the services will be performed for the requested employment period of time requested;
- A copy of a signed employment agreement between you and the beneficiary detailing the terms and conditions of employment;
- A copy of an employment offer letter that describes in detail the nature of the employer-employee relationship and the services to be performed by the beneficiary;
- Copies of relevant portions of valid contracts between you and a client that establishes that while your employees are placed at the third-party work site, you will continue to have the right to control your employees;
- Copies of signed contractual agreements, statements of work, work orders, service agreements, or letters between you and the authorized officials of the ultimate end-client companies where the work will actually be performed by the beneficiary. The documentation should provide information such as:
 - a detailed description of the duties the beneficiary will perform;
 - the qualifications that are required to perform the job duties;

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- salary or wages paid, hours worked, benefits;
- a brief description of who will supervise the beneficiary; and
- any other related evidence.
- A copy of the end client's position description and/or any other documentation that describes:
 - the skills required to perform the job;
 - the source of the instrumentalities and tools needed to perform the job;
 - the product to be developed or the service to be provided;
 - the location where the beneficiary will perform the duties;
 - the duration of the relationship between you and the beneficiary;
 - whether you have the right to assign additional duties;
 - the extent of your discretion over when and how long the beneficiary will work;
 - the method of payment;
 - your role in paying and hiring assistants to be utilized by the beneficiary;
 - whether the work to be performed is part of your regular business;
 - the provision of employee benefits; and/or
 - the tax treatment of the beneficiary in relation to you.
- A description of the performance review process;
- A copy of your organizational chart, demonstrating the beneficiary's supervisory chain; or
- Any other evidence you feel will meet the requirement.

129 H1B RFE (PR) Maintained Valid Employer-Employee Relationship

Maintenance of Initial Employer-Employee Relationship: In filing an extension petition, you must provide sufficient evidence to document that you maintained a valid employer-employee relationship with the beneficiary throughout the previous H-1B approval period.

XXX[You did not submit any evidence for this requirement.]XXX

XXX[The evidence you submitted is insufficient. [Officers must insert the reason(s) why the evidence listed above is insufficient to meet this requirement.]]XXX

You may provide a combination of the following or similar types of evidence to document maintenance of a valid employer-employee relationship throughout the H-1B approval period:

- Copies of the beneficiary's pay records (leave and earnings statements, and pay stubs, etc.) for the period of the previously approved H-1B status;
- Copies of the beneficiary's payroll summaries and/or any Form W-2, evidencing wages paid to the beneficiary during the period of previously approved H-1B status;
- Copies of work schedules from prior years;
- Copies of your state quarterly wage reports for the last four quarters that contain the name, social security numbers (last four digits only), and number of weeks worked by the beneficiary;
- Copies of the beneficiary's two or three most recently filed federal individual tax returns with all required schedules and statements, as appropriate;
- Documentary examples of work product created or produced by the beneficiary for the past H-1B validity period, (e.g., i.e., copies of: business plans, reports, presentations, evaluations, recommendations, critical reviews promotional materials, designs, blueprints, newspaper articles, website text, news copy, and photographs of prototypes). Note: The materials should show the author and date created;
- Copies of dated performance reviews; and/or

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- Copies of any employment history records, including, but not limited to, documentation showing date of hire and dates of job changes (i.e., promotions, demotions, transfers, layoffs, and pay changes with effective dates).

129 H1B RFE (PR) In-House Employment

In-House Employment: You indicated that the beneficiary will work at your own business location. You must demonstrate that you have sufficient specialty occupation work that is immediately available at your location and throughout the entire requested H-1B validity period.

XXX[You did not submit any evidence for this requirement.]XXX

XXX[The evidence you submitted is insufficient.]XXX XXX[Officers must insert the reason(s) why the evidence listed above is insufficient to meet this requirement.]XXX

You may submit additional evidence to satisfy this requirement. Evidence may include, but is not limited to:

- A copy of signed employment agreement between you and beneficiary detailing the terms and conditions of employment;
- A copy of an employment offer letter that describes the nature of the employer-employee relationship and the services to be performed by the beneficiary;
- Copies of relevant portions of valid contracts, statements of work, work orders, service agreements, and letters between you and the authorized officials of the ultimate end-client companies to whom the end product or services worked on by the beneficiary will be delivered;
- A copy of a position description or any other documentation that describes the skills required to perform the job offered, the tools needed to perform the job, the product to be developed or the service to be provided, the method of payment, whether the work to be performed is part of your regular business, the provision of employee benefits, and the tax treatment of the beneficiary by you;
- Copies of your most recently filed federal income tax returns, including all required schedules and statements;
- Copies of company brochures, pamphlets, internet website, or any other printed work published by you that outlines, in detail, the products or services provided by your company;
- Evidence of sufficient production space and equipment to support the beneficiary's specialty occupation work.

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XXX[You did not submit any evidence for this requirement.]XXX

XXX[The evidence you submitted is insufficient to satisfy this requirement.]XXX XXX[Officer must insert the reason(s) why the evidence listed is not sufficient.]XXX

Therefore, provide additional evidence to establish that you will employ the beneficiary in a specialty occupation. Evidence may include, but is not limited to, the following types of evidence:

- Copies of signed contractual agreements, statements of work, work orders, service agreements, or letters between you and the authorized officials of the ultimate end-client companies where the work will actually be performed by the beneficiary. The documentation should provide information such as:
 - A detailed description of the duties the beneficiary will perform;
 - The qualifications that are required to perform the job duties; and
 - Dates of services requested, work schedule.
- Documentary evidence showing that:
 - The end-client requires the beneficiary's services; and
 - The end-client's requirements (if any) for the position, for all of the client facilities where the beneficiary will be employed.
- A copy of the end client's position description and/or any other documentation that describes:
 - The skills required to perform the job;
 - The source of the instrumentalities and tools needed to perform the job;
 - The product to be developed or the service to be provided; and
 - The location where the beneficiary will perform the duties.

129 H1B RFE (PR) Specialty Occupation

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- **Organizational Chart:** Submit a copy of a line-and-block organizational chart showing all employees in the beneficiary's immediate division, department, or team by name, job title, summary of duties, and salary. Identify the proffered position in the chart.

Specialty Occupation: A specialty occupation is one that requires the theoretical and practical application of a body of highly specialized knowledge and which requires the attainment of a bachelor's or higher degree in a specific specialty, or its equivalent, as a minimum, for entry into the occupation in the United States.

To qualify as a specialty occupation, the position must meet at least one of the following criteria:

- 1) Bachelor's or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- 2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- 3) The employer normally requires a degree or its equivalent for the position; or
- 4) The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree.

The following is a discussion of the four criteria for a position to qualify as a specialty occupation; why the position presently does not appear to qualify; and/or additional requested documentation to submit in support of the petition.

- 1) **A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;**

XXX[No evidence to meet this criterion was submitted. Therefore, the beneficiary has not met this criterion.]XXX

XXX[Officer must insert analysis of the evidence here.]XXX

Therefore, the proffered position does not meet under this criterion.

- 2) **The degree requirement is common to the industry in parallel positions among similar organizations (i.e., organizations with [INSERT NUMBER] employees) or, in the alternative, an**

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employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;

XXX[No evidence to meet this standard was submitted. Therefore, the beneficiary has not met this criterion.]XXX

XXX[Officer must insert analysis of the evidence here.]XXX XXX[Therefore, the proffered position does not meet under this criterion.]XXX

3) The employer normally requires a degree or its equivalent for the position;

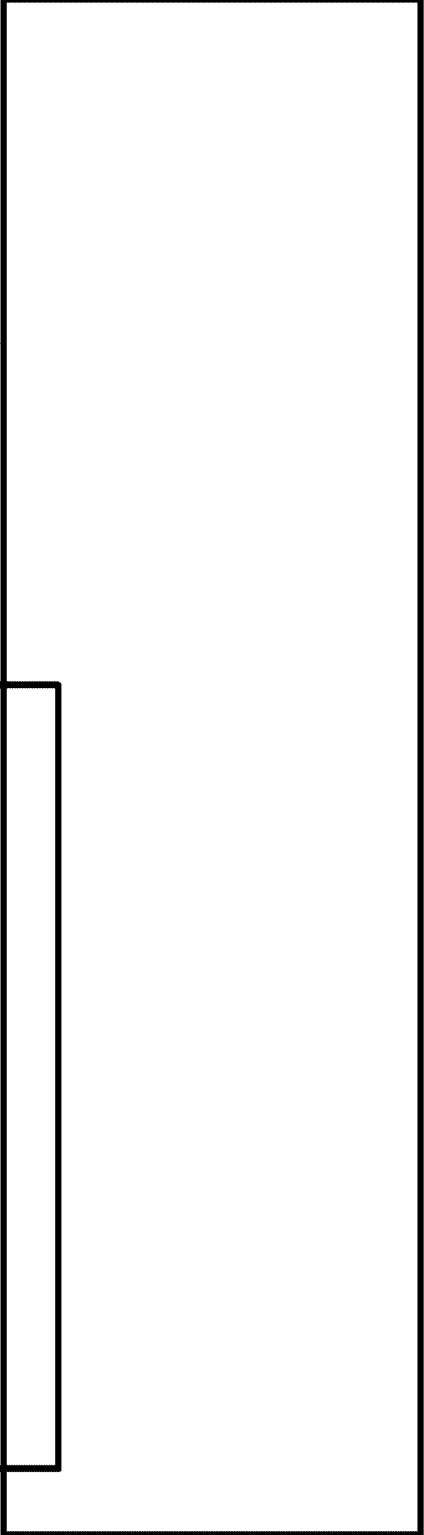
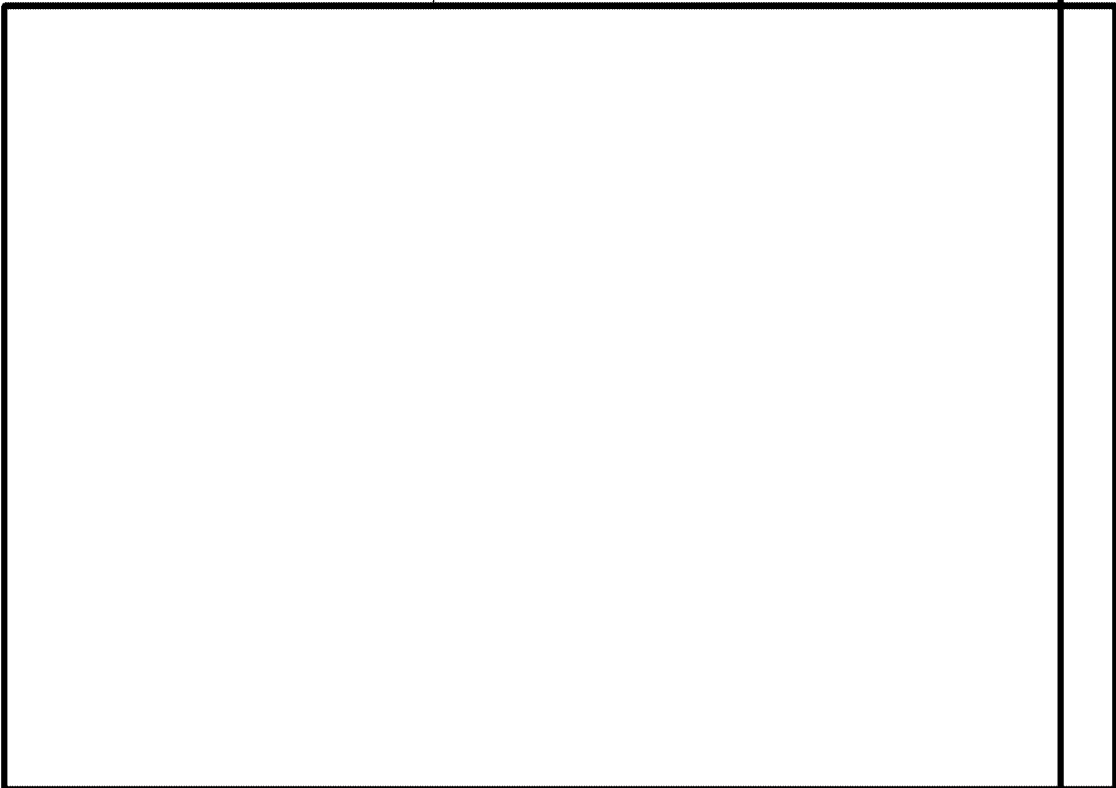
XXX [No evidence to meet this criterion was submitted. Therefore, the beneficiary has not met this criterion.]XXX

XXX[Officer must insert analysis of the evidence here.]XXX XXX[Therefore, the proffered position does not meet under this criterion.]XXX

4) The nature of the specific duties are so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty.

XXX[No evidence to meet this criterion was submitted. Therefore, the beneficiary has not met this criterion.]XXX

XXX[Officer must insert analysis of the evidence here.]XXX XXX[Therefore, the proffered position does not meet under this criterion.]XXX



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1. The writer's qualifications as an expert;
2. The writer's experience giving such opinions, citing specific instances where past opinions have been accepted as authoritative and by whom;
3. How the conclusions were reached; and
4. The basis for the conclusions supported by copies or citations of any research material used

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prototypes that substantiate claims of complexity and specialization above that experienced in the industry or the field.

129 H1B RFE Beneficiary Requirements (BR)

129 H1B RFE (BR) Degree Requirement

Degree Requirement: To qualify to perform services in a specialty occupation, the beneficiary must meet one of the following criteria:

- Hold a United States bachelor's or higher degree required by the specialty occupation from an accredited college or university;
- Hold a foreign degree determined to be equivalent to a United States bachelor's or higher degree required by the specialty occupation from an accredited college or university;
- Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
- Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States bachelor's or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

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2. **Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;**

XXX[No evidence to meet this criterion was submitted. Therefore, the beneficiary has not met this criterion]XXX

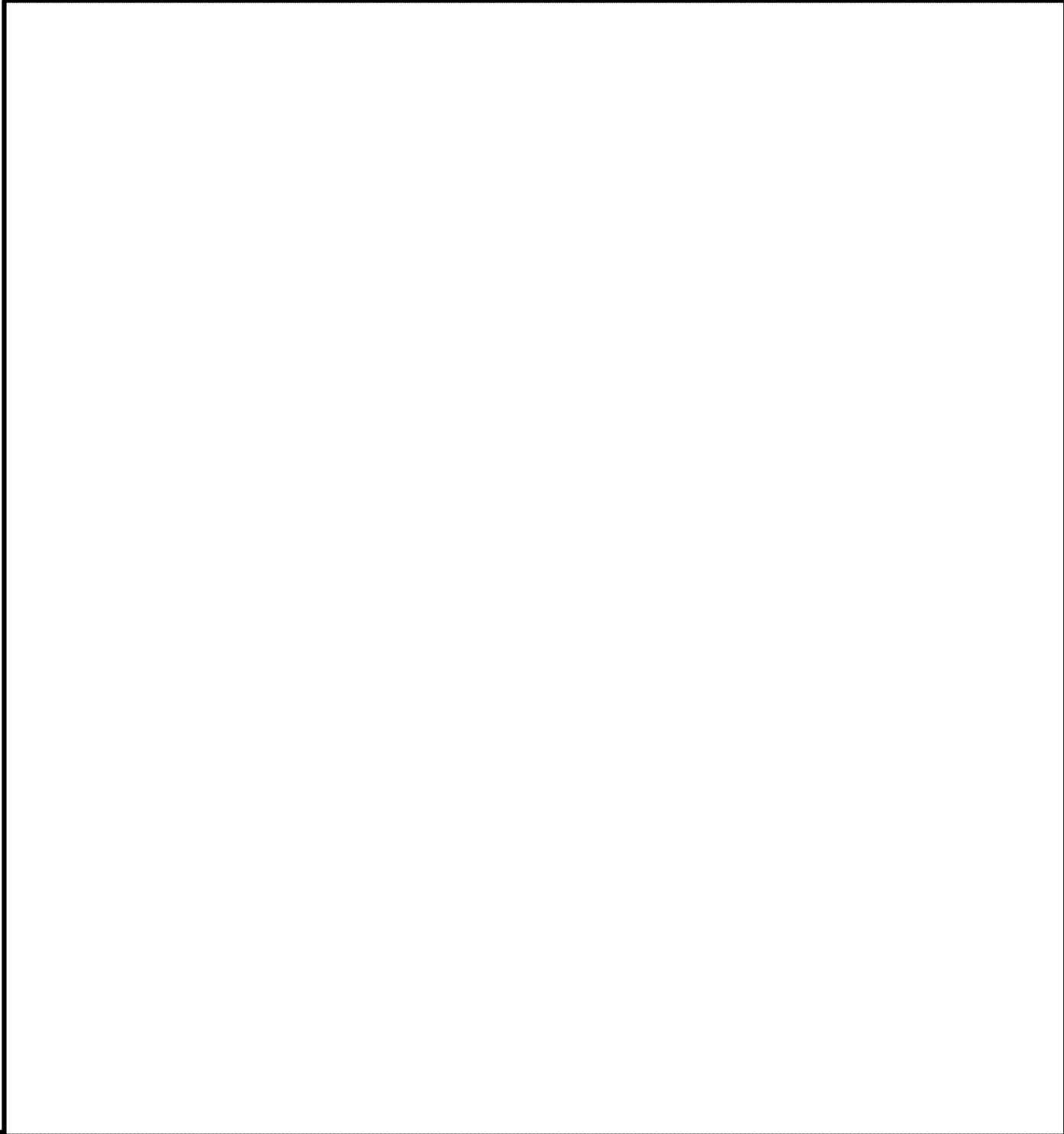
XXX[You submitted a copy of the beneficiary's foreign degree.]XXX XXX[Officer must insert the reason(s) why the evidence listed is not sufficient.]XXX

You may submit additional evidence to satisfy this requirement to meet the degree requirement under this criterion. Evidence may include, but is not limited to:

- **Foreign Degree:** Copies of the beneficiary's foreign degree(s).
- **Transcripts:** Copies of the beneficiary's college or university transcripts, which include all courses taken toward the degree. The transcripts should be signed and dated by the person in charge of the records.

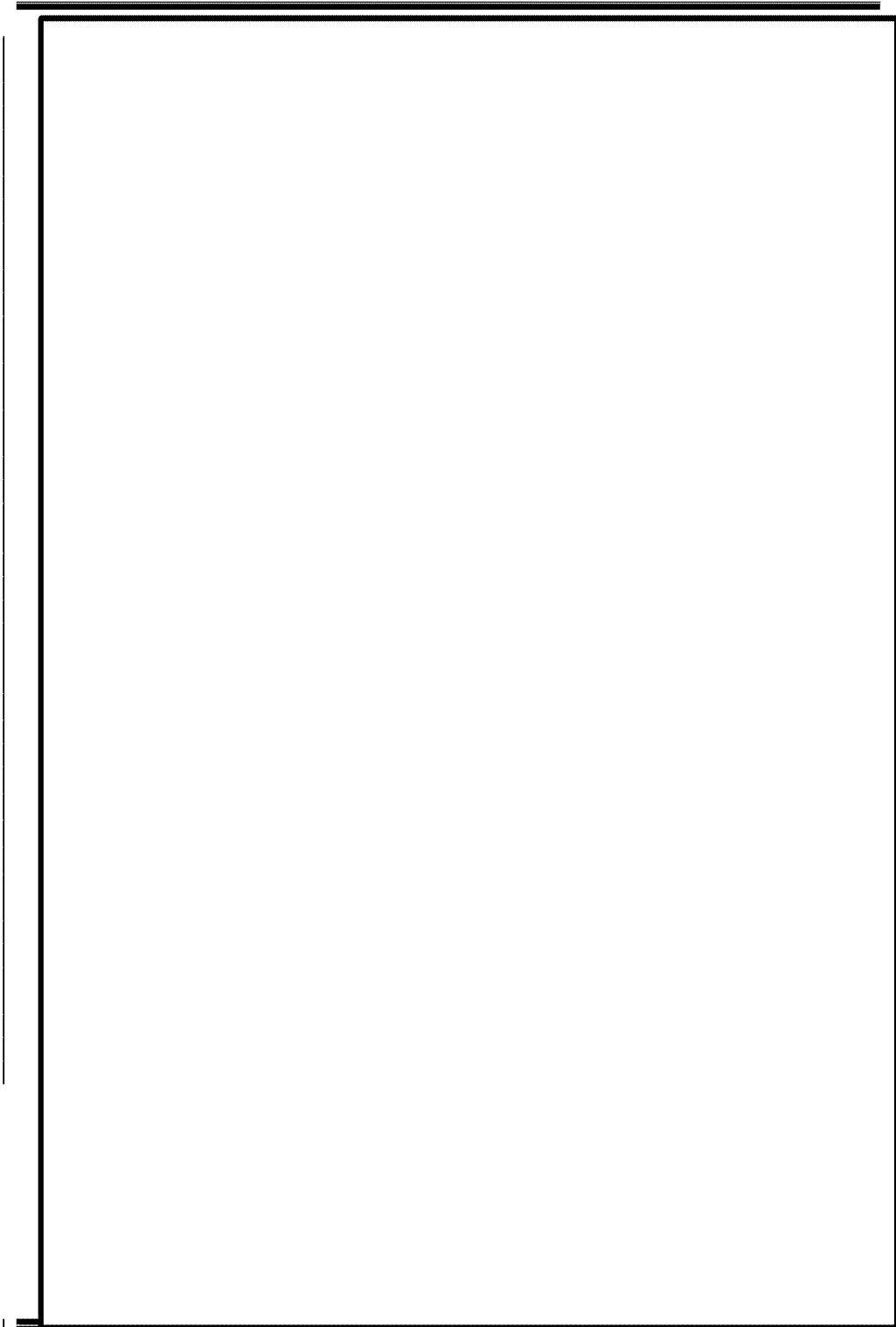
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1-129 H1B RFE STANDARDS



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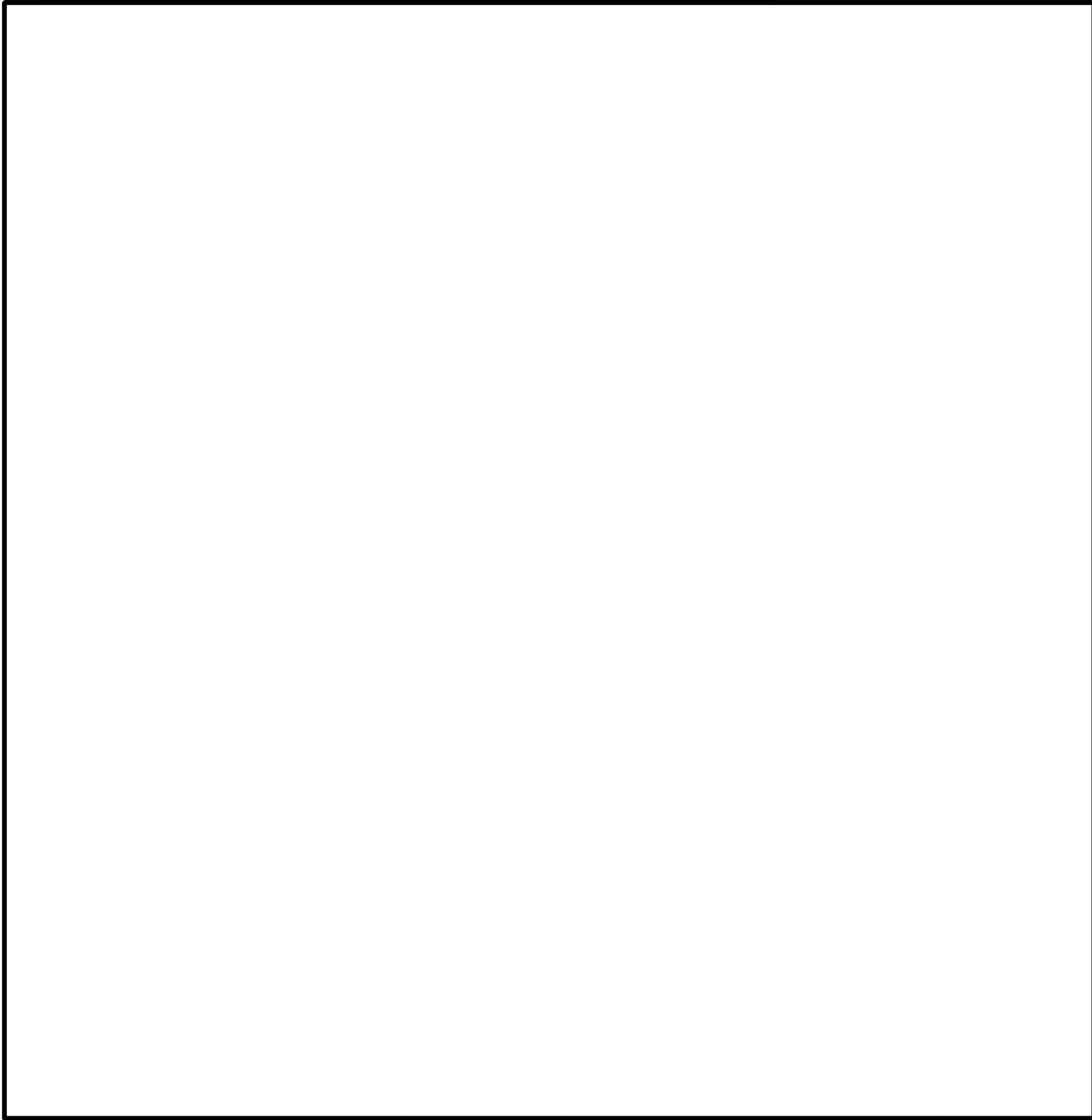


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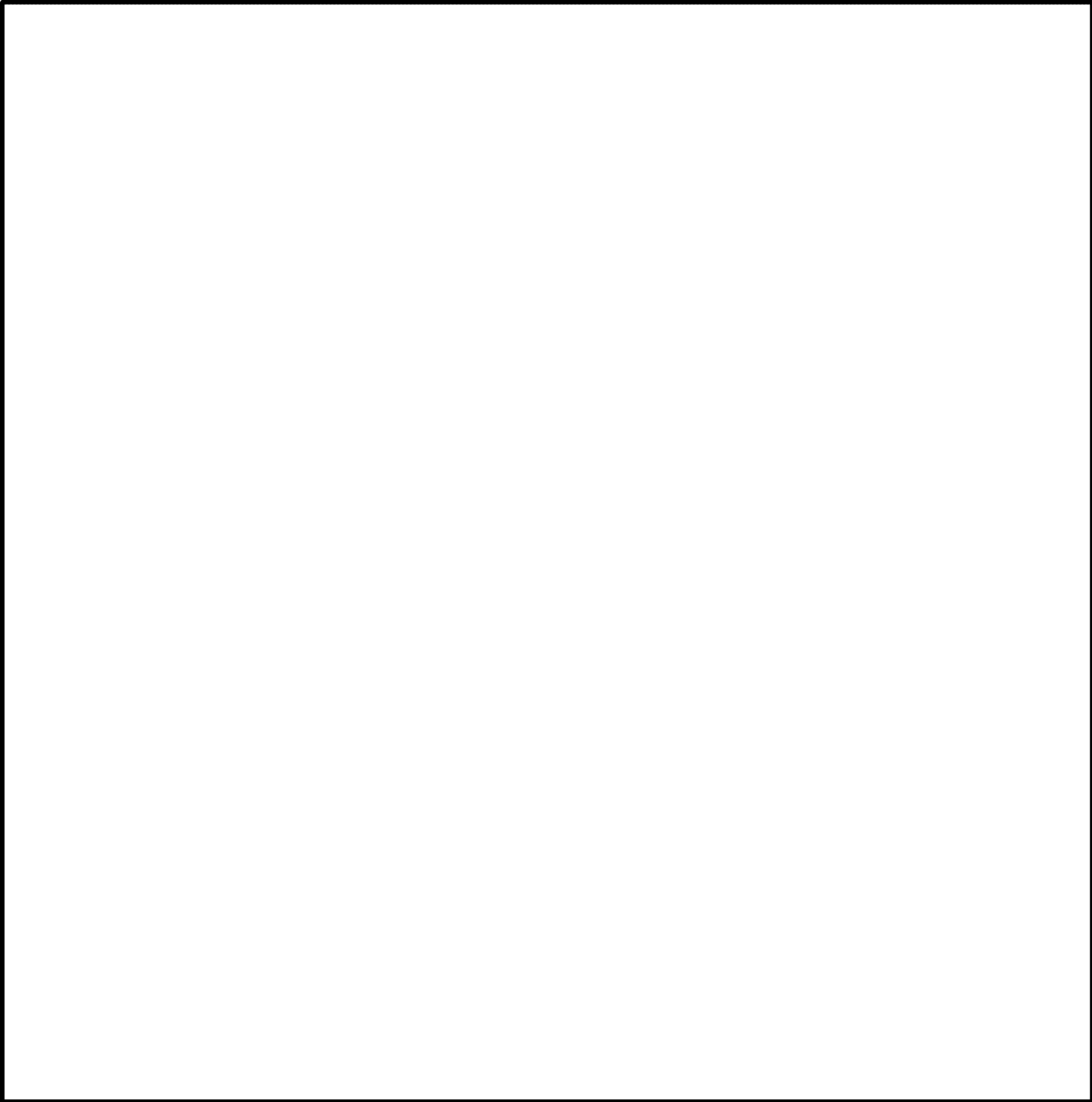
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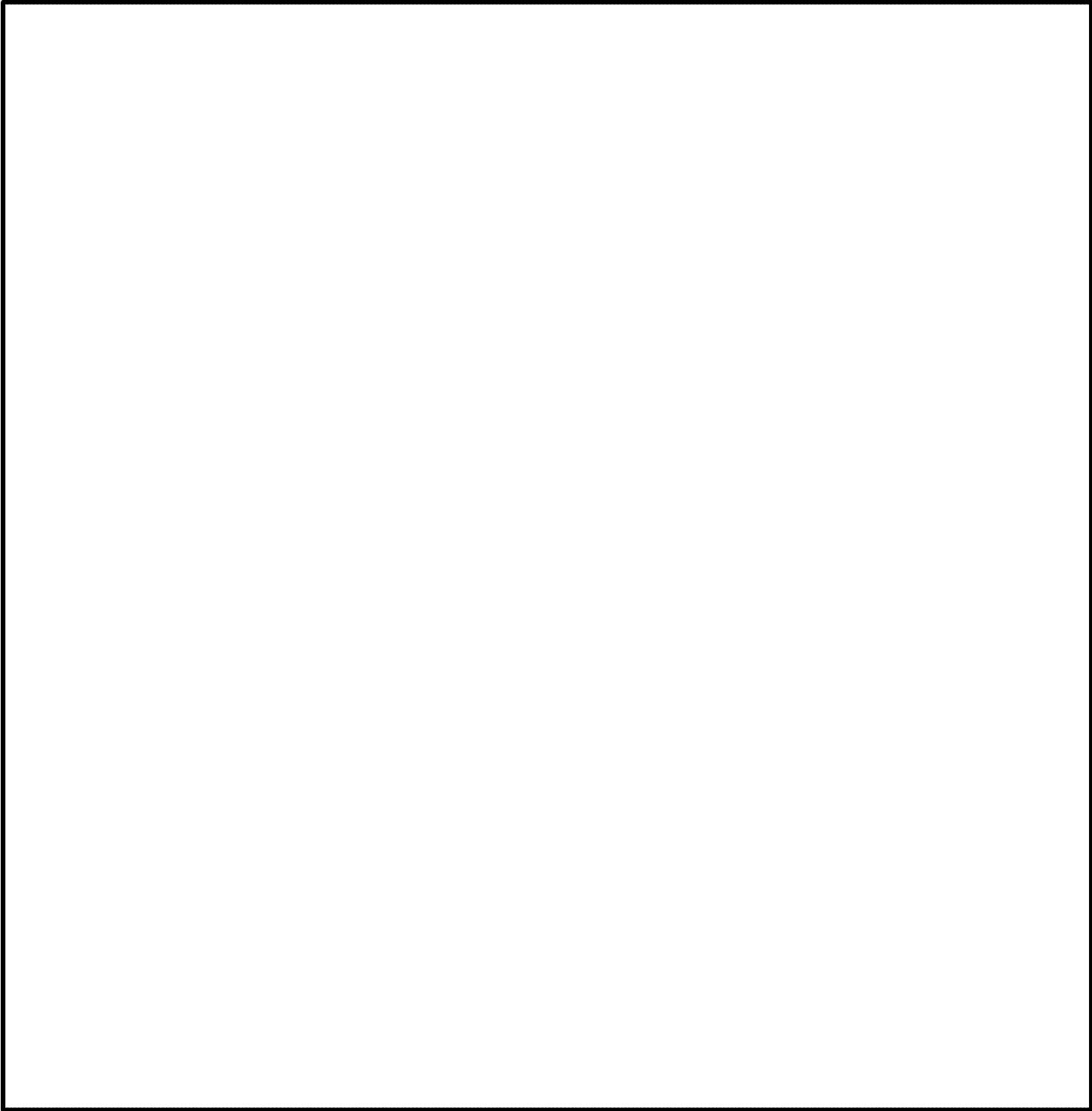
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1-129 H1B RFE STANDARDS



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1-129 H1B RFE STANDARDS



1-129 H1B RFE STANDARDS

- Evidence that the XXX[ASHA or NAME of the submitted organization]XXX has an approved Application for Authorization to Issue Certification for Health Care Workers (Form I-905).

The certification must contain the following elements:

- The name, address, and telephone number of the credentialing organization, and a point of contact to verify the validity of the certificate or certified statement;
- The date the certificate or certified statement was issued;
- The health care occupation for which the certification was issued; and
- The beneficiary's name, and date and place of birth.

129 H1B RFE (BR) Nurses

129 H1B RFE (BR) Nurses - Certification

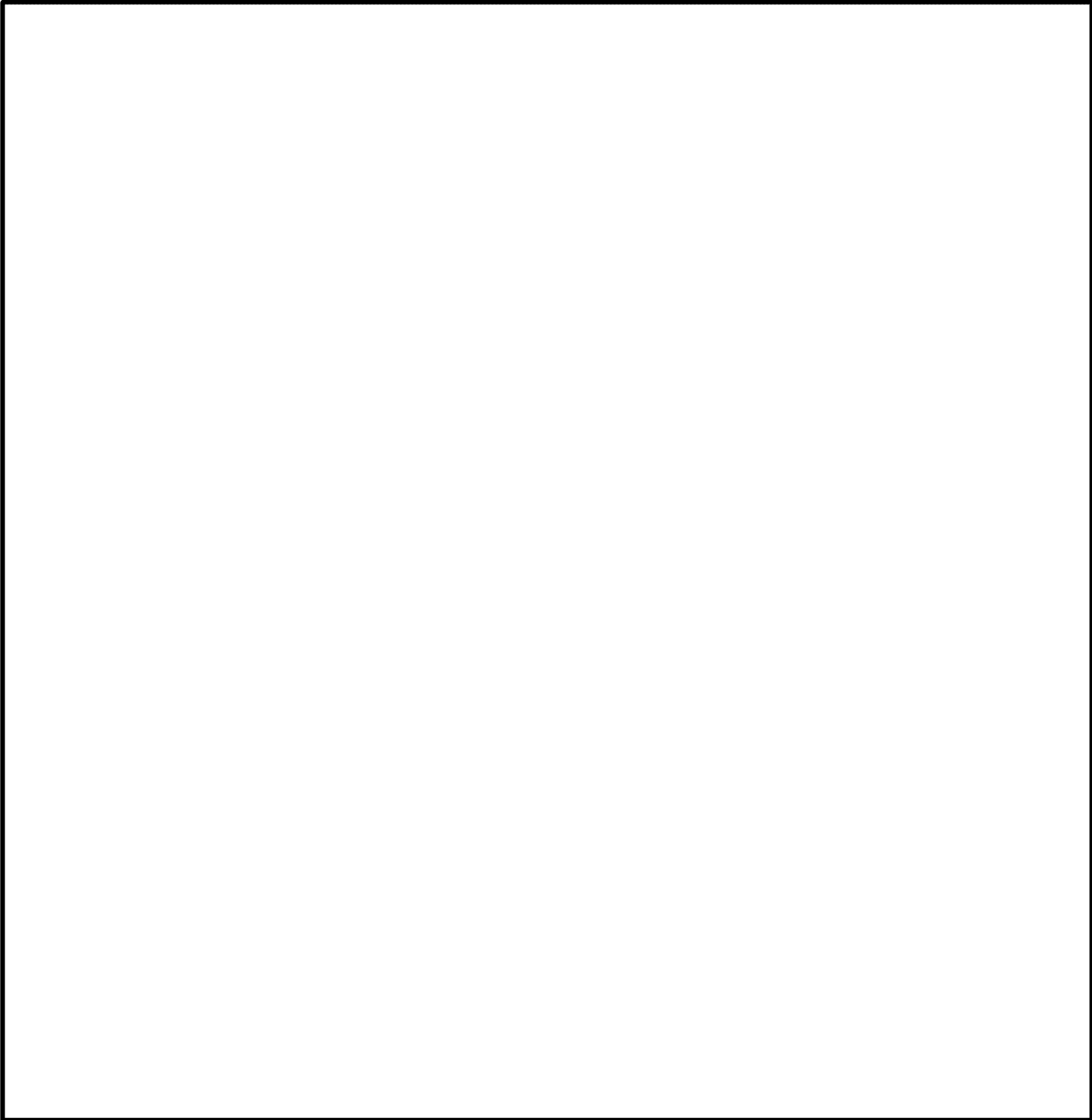
Certification for Nurses: You indicate that the beneficiary will be working as a nurse. Any beneficiary who seeks to enter the United States for the primary purpose of performing labor as a health care worker, other than a physician, is inadmissible unless the beneficiary can present a certificate from the Commission on Graduates of Foreign Nursing Schools (CGFNS) or a certificate from an equivalent independent credentialing organization approved by the Attorney General (now the U.S. Secretary of Homeland Security). Moreover, ~~there is an~~ alternative certification process for nurses.

A certifying organization generally must verify that the foreign health care workers' education, training, licensing, experience, and English competency meet all statutory and regulatory requirements. The regulations do not provide exceptions for health care workers who are educated in the United States or who are currently licensed to practice in the United States. Therefore, the above described certification must be provided for any beneficiary who will be employed as a health care worker other than a physician.

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1-129 H1B RFE STANDARDS

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129 H1B RFE (PR) Nurses – Proffered Position

Nurse Position: To establish that the position qualifies as a specialty occupation, you must submit evidence that demonstrates by a preponderance of the evidence that the position meets at least one of the following criteria: (1) a bachelor's or higher degree, or its equivalent, is normally the minimum requirement for entry into the particular position; (2) the degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, you, the employer, may show that the particular position is so complex or unique that it can be performed only by an individual with a degree; (3) you, the employer, normally require a degree, or its equivalent, for the offered position; or (4) the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree.

XXX[You did not submit any evidence for this requirement.]XXX

You may still submit evidence to satisfy this requirement. Evidence may include, but is not limited to, the following:

- **Job Description:** Provide a detailed list of the beneficiary's proposed duties and responsibilities. The list should include the percentage of time that the beneficiary will perform each duty each day, and the level of responsibility involved with each duty. In addition, explain how the knowledge gained through a bachelor's or higher degree in a specific specialty, or its equivalent, is required for the satisfactory execution of the duties. This explanation should be corroborated by supporting documentation.
- **Hierarchy of the Offered Position:** If the beneficiary will supervise employees, please provide a statement with the names, job titles, and highest level of education of all employees that the beneficiary will supervise. In addition, submit documentary evidence establishing the academic credentials of the supervised employees, particularly if any of the employees hold a bachelor's or higher degree in a specific specialty (or its equivalent). The statement and supporting documentation should include all registered nurses, licensed practical nurses, nursing aides, and other employees that the beneficiary will supervise. In addition, provide an organizational chart of the department where the beneficiary will be assigned. The chart should indicate (1) the beneficiary's position within the organization; (2) the name and job title of the beneficiary's supervisor; and (3) the names and job titles of subordinates.

1-129 H1B RFE STANDARDS

- **Others Employed in the Position within Your Organization:** If you normally require a bachelor's degree for the offered position, submit evidence of such employment, which may include a statement with the names, job titles, and highest level of education of all employees that serve in the offered position. The statement should be accompanied by documentary evidence of the employees' academic degrees and employment with your company. Evidence of an academic record may include, but is not limited to, copies of academic transcripts, academic diplomas, and the documentation and records corresponding to training that you claim should be credited towards the beneficiary's qualification for the position. Evidence of employment may include, but is not limited to, copies of the employees' pay stubs or Forms W-2, Wage and Tax Statements. Résumés alone, without primary documentation to support what is asserted on the résumé, are generally not sufficient evidence of a degree.

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When referencing other organizations in your industry, please demonstrate how the other organizations are similar to your business and in the same industry. When referencing an industry-related professional association, please provide the requirements and criteria used to apply for membership in the association. Also, include evidence that lists the number of current members, the status held by the association in the national community in the medical field and any other conditions or requirements for membership.

- **Advanced Practice Certification:** Advanced Practice Registered Nurse (APRN) defines a level of nursing practice that utilizes advanced skills, experience and knowledge in assessment, planning, implementation, diagnosis and evaluation of the care required. If applicable, please provide evidence that the beneficiary has obtained an Advanced Practice Certification. Examples of Advanced Practice Certification include, but are not limited to, the following occupations:
 - Certified Nurse-Midwife (CNM);
 - Certified Nurse Practitioner (CNP): Acute Care, Adult, Family Gerontological, Pediatric, Psychiatric & Mental Health, Neonatal, and Women's Health;
 - Certified Clinical Nurse Specialists (CCNS): Acute Care, Critical Care, Gerontological, Family, Hospice and Palliative Care, Neonatal, Pediatric, Psychiatric and Mental Health-Adult, Psychiatric and Mental Health-Child, and Women's Health; and
 - Certified Registered Nurse Anesthetist (CRNA).

1-129 H1B RFE STANDARDS

- **Facility License:** If you require Advanced Practice certification, provide documentation regarding your facility license. Evidence may include State Operating or Facility License or other state law that shows staffing requirements to include an Advanced Practice Nurse in the particular certification.

129 H1B RFE (PR) Nurses – Petitioner’s Evidence

Petitioner requirements: Please submit evidence regarding the offered position and your business operations. Your response should address each of the following issues. In addition, you may provide any additional evidence that will show the position meets the requirements for the H-1B classification.

Employer Information: Based on the evidence you have provided, the nature of your business is unclear. Please submit additional evidence describing the scope and nature of your business to demonstrate that the beneficiary will be employed in a qualifying specialty occupation. Such evidence may include, but is not limited to the following:

- A more detailed description about your business.
- Copies of your company’s brochures, pamphlets, internet website, or any other printed work which outlines, in detail, your services.
- A copy of your most recently filed federal income tax return, including all forms and required schedules.

Nursing Registries or Staffing Agencies: From the evidence provided it appears that you are engaged in business as a XXX[nursing registry, health care staffing agency, etc.]XXX and are seeking the beneficiary’s services to perform work for clients outside your work site. A petition that indicates that the beneficiary will perform services in more than one location must include an itinerary with the dates and locations of the services to be performed. XXX[Insert the following bullet in cases where the petition indicates multiple work locations]XXX According to your petition, the beneficiary will work at multiple client locations. Therefore, please submit the following evidence regarding the offered position and your business operations. Evidence may include but is not limited to:

- An itinerary of employment, listing any location and organization where the beneficiary will be providing services. The itinerary should specify the dates of each service or engagement, the names and addresses of the actual employers, and the names and addresses of the establishment, venue, or locations where the service will be performed by the beneficiary. The itinerary should include all service planned for the period of time requested – in this case until XXX[Enter the ending date of the validity period requested on the petition]XXX.



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- **Contracts:** Copies of any written agreements between you and the beneficiary, along with copies of agreements between you and any client medical facilities at which the beneficiary will be providing services, and any agreements between the beneficiary and the client medical facilities.

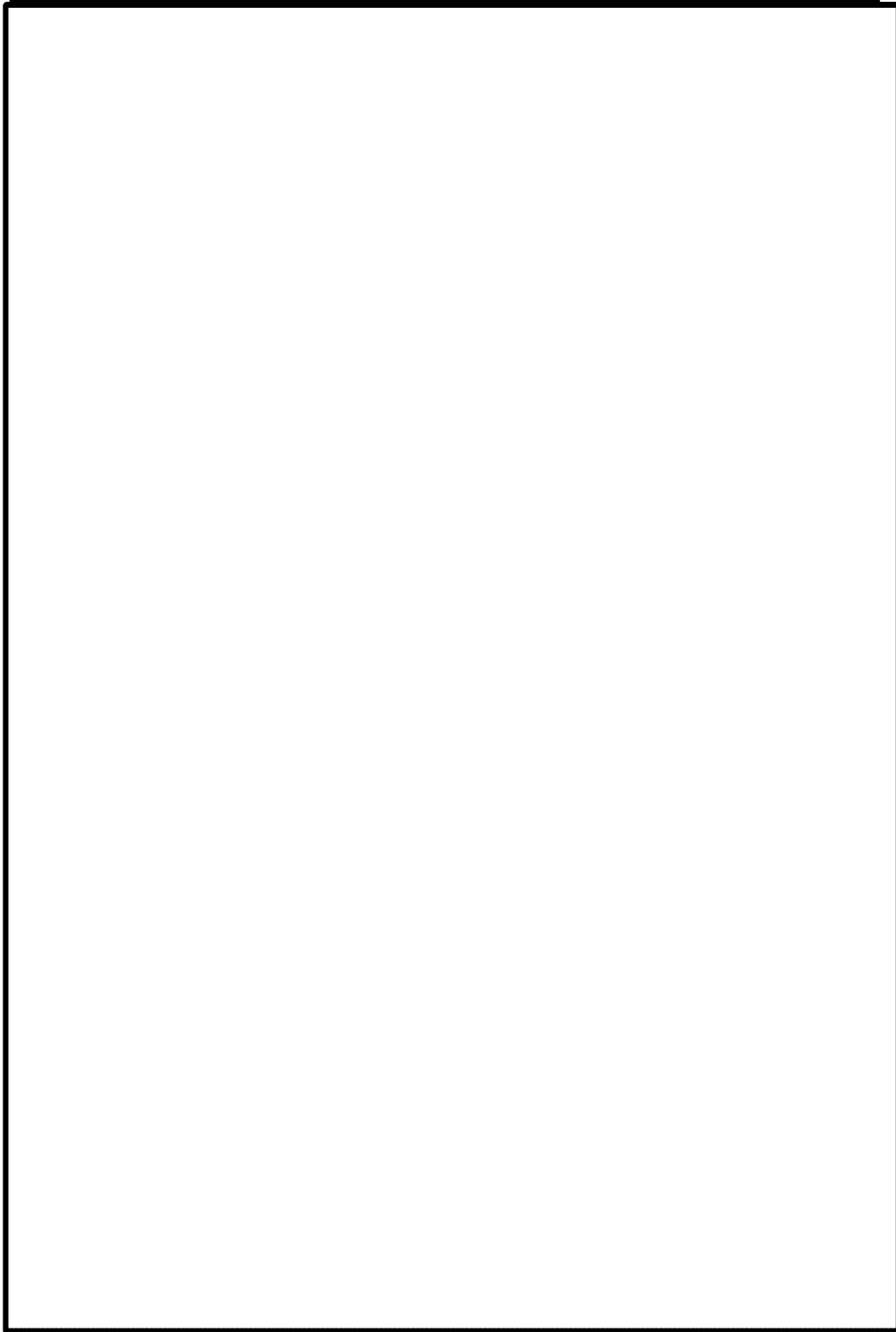
1-129 H1B RFE STANDARDS

The agreements should specify the exact duties to be performed by the beneficiary while working for the client. Include copies of the statements of work, work orders, and any other documents or appendices. Documentation should specify duties, dates of services requested, work schedule, and pay schedule.

- **Client Position Requirements:** Evidence (1) that the facility requires the services of a XXX[position]XXX; and (2) the facility's requirements (if any) for the position for all of the client medical facilities where the beneficiary will be employed.
- **Client Information:** Evidence that substantiates that your clients are *bona fide* medical facilities, such as copies of the client organization's current license to operate a medical facility and a letter from an authorized official of the facility, institution, or organization explaining your business relationship. If the client is a government agency, you may provide the contract number and the name of the company that has the primary contract. If the client(s) produce an annual report, you may submit the most recent copy.
- **End Client Profile:** Provide a more detailed description about the end client's business. Include evidence such as copies of company's brochures, pamphlets, internet website, or any other printed work which outlines, in detail, their services.
- **Past Employment Practices:** Evidence to establish that your client has a history of hiring XXX[position]XXX with a bachelor's or higher degree in a specific specialty, or its equivalent, to perform the same or similar duties that the beneficiary will perform at the client location. Indicate the number of persons employed in similar positions and provide a list of their names, job titles, and highest educational level obtained, along with the particular Advanced Practice Certification (if any) they have obtained. Further, provide copies of their academic credentials (establishing the level of education and discipline(s) studied) and Advanced Practice Certificates (if applicable).

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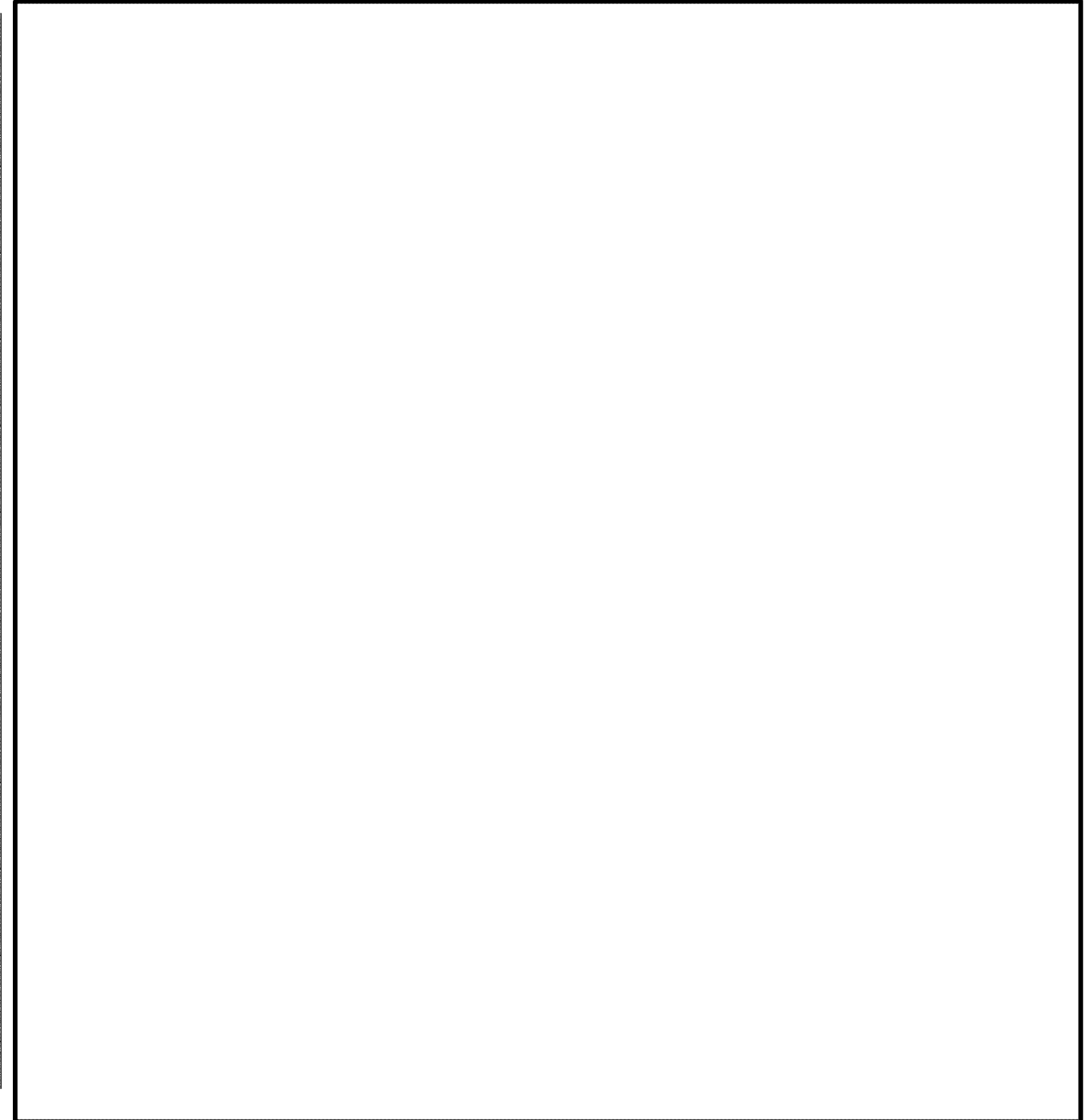
1-129 H1B RFE STANDARDS



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1-129 H1B RFE STANDARDS

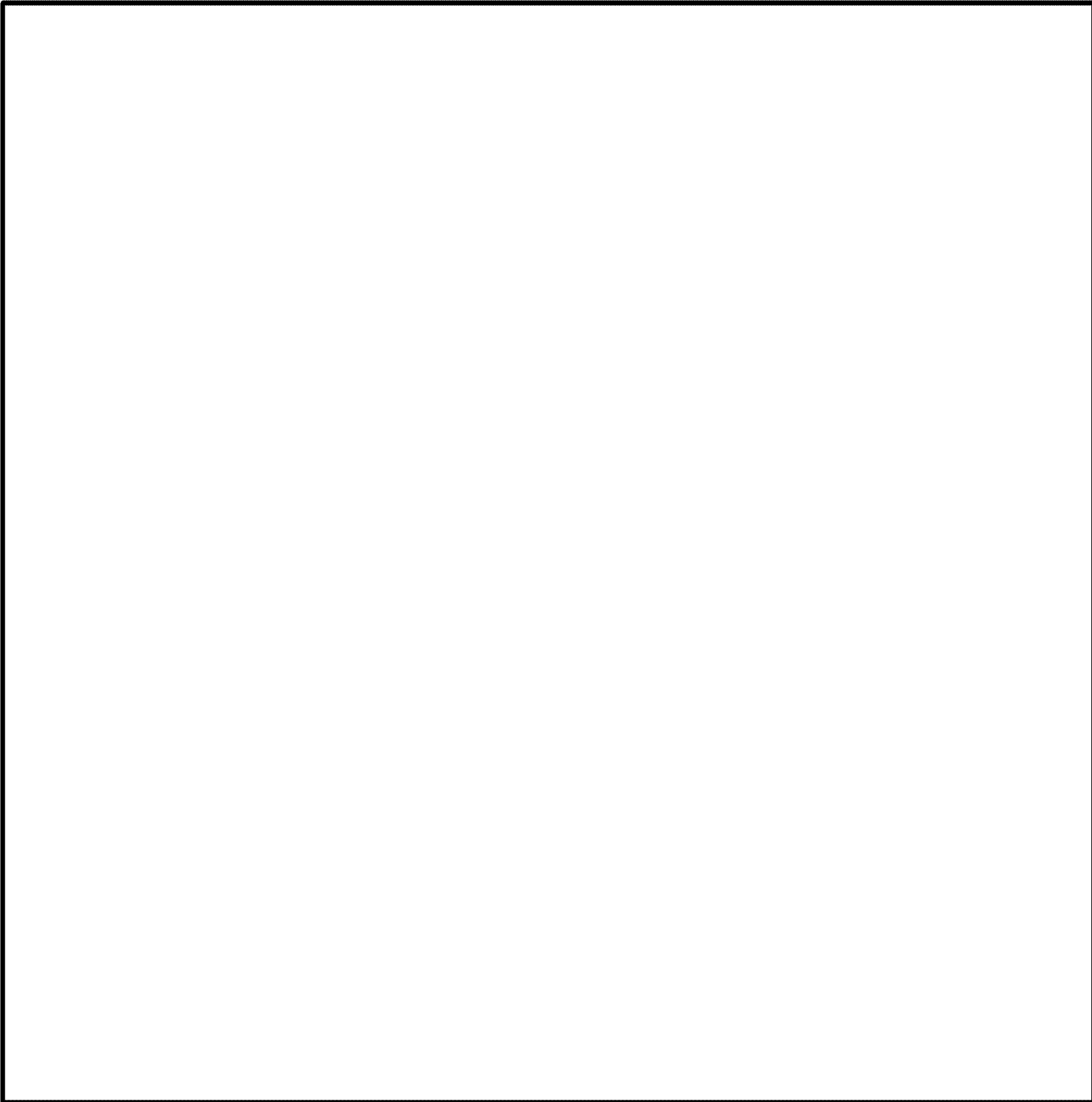


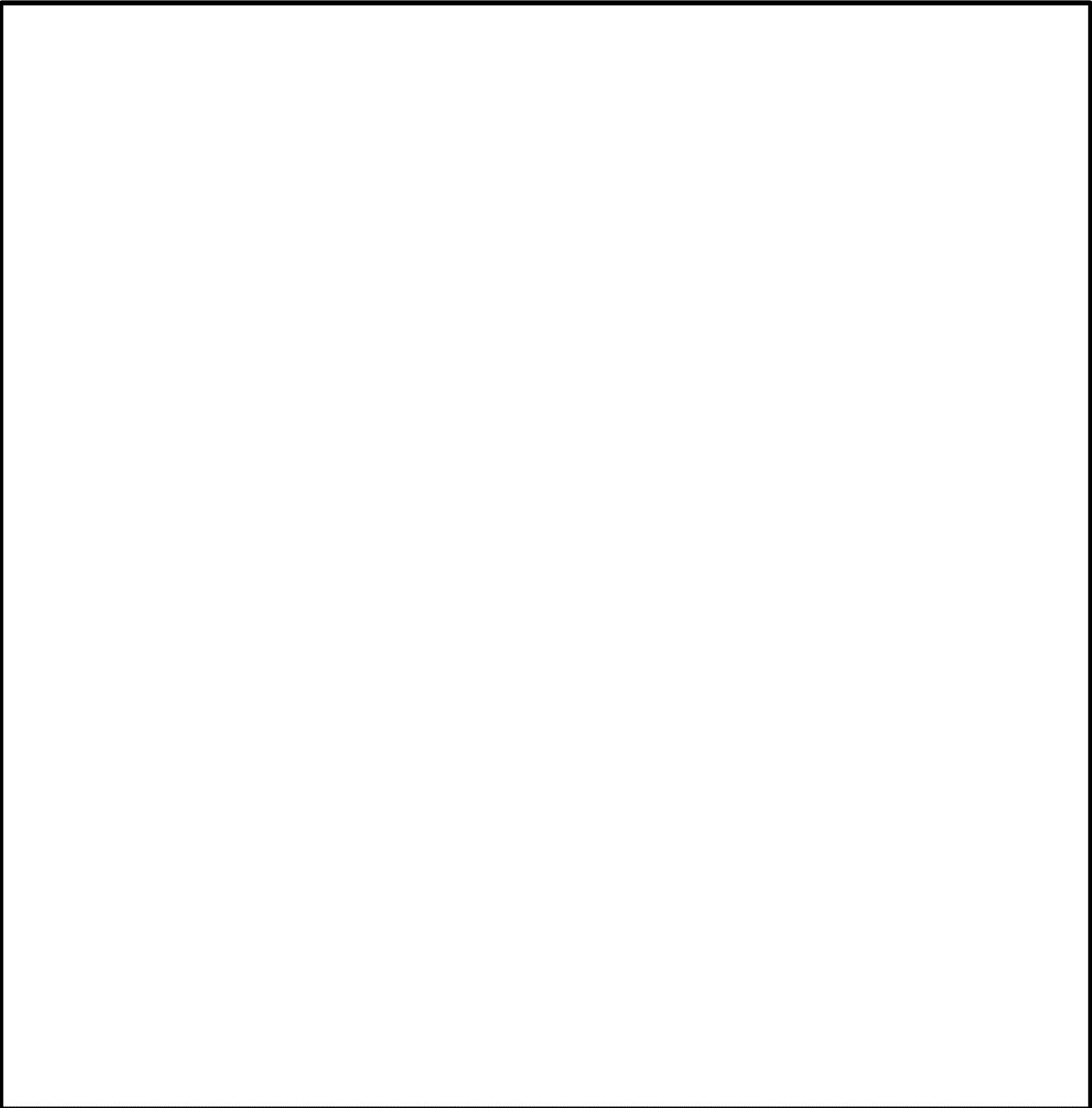
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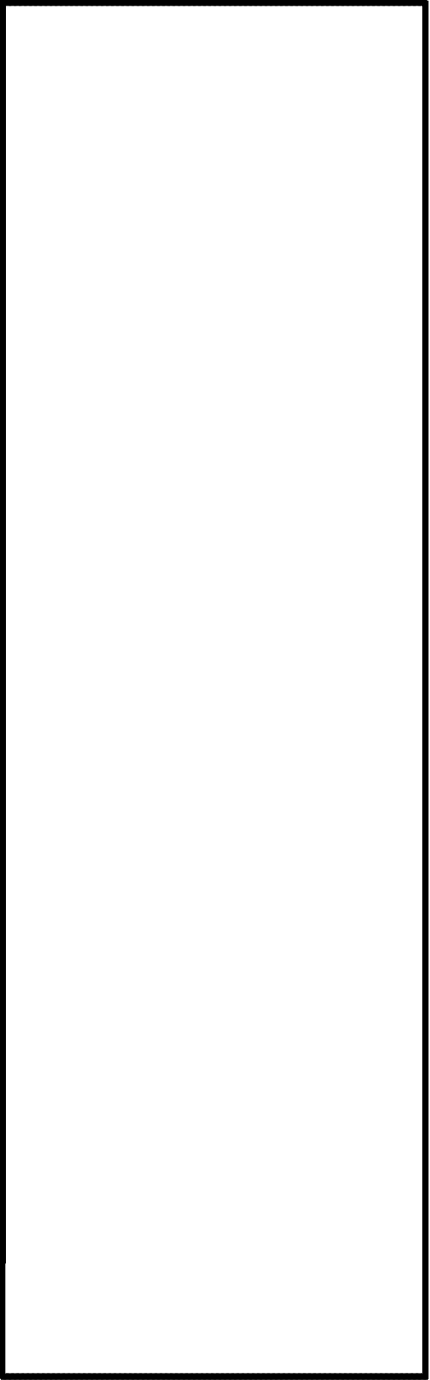
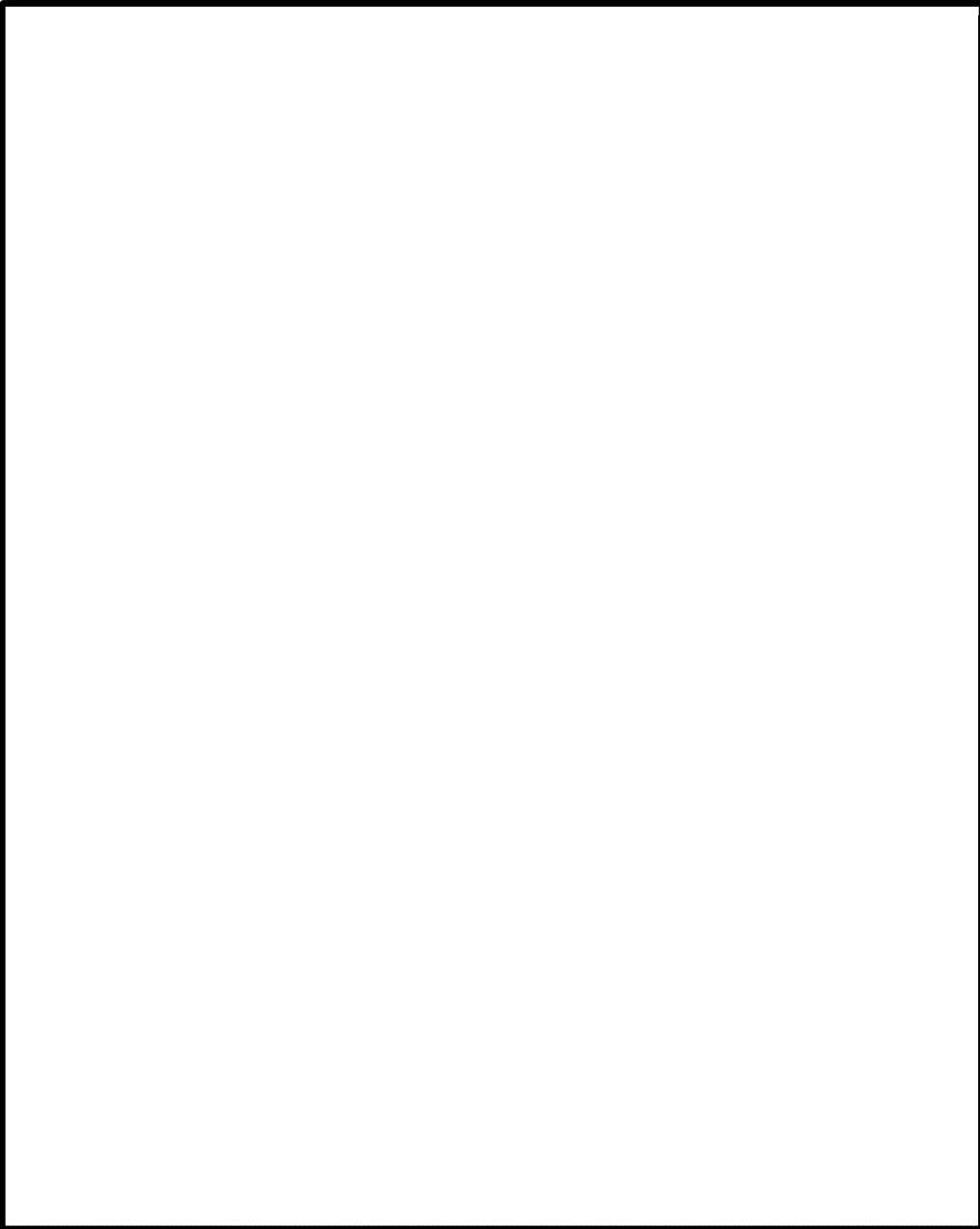
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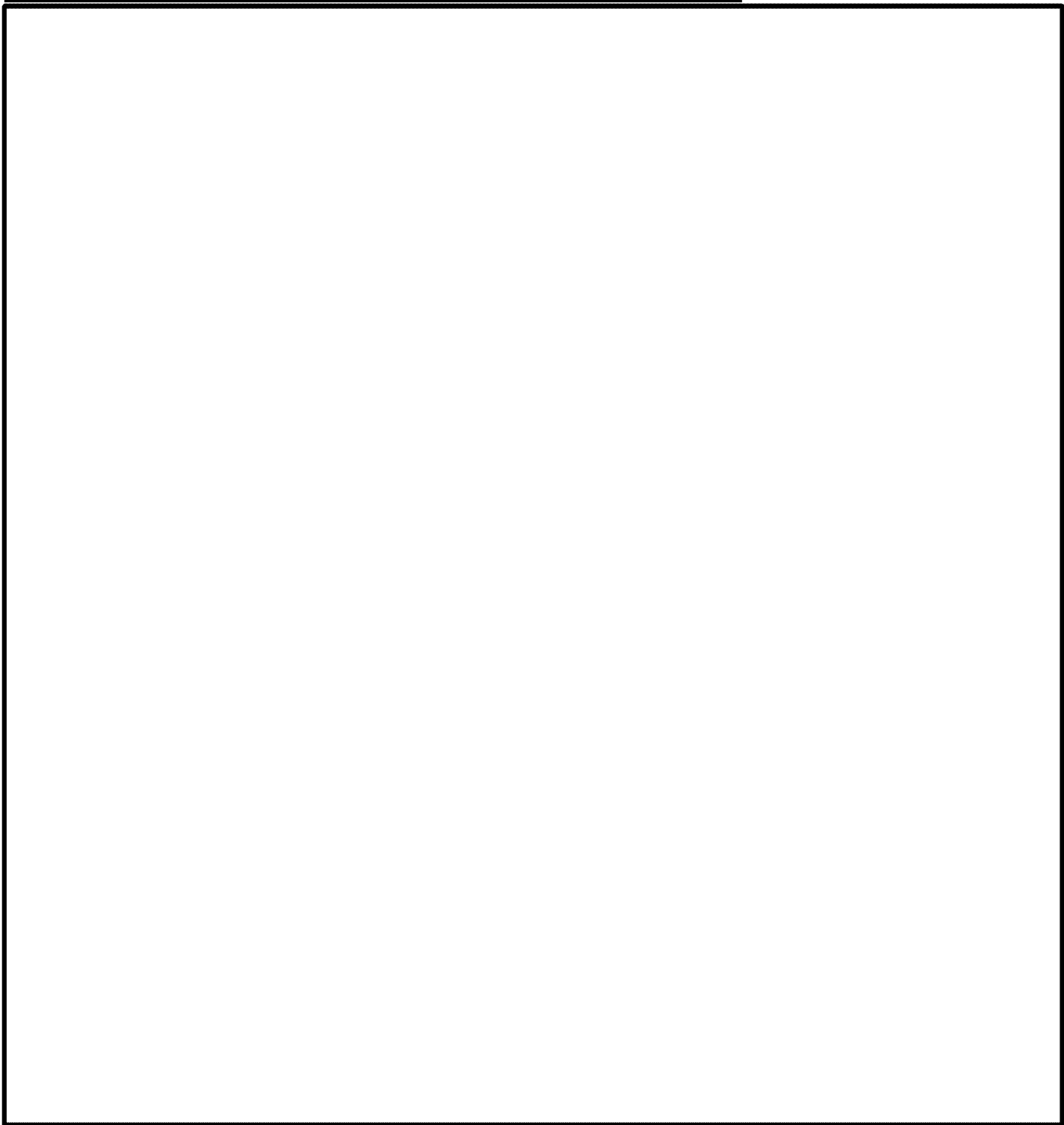


129 H1B RFE (BR) Physicians – Conrad Early Termination

H-1B Conrad Physicians Requesting Early Termination: You indicate the beneficiary is exempt from the numerical limitations based on the beneficiary having an approved waiver of the two-year foreign residency requirement. You indicate that the beneficiary now seeks to have early termination of employment excused due to extenuating circumstances.

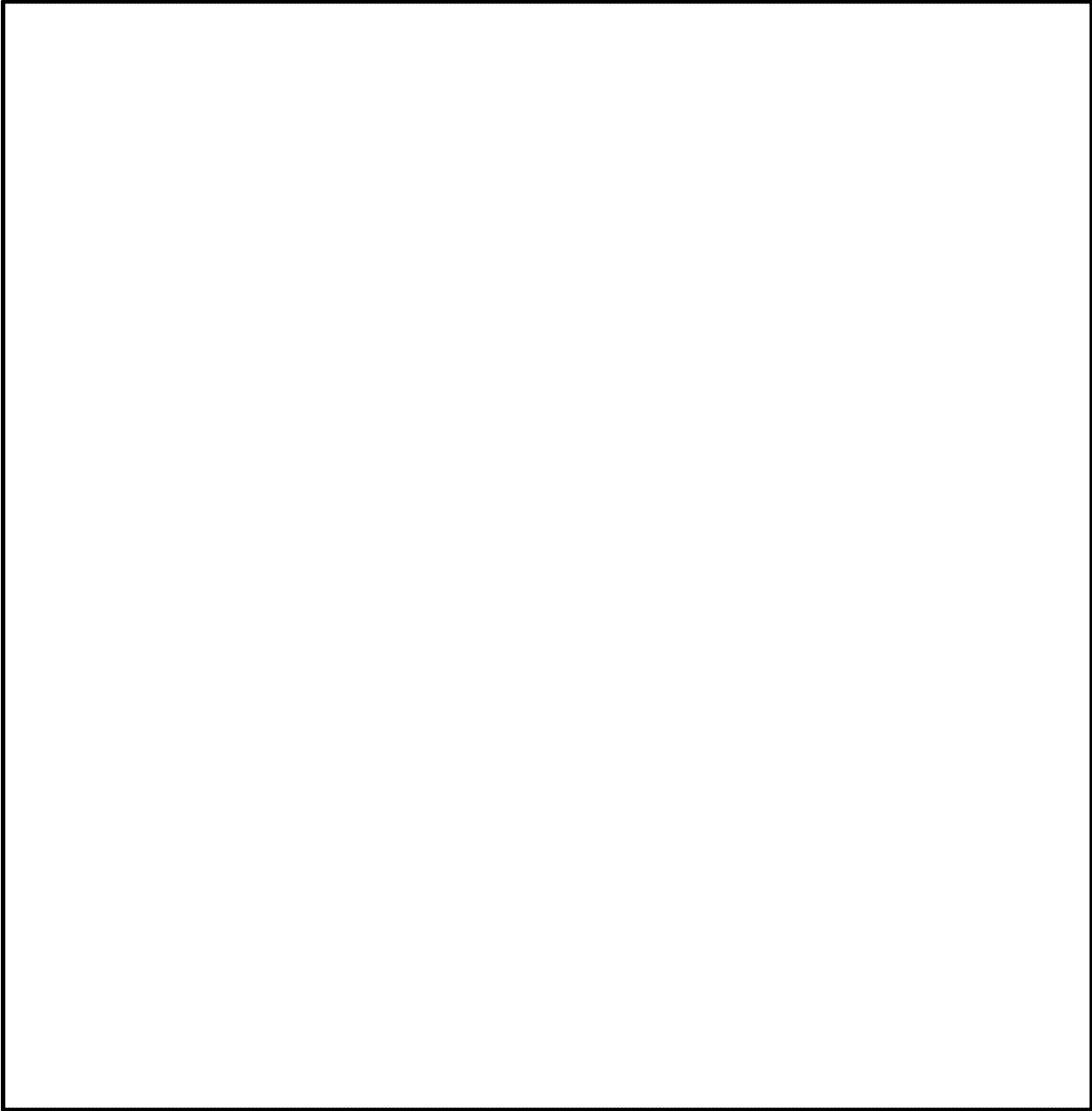
1-129 H1B RFE STANDARDS

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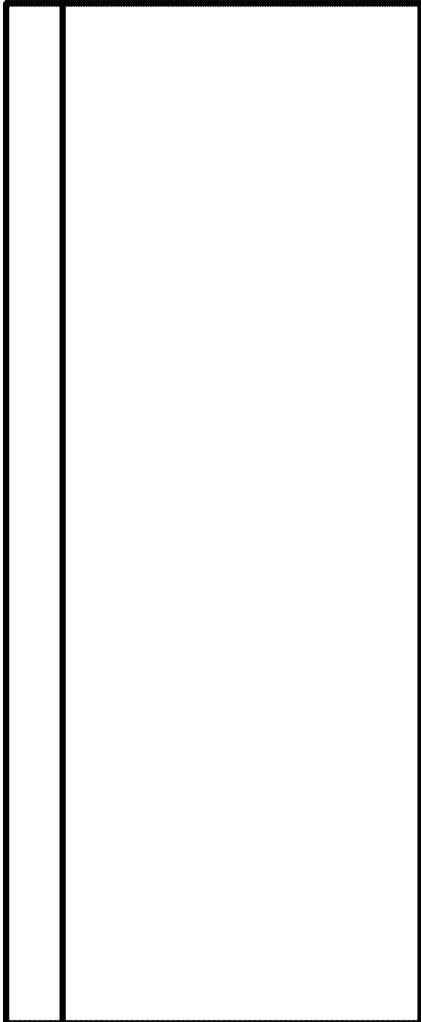
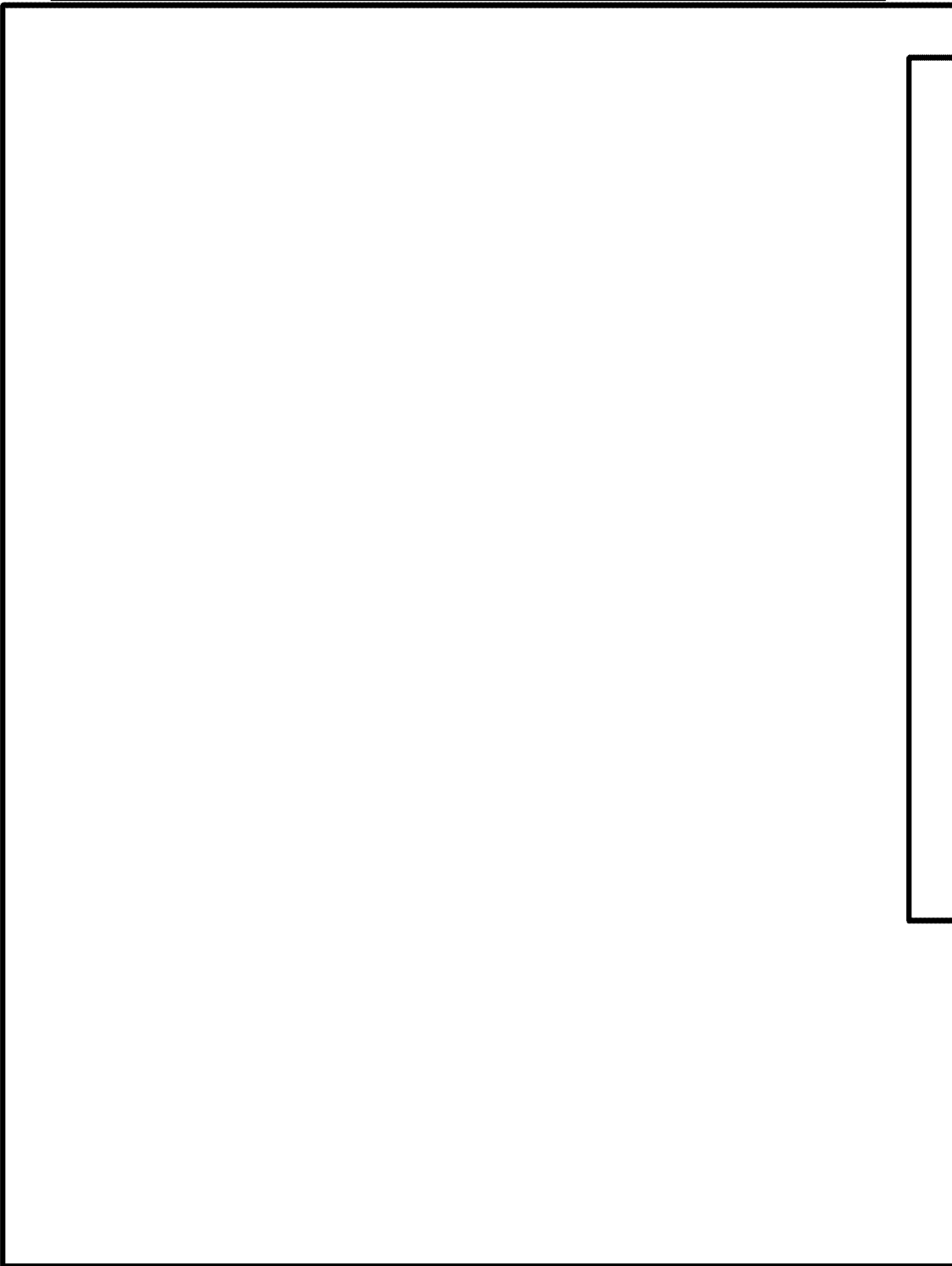
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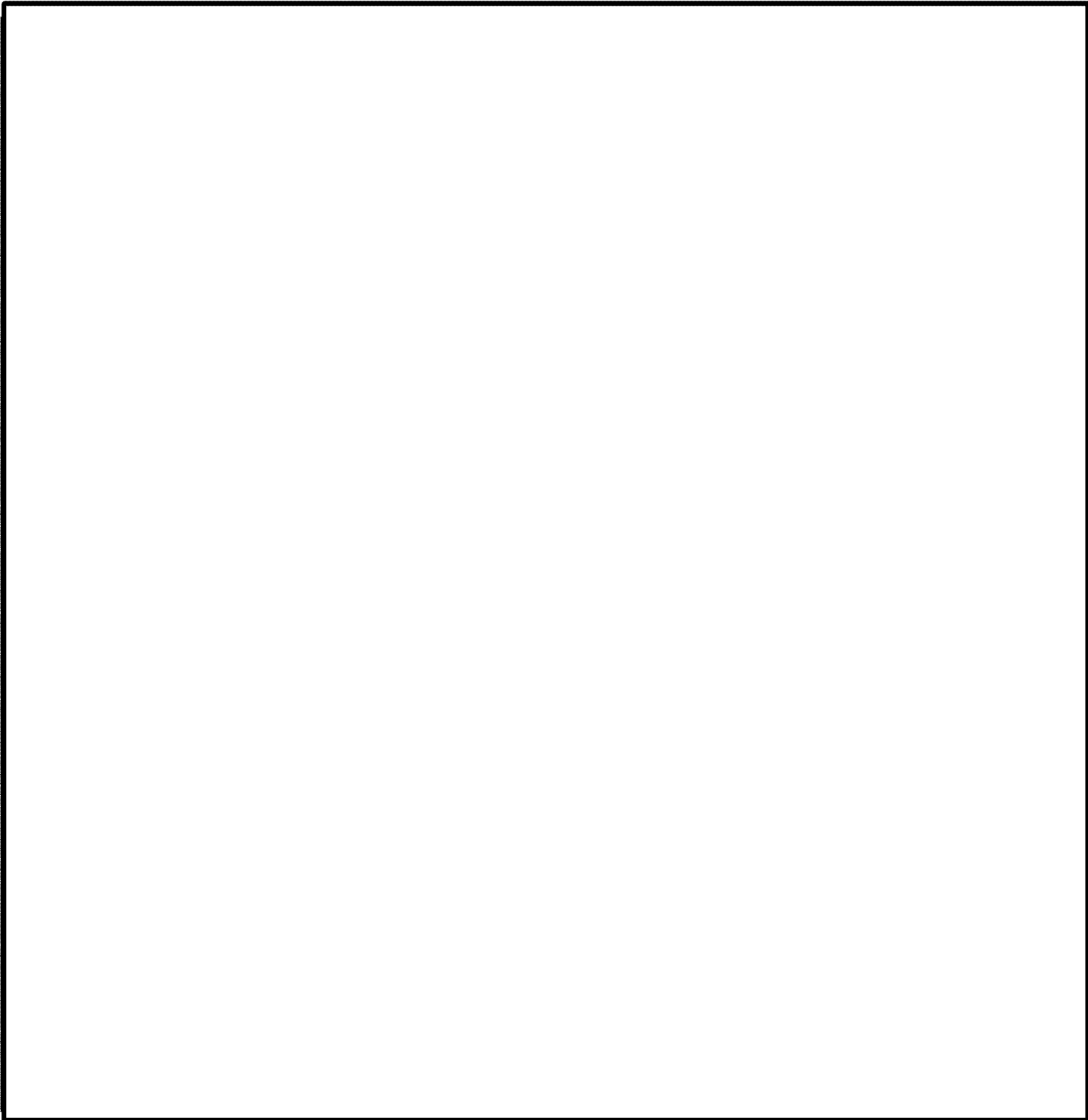
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1-129 H1B RFE STANDARDS

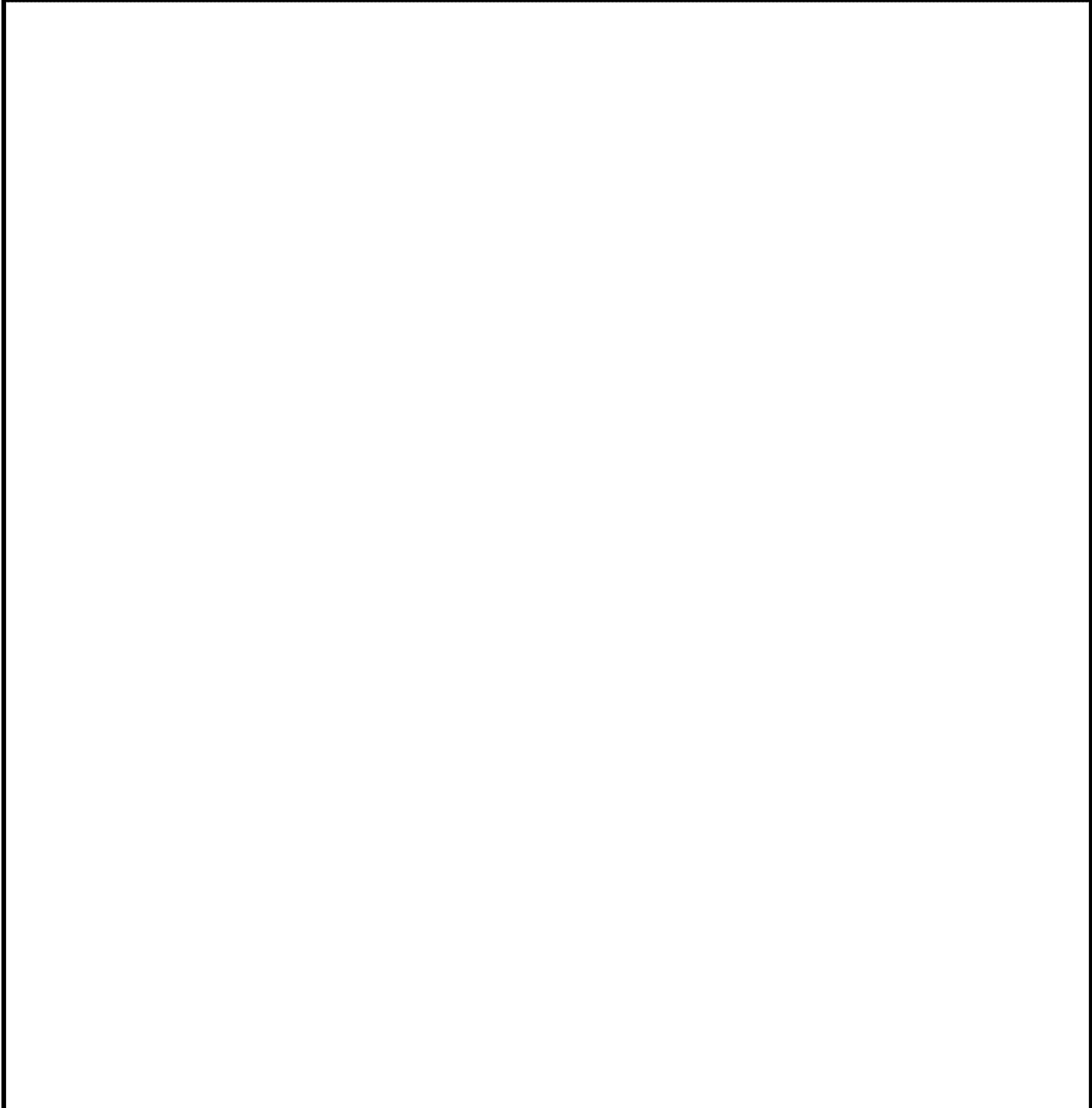


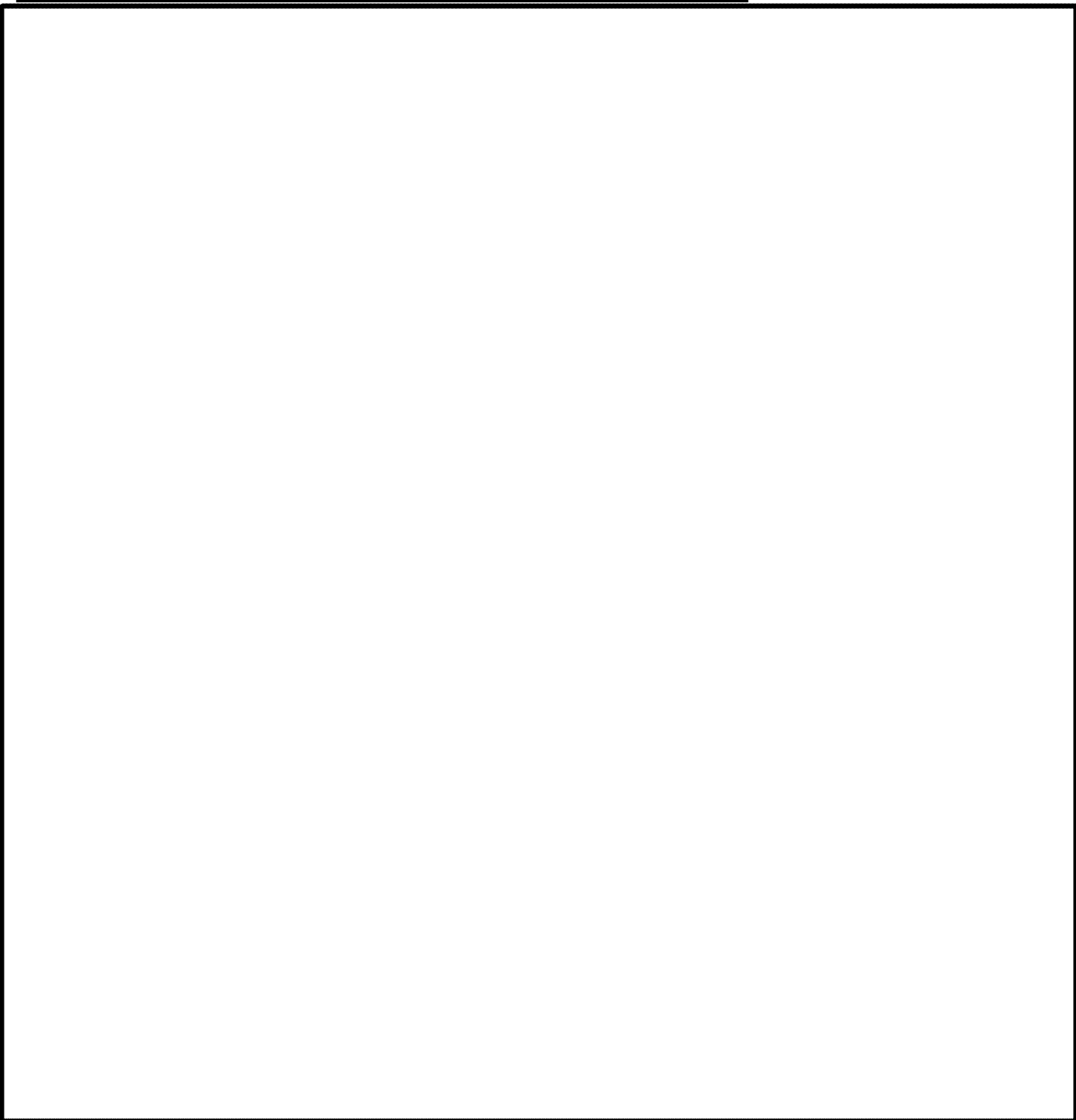
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1-129 H1B RFE STANDARDS

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129 H1B RFE (BR) Beyond Six-Year – Resident or Commuter Exception

Resident or Commuter Exception: Your petition requests an extension of the beneficiary's stay beyond the six-year limit. USCIS regulations provide that an H-1B beneficiary is exempt from the usual six-year time limitation if the beneficiary does not reside continually in the United States and the beneficiary's employment in the United States is seasonal, intermittent, an aggregate of six months or less per year, or if the beneficiary resides abroad and regularly commutes to the United States to engage in part-time employment.

XXX[You did not submit any evidence to show that the beneficiary may be employed beyond the six-year limit.]XXX

To show that the beneficiary is eligible to extend employment beyond the six-year limit, you submitted:

- XXX[INSERT EVIDENCE SUBMITTED]XXX

The evidence you submitted was insufficient. XXX[OFFICER MUST INSERT THE REASON(S) WHY THE EVIDENCE LISTED ABOVE IS INSUFFICIENT HERE.]XXX

You may still submit evidence to satisfy this requirement. Evidence may include, but is not limited to, the following:

- A listing of the dates the beneficiary was outside the United States;
- Arrival and departure records;
- The beneficiary's residence in the United States and abroad;
- Copies of tax returns; and
- Records of employment in ~~U.S.~~ the United States and abroad.

129 H1B RFE Beneficiary Status

Nonimmigrant Status: The record lacks sufficient evidence regarding the beneficiary's status. The following item(s) explain why the submitted evidence is deficient and requests additional evidence to render a final decision.

1-129 H1B RFE STANDARDS

129 H1B RFE (BR) Did Not Indicate Consular Post

Did Not Provide Consular Post: You did you state a consular post on your petition where the beneficiary will apply for a nonimmigrant visa (if necessary) if USCIS is unable to grant the extension of stay or change of status. Provide a consular post where the beneficiary will apply for a nonimmigrant visa if USCIS is unable to grant the beneficiary an extension of stay or change of status.

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129 H1B RFE (BR) Status COS - Beneficiary Departed the U.S.

Change of Status Request Where the Beneficiary Departed the United States: You requested that USCIS change the beneficiary's nonimmigrant status. To qualify for a change of status, the beneficiary must maintain the beneficiary's current nonimmigrant status.

You indicate that the beneficiary is presently in the United States as XXX[INSERT NONIMMIGRANT STATUS]XXX. U.S. Department of Homeland Security's records indicate that the beneficiary departed the United States on XXX[INSERT DEPARTURE DATE]XXX. The Form I-129 was filed on XXX[INSERT I-129 FILING DATE]XXX. Because the beneficiary departed from the United States, the beneficiary did not maintain

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1-129 H1B RFE STANDARDS



129 H1B RFE (BR) Status EOS - Not Present in U.S.

Extension of Stay Request Where the Beneficiary Departed the United States Prior to Filing: You requested that USCIS extend the beneficiary's stay. To qualify for an extension of stay, the beneficiary must be present in the United States at the time the extension of stay request was filed. Here, USCIS records show that the beneficiary departed the United States on XXX[INSERT DEPARTURE DATE]XXX, which is prior to the filing date of the Form I-129. Accordingly, the beneficiary is ineligible for an extension of stay. Please provide an explanation or evidence regarding whether the beneficiary was present in the United States at the time the extension of stay request was filed.

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129 H1B RFE (BR) Status - Change of Work Location

Change in Work Location: You requested that USCIS XXX[extend the beneficiary's stay OR change the beneficiary's status]XXX. To qualify for XXX[an extension of stay OR change of status]XXX, the H-1B beneficiary must maintain nonimmigrant status by working under the terms and conditions that USCIS approved. USCIS previously approved the beneficiary to work for you in XXX[INSERT WORK LOCATIONS FROM PREVIOUS APPROVAL]XXX. The documents you provided suggest that the beneficiary has been working in XXX[INSERT CURRENT WORK LOCATION]XXX. XXX[Officer must insert the analysis of the evidence.]XXX

You are required to notify USCIS immediately when there are changes in the terms and conditions of employment that may affect the beneficiary's eligibility as an H-1B worker. USCIS records do not show that you previously filed amended petitions with USCIS to change the beneficiary's work location so that the beneficiary may begin work in XXX[INSERT NEW WORK LOCATION]XXX. Hence, it appears that the beneficiary has not maintained the beneficiary's nonimmigrant status and that you have not complied with the terms and conditions of employment in this instant petition. Please provide evidence and an explanation regarding how the beneficiary maintained the nonimmigrant status in light of the changes in the terms and conditions of employment noted above.

129 H1B RFE (BR) Status – A, G, or NATO COS H-1B

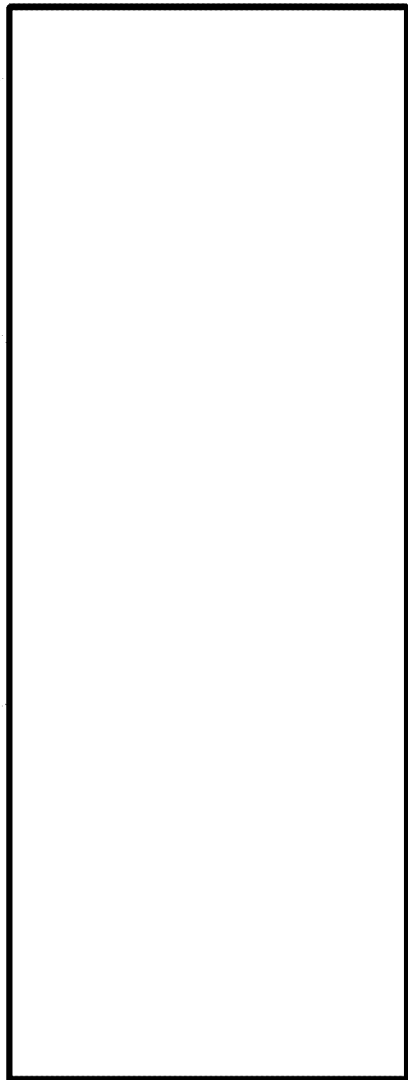
A, G, or NATO Nonimmigrant Status: You seek to change the beneficiary's status to H-1B. The beneficiary was admitted to the United States as XXX[Insert as appropriate: an A OR a G OR a NATO nonimmigrant]XXX. To change status from an A, G, or NATO nonimmigrant status, the beneficiary must submit a properly completed and endorsed:

- Interagency Record of Request -- A, G, or NATO Dependent Employment Authorization or Change/Adjustment to/from A, G, or NATO Status (Form I-566); and
- Arrival/Departure Record (Form I-94).

Please review the instructions to the Form I-566 on USCIS's website at www.uscis.gov/forms regarding the procedures to complete and obtain endorsement of the Form I-566. The adjudication of the Form I-129 cannot be completed until USCIS receives the preceding items.

In addition, submit a legible photocopy of both sides of the beneficiary's Arrival-Departure Record (Form I-94).

Until USCIS changes the beneficiary's status, the beneficiary may not be employed in the United States as an H-1B nonimmigrant.



1-129 H1B RFE STANDARDS

129 H1B RFE (BR) Status – J-1 Maintenance of Status

J-1 Maintenance of Status: You seek to change the beneficiary's nonimmigrant status from exchange visitor (J-1) to H-1B. Before a change of nonimmigrant status may be granted, it must be demonstrated that the beneficiary was maintaining a valid nonimmigrant status at the time the petition was filed.

Submitted with the petition is a photocopy of the beneficiary's Certificate of Eligibility for Exchange Visitor (J-1) Status (Form DS-2019) for an exchange visitor program at XXX[program sponsor]XXX. A review of the Student and Exchange Visitor Information System (SEVIS) record that corresponds to this Form DS-2019 shows that the beneficiary's J-1 status was terminated on XXX[termination date]XXX, or XXX[amount of time]XXX prior to the filing of this petition. The evidence does not demonstrate that the beneficiary was maintaining a valid nonimmigrant status at the time this petition was filed.

Please submit evidence to show that the beneficiary was maintaining a valid nonimmigrant status at the time this petition was filed. A letter from the Program Sponsor for XXX[program sponsor]XXX may not suffice. It is the Program Sponsor's responsibility to contact the Student and Exchange Visitor Program (SEVP) or the SEVIS help desk and have the electronic system corrected before the requested change of status may be granted.

129 H1B RFE (BR) Status – J-1 212(e) Waivers for J-1s Other Than Foreign Medical Graduates

XXX[ONLY USE THIS RFE IF THE BENEFICIARY WHO IS NOT A FOREIGN MEDICAL GRADUATE AND IS SUBJECT TO INA 212(e)]XXX

Two-Year Foreign Residence Requirement: You requested a change of nonimmigrant status from exchange visitor (J-1) to H-1B. It appears that the beneficiary may be subject to the two-year foreign residence requirement because the beneficiary participated in a U.S.- or foreign government-financed J-1 exchange visitor program or the beneficiary became a J-1 as a national from a country designated as clearly requiring the services of persons with their specialized knowledge or skill. These J-1 nonimmigrants are ineligible to change nonimmigrant status until the two-year foreign residence requirement has been met or the J-1 receives a I-612 waiver.

XXX[You did not submit any evidence to show that the beneficiary has met the two-year foreign residence requirement or obtained a waiver of the two-year foreign residence requirement]XXX

You may submit additional evidence to satisfy this requirement. Evidence may include, but is not limited to, a combination of the following or similar types of evidence:

- Evidence that the beneficiary has resided in the beneficiary's country of nationality or last residence for an aggregate of at least two years following the beneficiary's departure from the United States as a J-1; or
- Evidence that the beneficiary was granted an Application for Waiver of the Foreign Residence Requirement (under section 212(e) of the Immigration and Nationality Act, as amended) (Form I-612) for the above requirement.

If you have any questions concerning the Form I-612, please review the Form I-612 instructions at USCIS's website www.uscis.gov/forms.

129 H1B RFE (BR) Status – Waivers for J-1 Foreign Medical Graduates

XXX[USE THIS RFE IF THE BENEFICIARY IS A FOREIGN MEDICAL GRADUATE]XXX

1-129 H1B RFE STANDARDS

(b)(5)

To satisfy this requirement, you submitted:

- XXX

The evidence you submitted is insufficient. XXX[Officer must insert the reason(s) why the evidence listed is not sufficient]XXX.

You may still submit evidence to satisfy this requirement. Evidence may include, but is not limited to:

129 H1B RFE (BR) Status – J-2 Subject to Residency Requirement

J-2 Residency Requirement: The beneficiary's nonimmigrant status appears to be that of a dependent of an exchange visitor (J-2). Further, it appears that the J-1 principal alien is subject to the two-year foreign residence requirement. Accordingly, the beneficiary is also subject to the same two-year residence requirement as the J-1 principal alien.

XXX[You did not submit any evidence for this requirement.]XXX

To satisfy this requirement, you submitted:

- XXX

The evidence you submitted is insufficient. XXX[Officer must insert the reason(s) why the evidence listed is not sufficient.]XXX

You may still submit evidence to satisfy this requirement. Evidence may include, but is not limited to:

- Evidence that the beneficiary has resided in the beneficiary's country of nationality or last residence for an aggregate of at least two years following the beneficiary's departure from the United States as a J-2; or
- Evidence that the J-1 principal alien was granted an appropriate Application for Waiver of the Foreign Residence Requirement (under section 212(e) of the Immigration and Nationality Act, as amended) (Form I-612).

1-129 H1B RFE STANDARDS

129 H1B RFE (BR) Status – J-2 Spouse of a J-1 Foreign Medical Graduate

J-2 Spouse of a J-1 Foreign Medical Graduate: The beneficiary's nonimmigrant status is a J-2 dependent of a J-1 nonimmigrant foreign medical graduate subject to the two-year foreign residence requirement, who has obtained a waiver of the foreign residence requirement under Public Law 103-416 (Conrad Amendment).

Due to the restriction of this waiver, a request to change status to any other nonimmigrant classification other than a dependent status may not be granted until the principal J-1 fulfills the requisite 3-year employment contract or otherwise complies with the terms and conditions imposed on the waiver.

(b)(5)

129 H1B RFE (BR) Status – H-4 Spouse of an H-1B Conrad

H-4 Spouse of an H-1B Conrad: The beneficiary's nonimmigrant status is an H-4 dependent of an H-1B nonimmigrant, who has obtained a waiver of the foreign residence requirement under Public Law 103-416 (Conrad Amendment).

Provide evidence that the principal H-1B has satisfied the waiver's requirements in accordance with the regulations.

129 H1B RFE (BR) Status - F-1 Student Status

F-1 Academic Student Status: The record lacks sufficient evidence regarding the beneficiary's F-1 status. The following item(s) explain why the submitted evidence is deficient and USCIS requests additional evidence to render a final decision.

129 H1B RFE (BR) Status – F-1 Student Employment

F-1 Student Employment: USCIS was unable to find a record for the beneficiary in the Student and Exchange Visitor Information System (SEVIS). Submit a properly executed SEVIS Form I-20 and a legible copy of the beneficiary's Form I-766, Employment Authorization Document (if applicable).

129 H1B RFE (BR) Status – F-1 Student Employment - More Detailed

129 H1B RFE (BR) F-1 OPT Unemployment

F-1 OPT Unemployment: Students engaging in F-1 post-completion OPT may not accrue an aggregate of more than 90 days of unemployment during the initial post-completion OPT period. Students granted 24-month OPT extension may not accrue an aggregate of more than 120 days of unemployment during the total OPT period including any initial OPT and the 24-month OPT extension.

1-129 H1B RFE STANDARDS

Evidence in the record indicates that the beneficiary does not appear to comply with this requirement. XXX[Officer must insert analysis of evidence here.]XXX

(b)(5)

129 H1B RFE (BR) Status – F-1 Student Terminated/Cancelled/Deactivated

F-1 Student Terminated/Cancelled/Deactivated: You seek to change the beneficiary's nonimmigrant status from F-1 student to H-1B. Before a change of nonimmigrant status may be granted, it must be demonstrated that the beneficiary was maintaining a valid nonimmigrant status at the time the petition was filed.

You submitted a copy of the beneficiary's Student and Exchange Visitor Information System (SEVIS) Form I-20, Certificate of Eligibility for Nonimmigrant Student Status, for attendance at XXX[INSERT SCHOOL]XXX. A review of SEVIS shows that the beneficiary's student status was [INSERT AS APPROPRIATE: canceled, completed, deactivated, terminated] on [INSERT DATE], [prior to the filing of this petition.

Please submit evidence to show that the beneficiary was maintaining a valid nonimmigrant status at the time you filed this petition. A letter from the Designated School Official (DSO) of [will not suffice. It is the DSO's responsibility to correct SEVIS to "Active" before the requested change of status may be granted.

129 H1B RFE (BR) Status –F-2 Dependent

F-2 Dependent: You indicate that the beneficiary is a nonimmigrant dependent of an academic student (F-2). As a dependent of an academic student (F-1), the beneficiary's status is subject to the principal alien's status. Therefore, submit the Student and Exchange Visitor Information System (SEVIS) Form I-20 for the principal alien; a letter from the school stating that the F-1 principal alien is currently attending; and copies of the F-1 principal's school transcripts. If the principal alien is not currently in a nonimmigrant status, the request for a change of status may be denied and the petition (if approved) will be forwarded abroad for processing.

(b)(5)

129 H1B RFE (BR) Status – F-1 Student

F-1 Misclassification: The evidence in the record shows that the beneficiary is currently attending [INSERT SCHOOL NAME] as an F-1 nonimmigrant. It appears that [is a vocational, technical, or non-academic program.

According to the U.S. Immigration and Custom Enforcement's Student and Exchange Visitor Program, [INSERT SCHOOL NAME] is authorized to issue Certificates of Eligibility for Nonimmigrant Student Status (Form I-20 A-B) for F-1 classification only to students who will engage in the school's Language Training programs. Although the school may be authorized to accept foreign students in vocational, technical, or non-academic education programs, students enrolled in these programs would be issued a Certificate of Eligibility for Nonimmigrant (M-1) Student Status For Vocational Students (Form M-N).

Please provide documentary evidence to establish that the beneficiary has, and continues to maintain, valid F-1 status.

F-1 Full Course of Study: You stated that the beneficiary is a nonimmigrant academic student (F-1). [An F-1 nonimmigrant must maintain a full-course of study. Here, the record does not contain evidence regarding the beneficiary's full-course of study. Please submit addition evidence regarding the beneficiary's full-course of study. Evidence that you may submit include, but is not limited to:

1-129 H1B RFE STANDARDS

- Copies of all pages of all SEVIS Certificates of Eligibility for Nonimmigrant Student Status (Forms I-20) issued to the beneficiary from all of the beneficiary's schools in the United States;
- Official copies of the beneficiary's transcripts issued by all of the beneficiary's schools in the United States;
- Copies of degrees and/or certificates issued to the beneficiary showing course completions;
- Receipts for tuition payments made by the beneficiary to [INSERT SCHOOL];
- Receipts for books, parking passes, and school supplies for the period of time that the beneficiary was a student at [INSERT SCHOOL];
- The beneficiary's student ID for [INSERT SCHOOL];
- The beneficiary's course syllabi or outlines for the beneficiary's program at [INSERT SCHOOL];
- Documentary evidence to show that the beneficiary was physically attending the courses in which the beneficiary was enrolled, including transportation receipts, confirmed transportation reservations, attendance records, etc.;
- Evidence of the beneficiary's U.S. residence (utility bills, rental contracts or receipts, etc.);
- Evidence showing the number of online or distance education class credits the beneficiary enrolled in for each academic period for the duration of the time the beneficiary was a student at [INSERT SCHOOL];
- Evidence to show the beneficiary is making progress toward completion of a program of study; or
- Any other documentary evidence to establish the beneficiary has been engaged in a full course of study and working towards program completion.

F-1 Curricular Practical Training: Since the evidence of record indicates that the beneficiary is or was participating in Curricular Practical Training (CPT), provide the following:

- The name of the course and course code in which the beneficiary is or was enrolled that requires CPT;
- Documentary evidence that immediate participation in CPT was required for the beneficiary's studies;
- Documentary evidence establishing both the beneficiary's current major and that CPT is/was an integral (essential) part of the beneficiary's degree program at ;
- A letter from the beneficiary's CPT employer(s), explaining the beneficiary's job duties, pay, and period of employment;
- Evidence of the cooperative agreement(s) between the beneficiary's CPT employer and the school; or
- Evidence that the beneficiary's CPT is or was directly related to the beneficiary's major area of study.

F-1 Optional Practical Training: Since the evidence of record indicates that the beneficiary is or was participating in Optional Practical Training (OPT), provide the following:

- Evidence demonstrating that the OPT is directly related to the beneficiary's major area of study;
- Copies of all Employment Authorization Documents (EADs) issued to the beneficiary by USCIS for OPT; [It appears that the beneficiary was granted a 24-month OPT period. Please submit copies of all six-month validation reports submitted to the Designated School Official (DSO) for this OPT STEM employment; or
- Students engaging in F-1 post-completion OPT may not accrue an aggregate of more than 90 days of unemployment during the initial post-completion OPT period. Students granted 24-month OPT extension may not accrue an aggregate of more than 120 days of unemployment during the total OPT period including any initial OPT and the 24-month OPT extension.

1-129 H1B RFE STANDARDS

Please provide evidence that the beneficiary maintained the beneficiary's F-1 status during post-completion OPT. Evidence may include but is not limited to the following:

- o A list of all employers the beneficiary has worked for under post-completion OPT and the periods the beneficiary worked for those employers; and
- o Copies of all pay records/stubs for the beneficiary from the starting date of post-completion OPT to the present time.

129 H1B RFE (BR) Status – M-1 Student Status

M-1 Vocational Student Status: You indicate that the beneficiary is currently a nonimmigrant vocational student (M-1). Please submit evidence that the beneficiary is maintaining the beneficiary's M-1 status. This evidence may be in the form of one or more of the following:

- Arrival/Departure Record (Form I-94);
- Approval Notice (Form I-797/A/B);
- All Forms I-20AB/I-20ID;
- A copy of the visa page showing the M-1 visa; and
- Evidence to establish that the beneficiary did not receive education or training as an M-1 student that enabled the beneficiary to meet the qualifications for H-1B classification.

129 H1B RFE (BR) Admissibility Issues Requiring Waiver

Inadmissibility Waiver: Every nonimmigrant who applies for admission to or an extension of stay in the United States must establish that the person is admissible to the United States or that any ground of inadmissibility has been waived.

The beneficiary appears to be inadmissible pursuant to section 212(a)() () XXX[FILL IN SUBSECTION OF INADMISSIBILITY]XXX of the Immigration and Nationality Act for XXX[INADMISSIBILITY REASON]XXX. On XXX[DATE]XXX, the beneficiary was XXX[DESCRIBE THE CRIME OR OTHER ACTION THAT LED TO INADMISSIBILITY]XXX.

Submit evidence that the beneficiary has received a nonimmigrant waiver of inadmissibility which covers the period of the requested extension of stay in the United States.

129 H1B RFE (BR) Admissibility Issues Disposition of Charges

Disposition of Charges: Law enforcement records show that the beneficiary was arrested and charged with the following crime(s):

1. XXX[]XXX
2. XXX[]XXX
3. XXX[]XXX

If there are other arrests not listed above, provide the additional charge(s) and date(s).

For all arrests, submit copies of court documents showing the disposition. Provide the relevant excerpts of law from each jurisdiction where the arrest took place showing the maximum possible penalty for each arrest/charge.

(b)(5)

|129 H1B RFE (BR) Status – Payroll Records Same Employer Extension|

1-129 H1B RFE STANDARDS

Payroll Records Same Employer Extension: You seek to extend the beneficiary's employment. XXX[You provided the beneficiary's pay records/stubs for the period from [INSERT PAY STUBS START DATE] to [INSERT PAY STUBS END DATE].]XXX However, this evidence does not show that the beneficiary maintained his/her nonimmigrant status at the time the Form I-129 was filed.

Submit copies of the beneficiary's pay records (leave and earnings statements, and pay stubs, etc.) with you from XXX[INSERT REQUESTED PERIOD START DATE]XXX to XXX[INSERT REQUESTED PERIOD END DATE]XXX to show that the beneficiary maintained his/her nonimmigrant status.

129 H1B RFE (BR) Status – Payroll Records Change of Employer

Payroll Records Change of Employer: The record indicates that the beneficiary was previously employed as an H-1B nonimmigrant with another employer and is now attempting to extend that status with a new H-1B employer. XXX[You provided the beneficiary's pay records/stubs with the beneficiary's previous employer for the period from [INSERT PAY STUBS START DATE] to [INSERT PAY STUBS END DATE].]XXX However, this evidence does not show that the beneficiary maintained his/her nonimmigrant status at the time the Form I-129 was filed.

Submit copies of the beneficiary's pay records (leave and earnings statements, pay stubs, W-2 etc.) with his/her previous employer from XXX[INSERT REQUESTED PERIOD START DATE]XXX to XXX[INSERT REQUESTED PERIOD END DATE]XXX to establish that the beneficiary was in a valid nonimmigrant status at the time the present petition was filed. Also, submit copies of the beneficiary's pay records (leave and earnings statements, pay stubs, etc.) with the beneficiary's present employer (you), if applicable.

129 H1B RFE (BR) Status – Payroll Records Change of Status

Payroll Records Change of Status: The record indicates that the beneficiary is currently employed as a XXX[L-1/E-1/E-2 nonimmigrant]XXX with another employer and is now attempting to change status to a new H-1B employer. You provided the beneficiary's payroll records with the beneficiary's current employer for the period from XXX[INSERT PAY STUBS START DATE]XXX to XXX[INSERT PAY STUBS END DATE]XXX. However, this evidence does not show that the beneficiary maintained his/her nonimmigrant status at the time the Form I-129 was filed.

Please submit copies of the beneficiary's pay records (leave and earnings statements, pay stubs, etc.) with the beneficiary's current employer from XXX[INSERT REQUESTED PERIOD START DATE]XXX to XXX[INSERT REQUESTED PERIOD END DATE]XXX to show that the beneficiary maintained his/her nonimmigrant status.

129 H1B RFE (BR) Status – Beneficiary is Dependent Spouse of a Nonimmigrant Worker

Dependent Spouse of a Nonimmigrant Worker: The record indicates that the beneficiary is a dependent spouse of XXX[INSERT NONIMMIGRANT DESCRIPTORS HERE: a specialty occupation worker (H-4) / an intracompany transferee (L-2) / a treaty investor (E-2)]XXX.

You provided the beneficiary's spouse's pay records with the spouse's current employer for the period from XXX[INSERT PAY STUBS START DATE]XXX to XXX[INSERT PAY STUBS END DATE]XXX.

Since the beneficiary's status is dependent upon his/her spouse's nonimmigrant status, you must show that the beneficiary's spouse has maintained nonimmigrant status at the time the Form I-129 was filed.

Submit copies of the beneficiary's spouse's pay records (leave and earnings statements, pay stubs, etc.) with the current employer from XXX[INSERT REQUESTED PERIOD START DATE]XXX to XXX[INSERT REQUESTED PERIOD END DATE]XXX.

1-129 H1B RFE STANDARDS

PERIOD END DATE]XXX. Also, submit copies of the beneficiary's pay records (leave and earnings statements, and pay stubs, etc.), if applicable.

129 H1B RFE (BR) Valid Passport

Valid Passport: To qualify for an extension of stay, the beneficiary must possess a valid passport at the time the petition was filed. The record shows that the beneficiary's passport expired on XXX[INSERT PASSPORT EXPIRATION DATE]XXX. Provide a copy of biographical page of the beneficiary's current and unexpired passport. If the beneficiary does not possess a current and unexpired passport, please provide a detailed explanation and substantiating evidence.

129 H1B RFE (BR) Status – Periods in H and/or L Status

Periods in H and/or L Status: The record does not show all the time the beneficiary has spent in the United States in H and/or L nonimmigrant status. To establish eligibility, list all periods in which the beneficiary has been in the United States in an H and/or L classification. Submit legible copies of all passports and all pages of those passports, including identification pages, visa pages, any pages with entry and exit stamps, and blank pages to substantiate all periods in the United States in H or L status. Be advised that color copies are preferred because of the various color inks used for admission and departure control may not be as legible in black and white copies.

129 H1B RFE (BR) Status – Current Status

Current Immigration Status: Provide evidence regarding the beneficiary's current immigration status. If the beneficiary is not currently in a nonimmigrant status, the request for an extension of stay or change of nonimmigrant status may not be approved and the petition (if approved) will be forwarded abroad. Therefore, identify a location abroad (if not already identified) for visa notification and submit a duplicate set (if not already submitted) of all documentation previously submitted.

129 H1B RFE (BR) Beneficiary Became LPR During Pendency of I-129

Lawful Permanent Resident (LPR): You seek H-1B classification for the beneficiary. USCIS records indicate that the beneficiary was granted Lawful Permanent Resident (LPR) status on XXX[INSERT DATE]XXX.

It appears that the beneficiary no longer requires nonimmigrant H-1B classification and status and that adjudication of the instant Form I-129 is not necessary. If you wish to continue seeking the adjudication of this Form I-129, please state so in response to this Request for Evidence. If you do not wish to continue seeking the adjudication of this Form I-129, please submit a written withdrawal request in response to this Request for Evidence.

(b)(5)

Please note that as an LPR, the beneficiary is ineligible for an extension of stay or change of status to an H-1B worker. If USCIS approves the Form I-129, any extension of stay or change of status request will be denied.



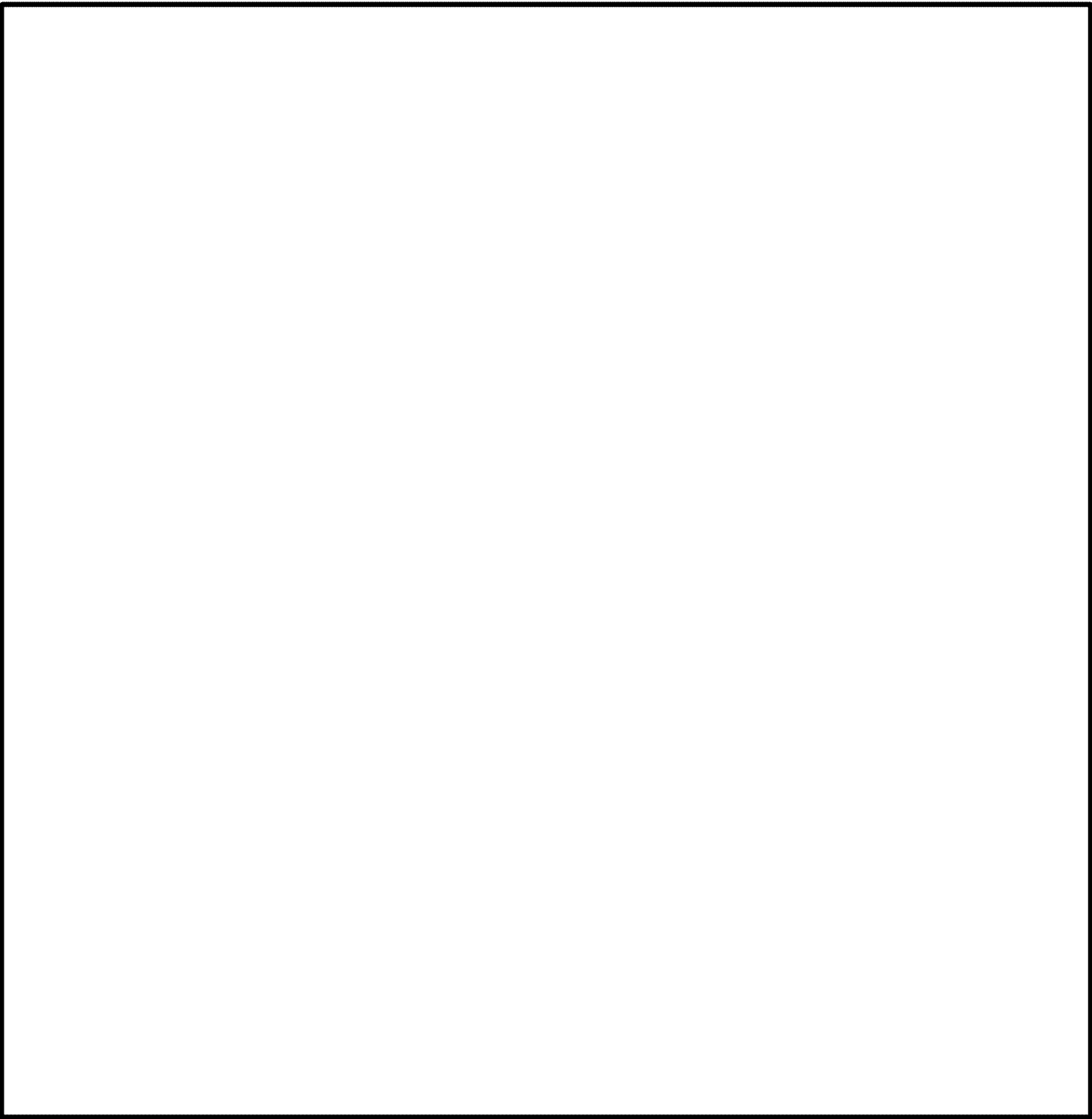
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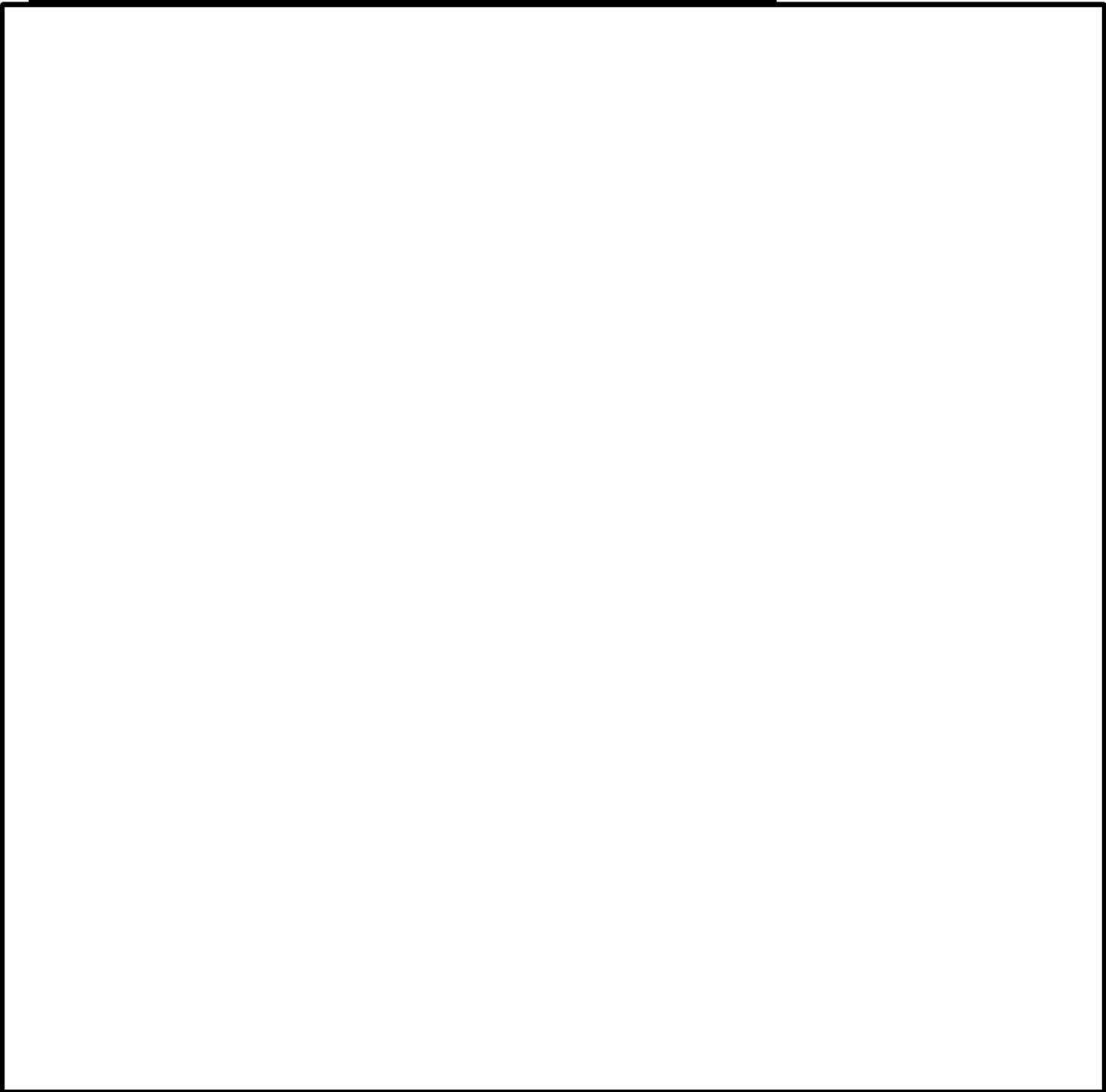
1-129 H1B RFE STANDARDS



Revised ~~March 23, 2017~~ February 3, 2016

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129 RFE CONCLUSION

General Requests

If you are submitting evidence in response to this request, please follow the below guidelines:

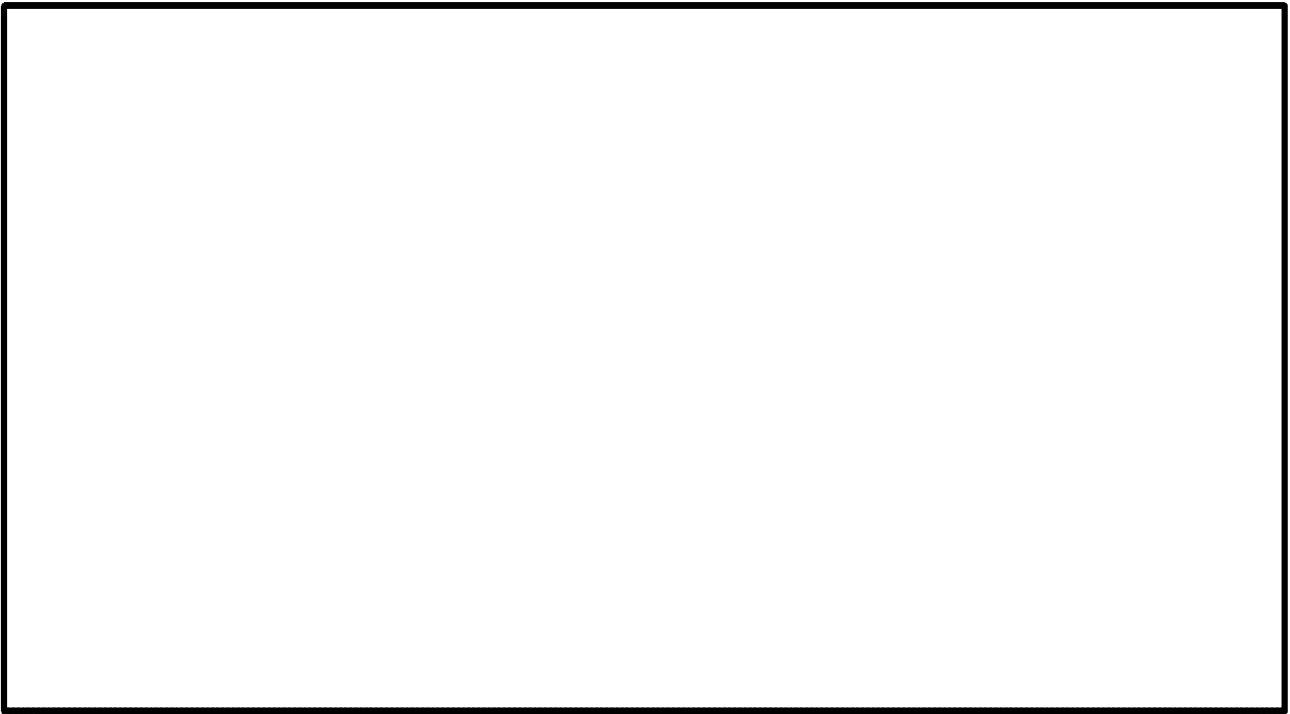
- An index of the evidence and include corresponding tabs for each section of evidence.
- Clear and legible copies of the evidence. If legible copies are not possible, submit the original documents. These originals will be returned, if requested.
- If you are requesting consulate notification, provide a duplicate copy of:
 - Form I-129;
 - Initial evidence; and
 - Any evidence submitted in response to this request.
- If the beneficiary is in the United States and you are requesting a change of status or extension of stay, you may also choose to submit a duplicate copy of the Form I-129 and supporting evidence in case the beneficiary decides to seek a visa at a consular office abroad.

(b)(5)

CSC SNIPIT



(b)(5)

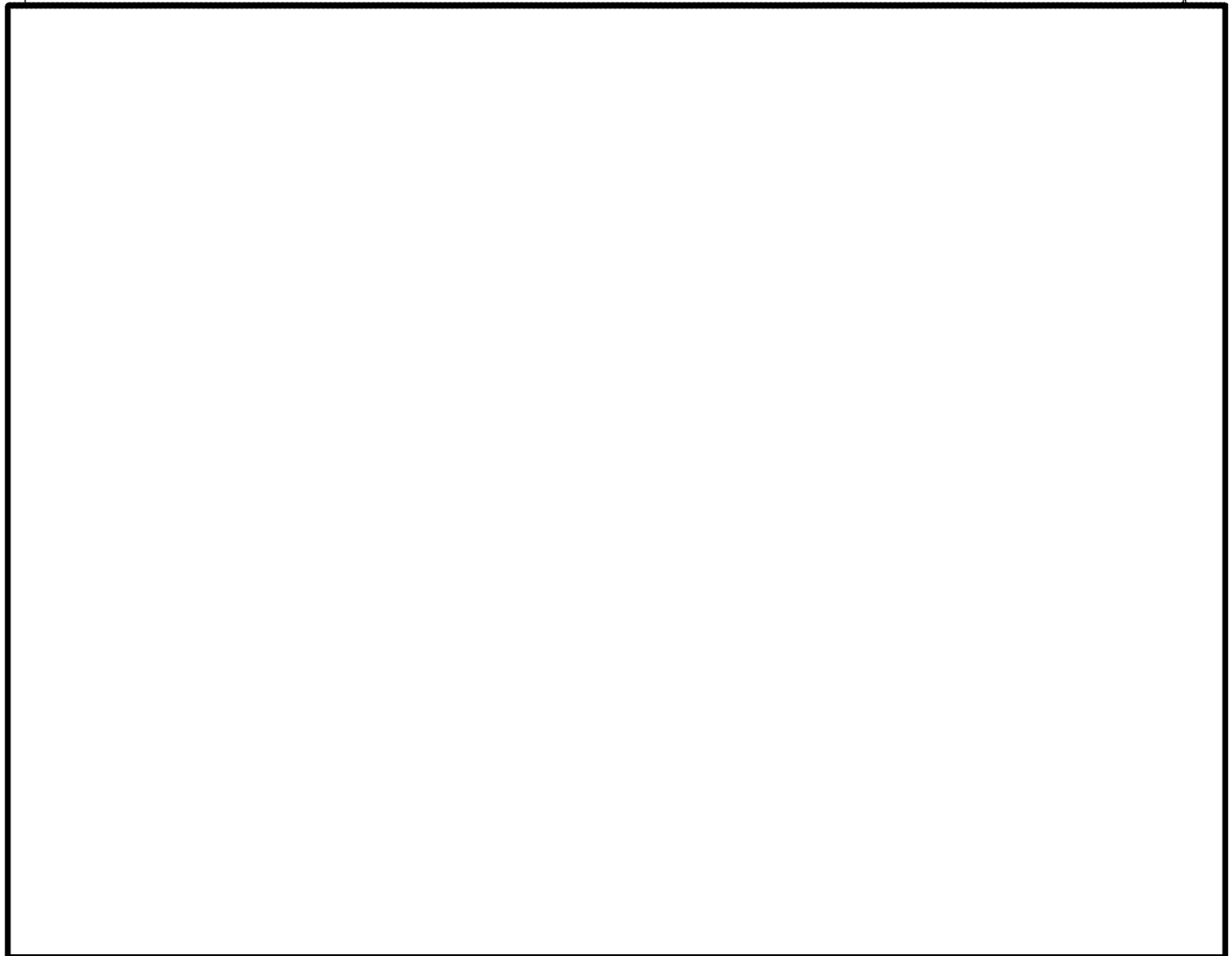


SCOPS MDW: Deleting this snip it as it is incorrect. Officers will need to address each petition individually.

Page 43: [3] Comment [JMC90]

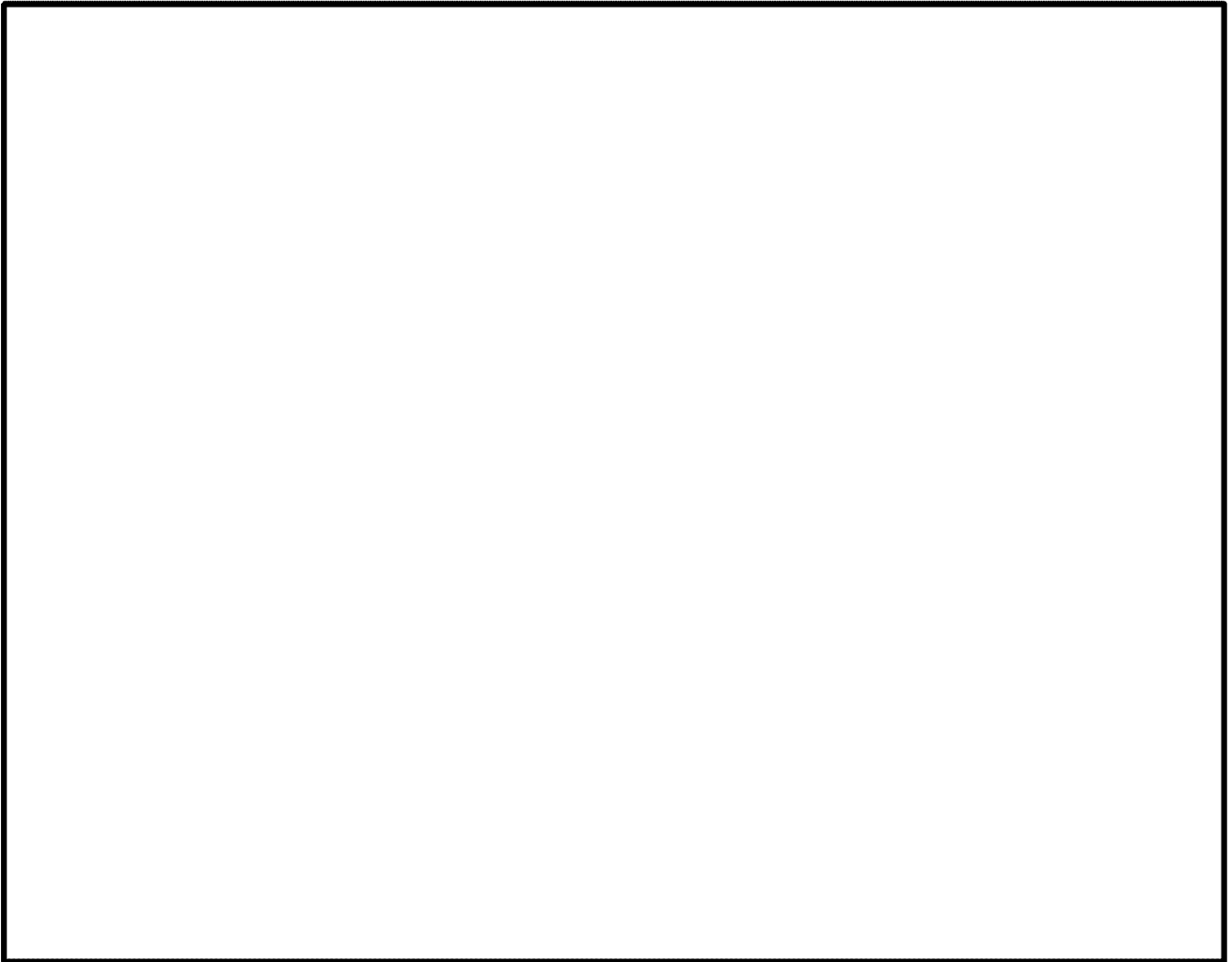
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7/31/2017 1:31:00 PM



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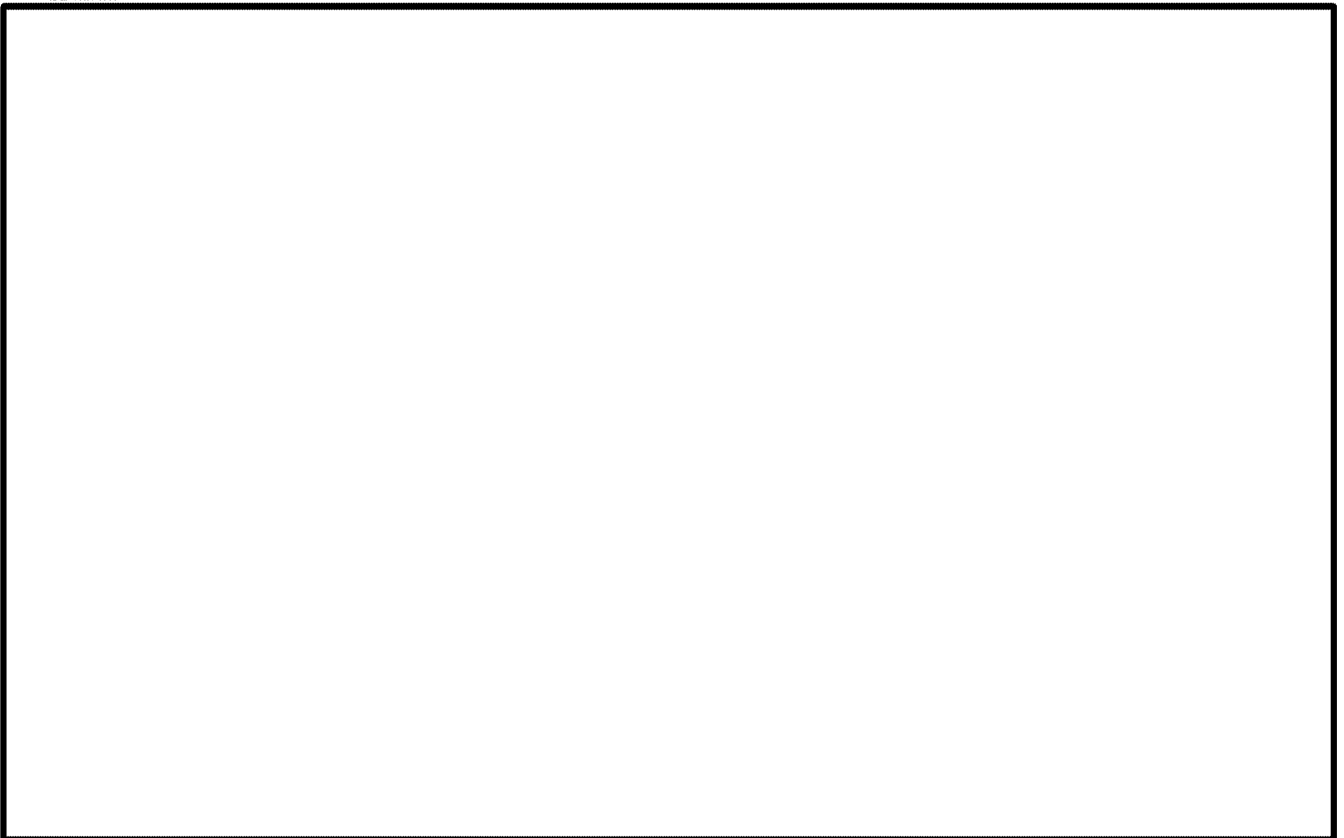


Page 52: [5] Comment [RJE133]

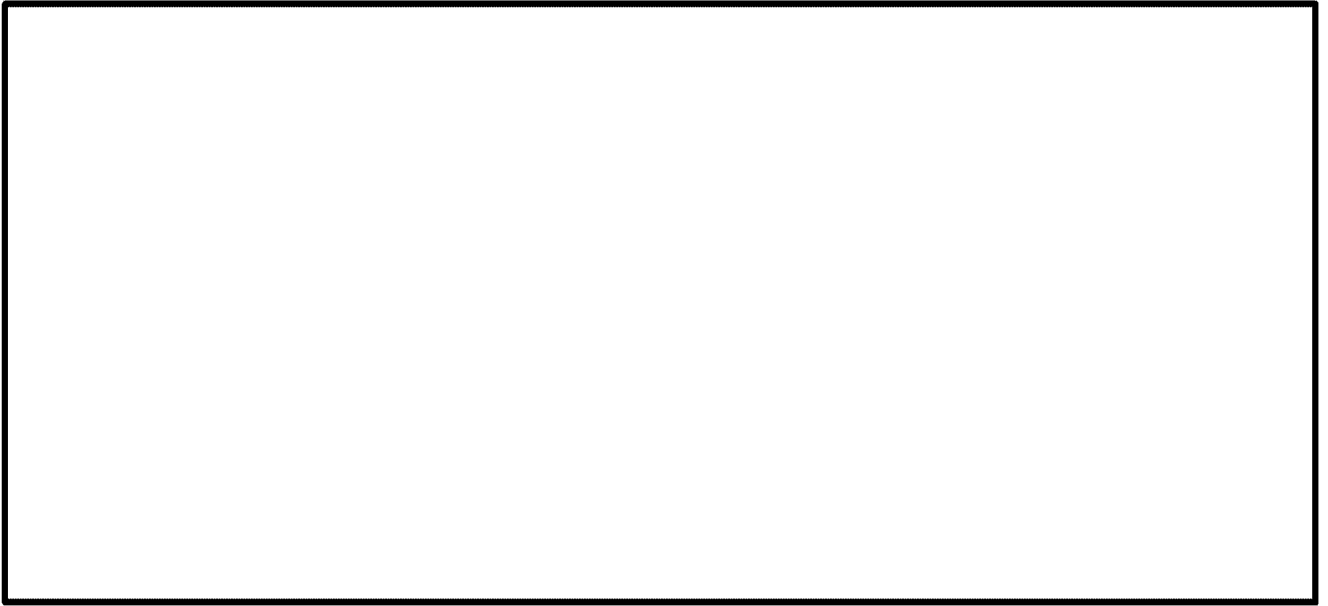
Roach, Joyce E

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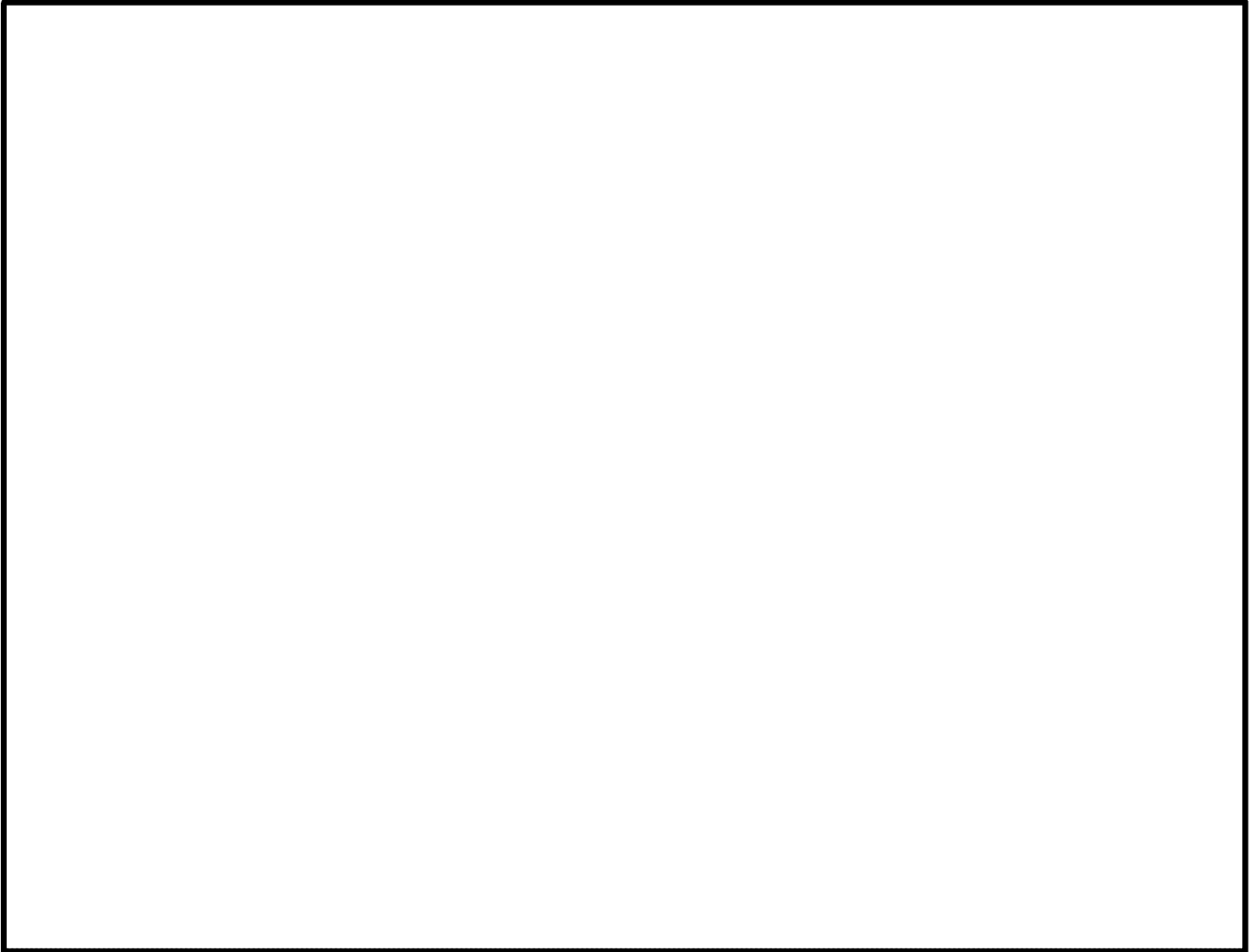
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Page 62: [7] Comment [RHC151]

Robert Cox

8/16/2017 10:12:00 AM



(b)(5)