



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

National Institutes of Health
Freedom of Information Office
Building 31, Room 5B-35
31 Center Drive, MSC 2107
Bethesda, Maryland 20892-2107
phone: (301) 496-5633
fax: (301) 402-4541

Via Email: foia@americanoversight.org

October 27, 2022

Austin Evers
American Oversight
1030 15th Street NW, B255
Washington, DC 20005

Re: NIH FOIA Case No.: 53694,54171 & 54245; American Oversight v. NIH, 20-cv-01063

Dear Mr. Evers:

This is an amended response to several Freedom of Information Act (FOIA) requests that are the subject of the Complaint filed in American Oversight v. NIH, 20-cv-01063, now pending in the U.S. District Court for the District of Columbia. Your FOIA request 53694, dated March 5, 2020, was received by the National Institutes of Health (NIH) on the same day. Your FOIA request 54245, dated March 2, 2020, was received by the National Institutes of Health (NIH) on the same day. Your FOIA request 54171, dated March 3, 2020, was received by NIH on the same day.

In case 53694, you requested all email communications between Dr. Fauci or anyone serving as White House Liaison or agency point of contact for the coronavirus task force, and the following Executive Office of the President officials: Mike Pence, Robert O'Brien, Matthew Pottinger, Robert Blair, Joseph Grogan, Christopher Liddell, Larry Kudlow, Deborah Birx, Katie Miller and Kelvin Droegmeier. Upon further review, I have determined to release additional portions of the enclosed pages. I have determined to withhold portions of the enclosed pages under FOIA exemptions (b)(4), (b)(5) and (b)(6). The information being withheld is protected from release pursuant to Exemptions 4, 5 and 6 of the FOIA, 5 U.S.C. § 552 (b)(4), (b)(5) and (b)(6); and sections 5.31(d), (e) and (f) of the HHS FOIA Regulations, 45 CFR Part 5. Exemption 4 protects from disclosure trade secrets and commercial or financial information that is privileged and confidential. Exemption 5 permits the withholding of internal government records which are pre-decisional and contain staff advice, opinion, and recommendations, as well as documents solicited and received by the President or his immediate White House advisers who have broad and significant responsibility for investigating and formulating the advice to be given to the President. Exemption 6 permits the withholding of privacy information, the release of which would constitute a clearly unwarranted invasion of personal privacy.

In case 54171, you requested all final directives, orders, decision memoranda, or guidance provided by HHS leadership – both by the Office of the Secretary and the head offices of HHS components, including the Centers for Disease Control and Prevention (CDC), the National

Institute of Health (NIH), the National Institute of Allergy and Infectious Diseases (NIAID), or the Food and Drug Administration (FDA) – regarding public statements, public appearances, website changes or updates, or communications or press strategy on the coronavirus, COVID-19. This request includes but is not limited to any final directives, orders, decision memoranda, or guidance originating within HHS or components that were sent to other agencies on this topic. Upon further review, I have determined to release additional portions of the enclosed pages. I have determined to withhold portions of the enclosed pages under FOIA exemptions (b)(5) and (b)(6). The information being withheld is protected from release pursuant to Exemptions 5 and 6 of the FOIA, 5 U.S.C. § 552 (b)(5) and (b)(6); and sections 5.31(e) and (f) of the HHS FOIA Regulations, 45 CFR Part 5. Exemption 5 permits the withholding of internal government records which are pre-decisional and contain staff advice, opinion, and recommendations, as well as documents solicited and received by the President or his immediate White House advisers who have broad and significant responsibility for investigating and formulating the advice to be given to the President. Exemption 6 permits the withholding of privacy information, the release of which would constitute a clearly unwarranted invasion of personal privacy.

In case 54245 you requested all final directives, orders, decision memoranda, or guidance from President Trump, Vice President Pence, or any staff of the Executive Office of the President (including anyone on White House Staff, in the Office of the Vice President, or on the staff of the National Security Council) regarding public statements, public appearances, website updates or changes, or communications or press strategy on the coronavirus, COVID-19. Upon further review, I have determined to release additional portions of the enclosed pages. I have determined to withhold portions of the enclosed pages under FOIA exemptions (b)(5) and (b)(6). The information being withheld is protected from release pursuant to Exemptions 5 and 6 of the FOIA, 5 U.S.C. § 552 (b)(5) and (b)(6); and sections 5.31(e) and (f) of the HHS FOIA Regulations, 45 CFR Part 5. Exemption 5 permits the withholding of internal government records which are pre-decisional and contain staff advice, opinion, and recommendations, as well as documents solicited and received by the President or his immediate White House advisers who have broad and significant responsibility for investigating and formulating the advice to be given to the President. Exemption 6 permits the withholding of privacy information, the release of which would constitute a clearly unwarranted invasion of personal privacy.

Please direct any questions regarding this response to Amy Powell of the Department of Justice, at Amy.Powell@usdoj.gov.

Sincerely,

for
Gorka Garcia-Malene
Freedom of Information Officer, NIH

From: [Myles, Renate \(NIH/OD\) \[E\]](#)
To: [Collins, Francis \(NIH/OD\) \[E\]](#); [Tabak, Lawrence \(NIH/OD\) \[E\]](#); [Schwetz, Tara \(NIH/OD\) \[E\]](#); [Wolinetz, Carrie \(NIH/OD\) \[E\]](#); [Hallett, Adrienne \(NIH/OD\) \[E\]](#)
Cc: [Burklow, John \(NIH/OD\) \[E\]](#)
Subject: FOR AWARENESS: TF press conference today
Date: Tuesday, February 25, 2020 12:15:49 PM
Attachments: [2.25.20 addition language.docx](#)

Hi all:

You may already know but there is a press conference planned for later today (currently 3 p.m., but may change) with the task force. Focus seems to be on quarantine (see attached).

Renate

From: Billet, Courtney (NIH/NIAID) [E] (b) (6)
Sent: Tuesday, February 25, 2020 12:10 PM
To: Burklow, John (NIH/OD) [E] (b) (6); Myles, Renate (NIH/OD) [E] (b) (6); Stover, Kathy (NIH/NIAID) [E] (b) (6)
Cc: Routh, Jennifer (NIH/NIAID) [E] (b) (6)
Subject: FW: TF press conference today

Sharing. Plan still taking shape but right now they are aiming for a 3pm press conf at HHS. It's an HHS-only press briefing, not a task force press briefing.

From: Brennan, Patrick (OS/ASPA) (b) (6)
Sent: Tuesday, February 25, 2020 12:06 PM
To: Stecker, Judy (OS/IOS) (b) (6)
Cc: Oakley, Caitlin B. (OS/ASPA) (b) (6); Murphy, Ryan (OS/ASPA) (b) (6); Conrad, Patricia (NIH/NIAID) [E] (b) (6); Bonds, Michelle E. (CDC/OD/OADC) (b) (6); Galatas, Kate (CDC/OD/OADC) (b) (6); Billet, Courtney (NIH/NIAID) [E] (b) (6); Michael, Gretchen (OS/ASPR/OEA) (b) (6); Janik, Heather (FDA/OC) (b) (6); Caliguiri, Laura (FDA/OC) (b) (6); McKeogh, Katherine (OS/ASPA) (b) (6); Pratt, Michael (OS/ASPA) (b) (6); Hall, Bill (HHS/ASPA) (b) (6); Lepore, Loretta (CDC/OD/OCS) (b) (6)
Subject: RE: TF press conference today

Taking non-HHS off – below is the topics I think it'd make sense for everyone to cover. Given the number of people, trying to keep remarks to about 3 minutes a piece I think would be ideal.

Let me know if you have any concerns/questions about the below.

Secretary Azar—overall status update: case #s, preparation for mitigation/community spread, supplemental

Dr. Schuchat—update on epidemiology, (b) (5)
(see attached for some language we had drafted)

Dr. Fauci—updated on vaccine and therapeutic development

Dr. Kadlec—recap/explain preparation efforts/whatever else ASPR is working on

Commissioner Hahn—supply chain monitoring, anything on vaccines, therapeutics, or diagnostics

From: Stecker, Judy (OS/IOS) (b) (6)
Sent: Tuesday, February 25, 2020 10:46 AM
To: Semmel, Rachel K. EOP/OMB (b) (6)
Cc: Oakley, Caitlin B. (OS/ASPA) (b) (6); Murphy, Ryan (OS/ASPA) (b) (6); Bars, Michael (b) (6);

Wilson, John Mark M. EOP/NSC (b) (6); Conrad, Patricia (NIH/NIAID) [E]
(b) (6); Deere, Judd P. EOP/WHO (b) (6); Ortagus,
Morgan D (b) (6); Brown, Cale (b) (6); Bonds, Michelle E.
(CDC/OD/OADC) (b) (6); Galatas, Kate (CDC/OD/OADC) (b) (6); Billet, Courtney
(NIH/NIAID) [E] (b) (6); Michael, Gretchen (OS/ASPR/OEA)
(b) (6); Janik, Heather (FDA/OC) (b) (6); Ditto, Jessica
E. EOP/WHO (b) (6); Caliguiri, Laura (FDA/OC)
(b) (6); Brennan, Patrick (OS/ASPA) (b) (6); McKeogh,
Katherine (OS/ASPA) (b) (6); Pratt, Michael (OS/ASPA)
(b) (6); Hall, Bill (HHS/ASPA) (b) (6)

Subject: Re: TF press conference today

Is there someone else from OMB who can participate? Given the supplemental news that is probably going to be a focus would be good to have someone.

Sent from my iPhone

On Feb 25, 2020, at 10:43 AM, Semmel, Rachel K. EOP/OMB
(b) (6) wrote:

Hey there, I don't think (b) (5) can make it. Plan on him not being there. I'll let you know if that changes.

Rachel Semmel

Director of Communications

The White House, Office of Management and Budget

(b) (6) work

(b) (6) cell (Cannot receive text)

From: Oakley, Caitlin B. (OS/ASPA) (b) (6)

Sent: Tuesday, February 25, 2020 9:24 AM

To: Murphy, Ryan (OS/ASPA) (b) (6); Bars, Michael
(b) (6); Wilson, John Mark M.
EOP/NSC (b) (6); Conrad, Patricia (NIH/NIAID) [E]
(b) (6); Deere, Judd P. EOP/WHO
(b) (6); Ortagus, Morgan D (b) (6);
Brown, Cale (b) (6); Bonds, Michelle E. (CDC/OD/OADC)
(b) (6); Galatas, Kate (CDC/OD/OADC) (b) (6); Billet, Courtney
(NIH/NIAID) [E] (b) (6); Michael, Gretchen (OS/ASPR/OEA)
(b) (6); Janik, Heather (FDA/OC) (b) (6);
Semmel, Rachel K. EOP/OMB (b) (6); Ditto, Jessica E.
EOP/WHO (b) (6); Caliguiri, Laura (FDA/OC)
(b) (6)
Cc: Stecker, Judy (OS/IOS) (b) (6); Brennan, Patrick (OS/ASPA)
(b) (6); McKeogh, Katherine (OS/ASPA)
(b) (6); Pratt, Michael (OS/ASPA) (b) (6);
Hall, Bill (HHS/ASPA) (b) (6)

Subject: RE: TF press conference today

Hi everyone—The press conference would be at HHS at 3pm.

We are hoping the following principals could participate:

DHS—Acting Deputy Secretary Cuccinelli

NIH—NIAID Director Fauci

State—Deputy Secretary Biegun

CDC—Principal Deputy Director Dr. Schuchat

ASPR—Dr. Kadlec

OMB—(b) (5)

FDA—Commissioner Hahn

Please let us know if your principal is available and we'll set up a pre-call with comms folks.

Thank you,

Caitlin B. Oakley

Deputy Assistant Secretary, National Spokesperson

Office of the Assistant Secretary for Public Affairs

U.S. Department of Health and Human Services

(b) (6)

From: Murphy, Ryan (OS/ASPA) (b) (6)

Sent: Tuesday, February 25, 2020 9:12 AM

To: Bars, Michael (b) (6); John Mark

Wilson (b) (6) Conrad, Patricia

(NIH/NIAID) [E] (b) (6); Deere, Judd P. EOP/WHO

(b) (6); Ortagus, Morgan D (b) (6);

Brown, Cale (b) (6); Bonds, Michelle E. (CDC/OD/OADC)

(b) (6); Galatas, Kate (CDC/OD/OADC) (b) (6); Billet, Courtney

(NIH/NIAID) [E] (b) (6); Michael, Gretchen (OS/ASPR/OEA)

(b) (6); Janik, Heather (FDA/OC) (b) (6);

Semmel, Rachel K. EOP/OMB (b) (6)

(b) (6)

Cc: Oakley, Caitlin B. (OS/ASPA) (b) (6); Stecker, Judy (OS/IOS)

(b) (6); Brennan, Patrick (OS/ASPA) (b) (6);

McKeogh, Katherine (OS/ASPA) (b) (6); Pratt, Michael

(OS/ASPA) (b) (6); Hall, Bill (HHS/ASPA) (b) (6)

Subject: TF press conference today

Good Morning – apologies for the short notice, but we are looking to setup a Task Force press conference today at HHS – likely around 3PM. Main topics would be an update on the response and the recent announcement of a supplemental; we are working to keep Americans safe, doing everything to prepare.

Please let me know as soon as possible whether you have any hard conflicts with an afternoon timeframe. We will put a call on the calendar to discuss further.

Thanks,

Ryan

Room 629H, Humphrey Building
Office: (b) (6)
Cell: (b) (6)

From: Joyce, Shannon M. EOP/OMB (b) (6)
Sent: Friday, March 13, 2020 10:51 AM
To: Horska, Katerina (HHS/IOS) (b) (6); Robinson, Wilma (HHS/IOS) (b) (6)
Subject: State Public Affairs Guidance - ALDAC
Importance: High

Colleagues,

Attached for review under Executive Order 12866 is draft State cable (ALDAC) on **guidance for Embassy public affairs sections worldwide.**

(b) (5)

Please provide any edits or concerns no later than 1PM today. We may not be able to accept any late comments.

Best,

Shannon

Shannon Joyce

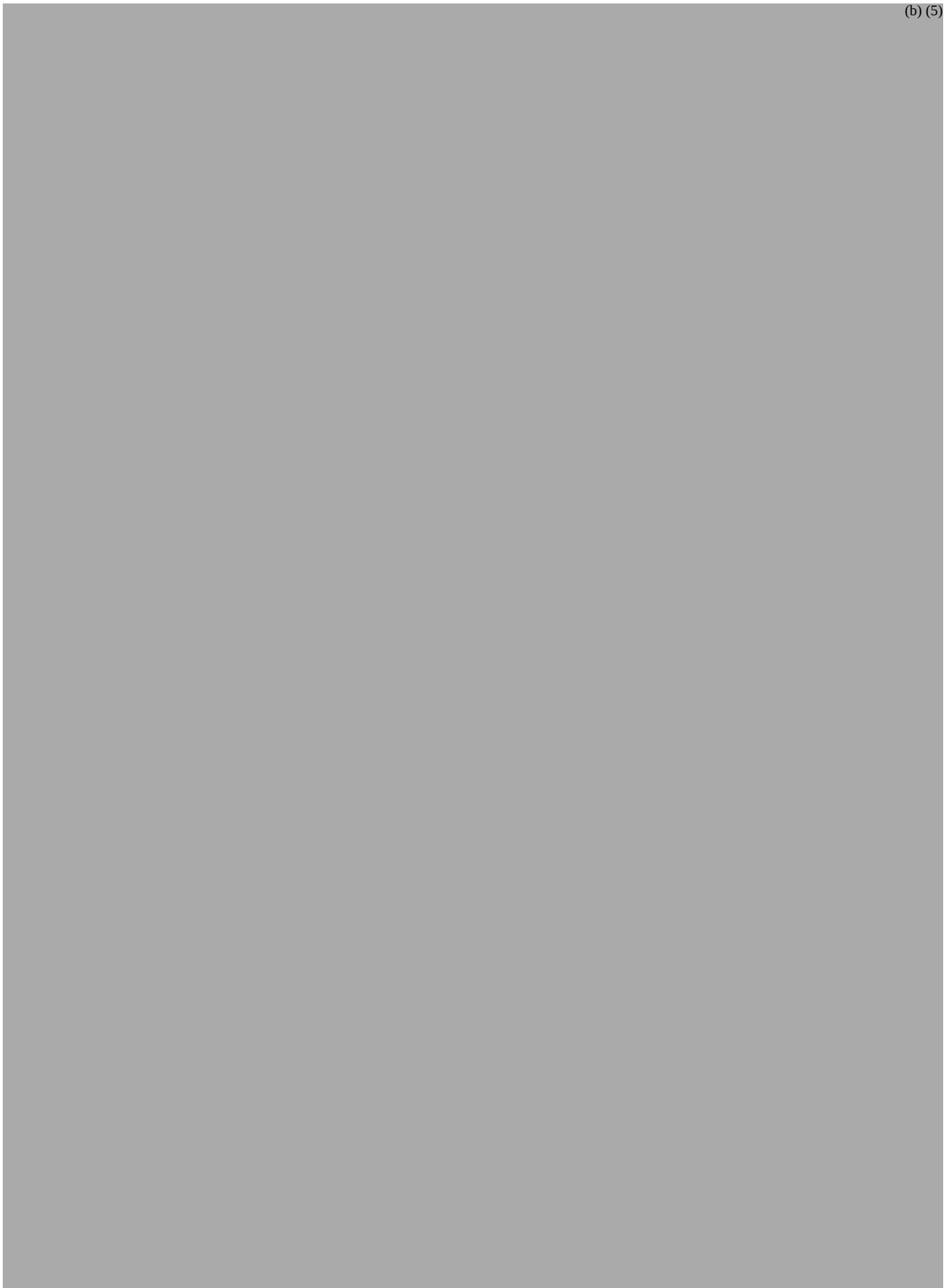
OMB | Office of Information & Regulatory Affairs (OIRA)

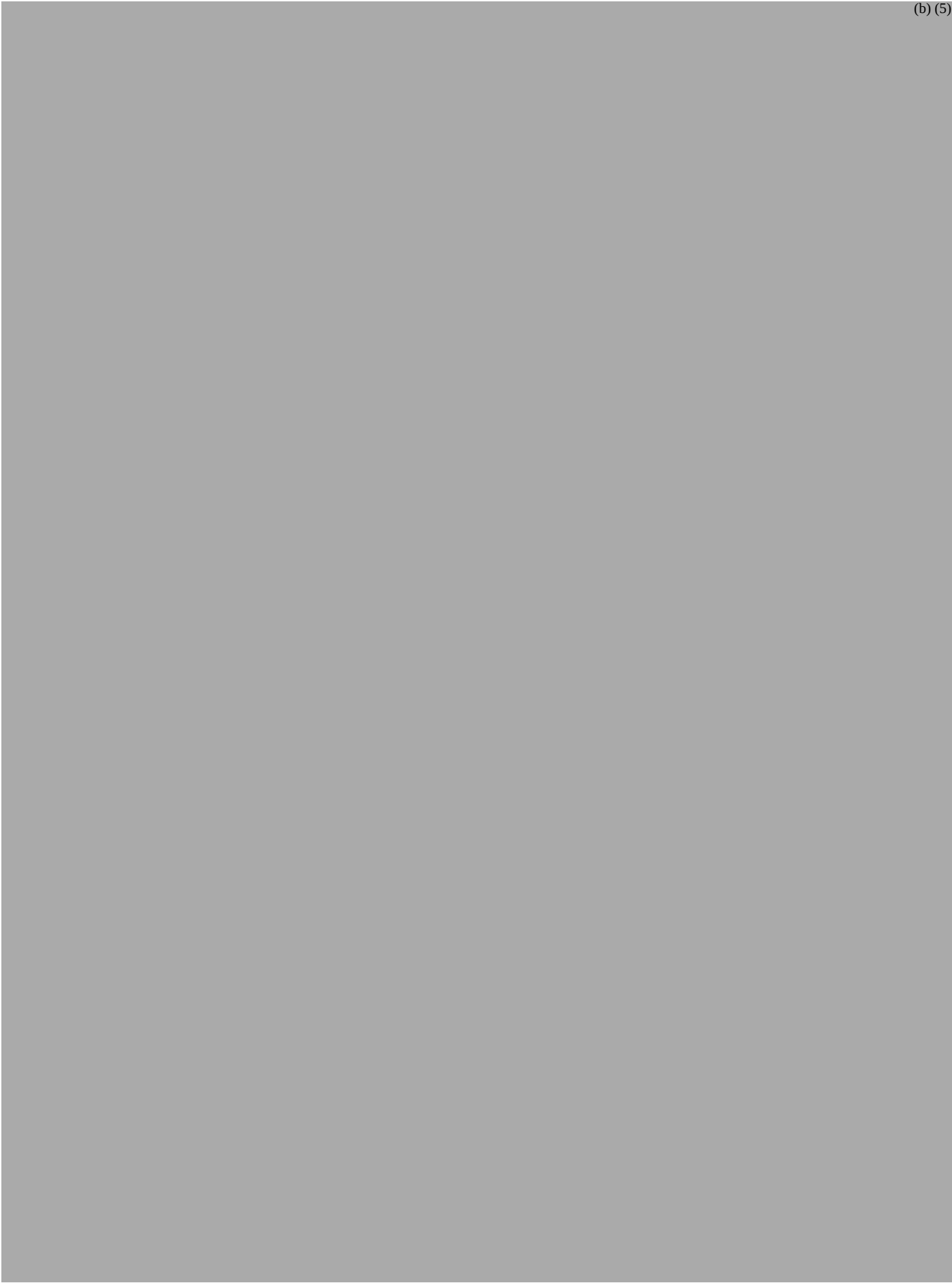
(b) (6) (o) | (b) (6) (c)

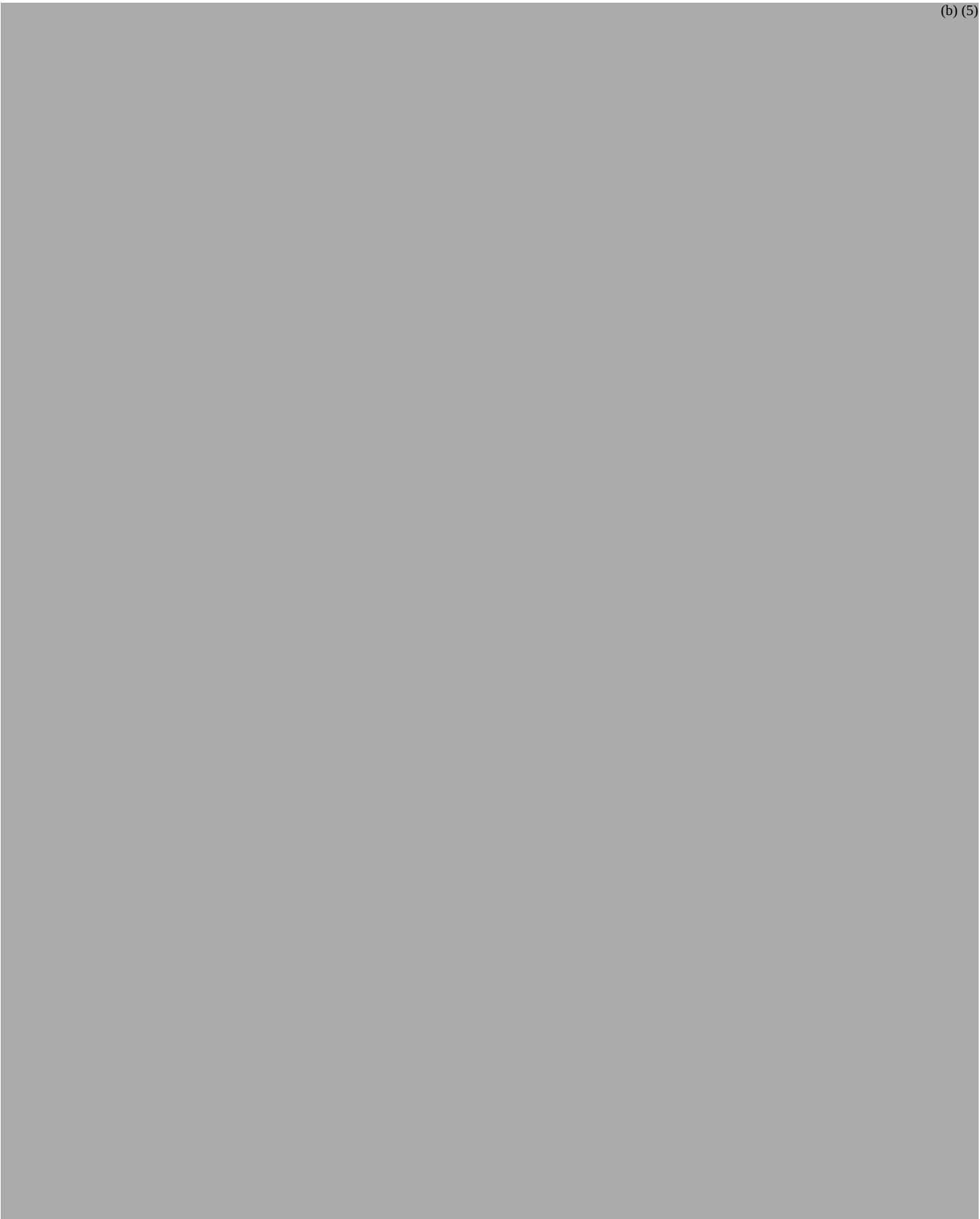
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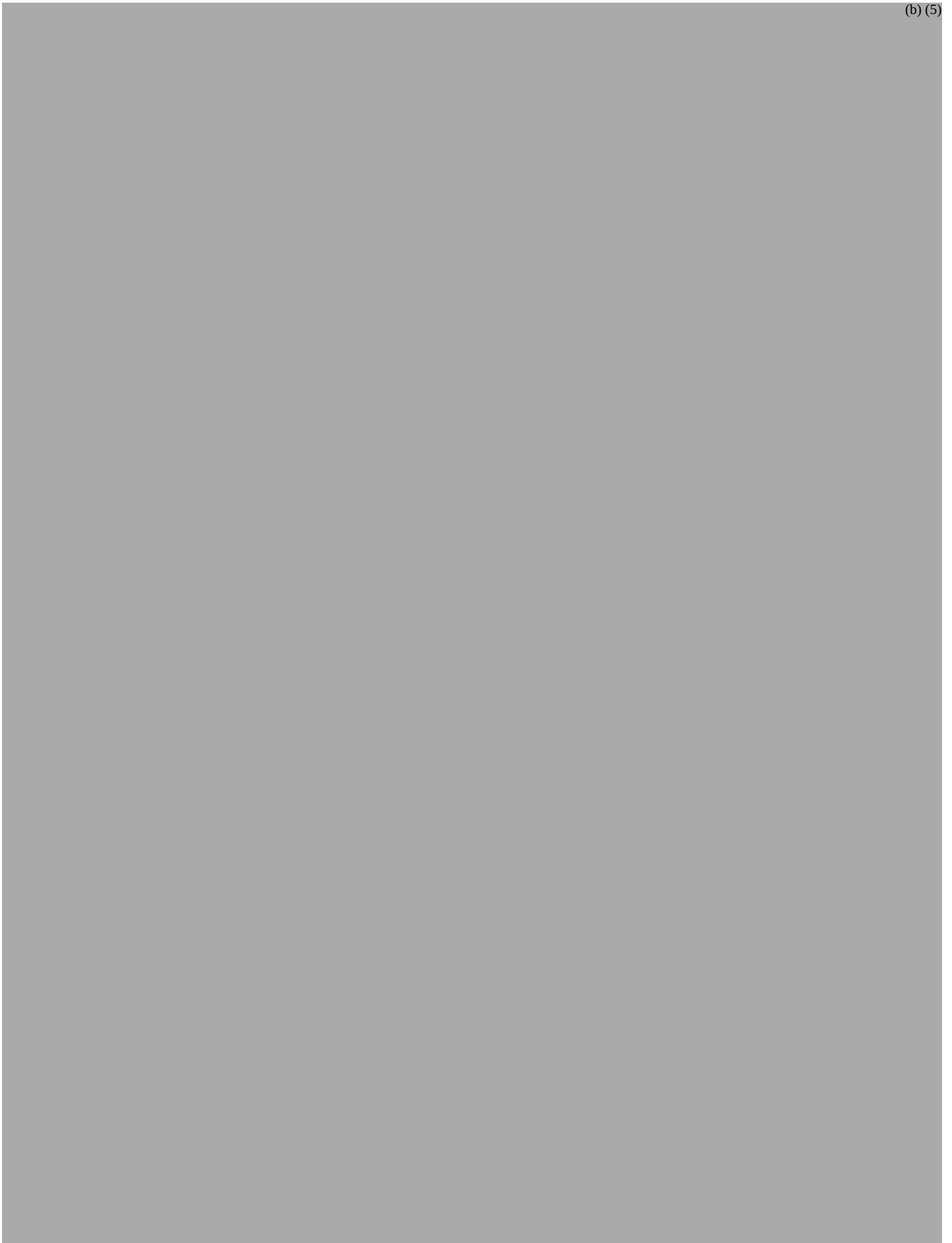
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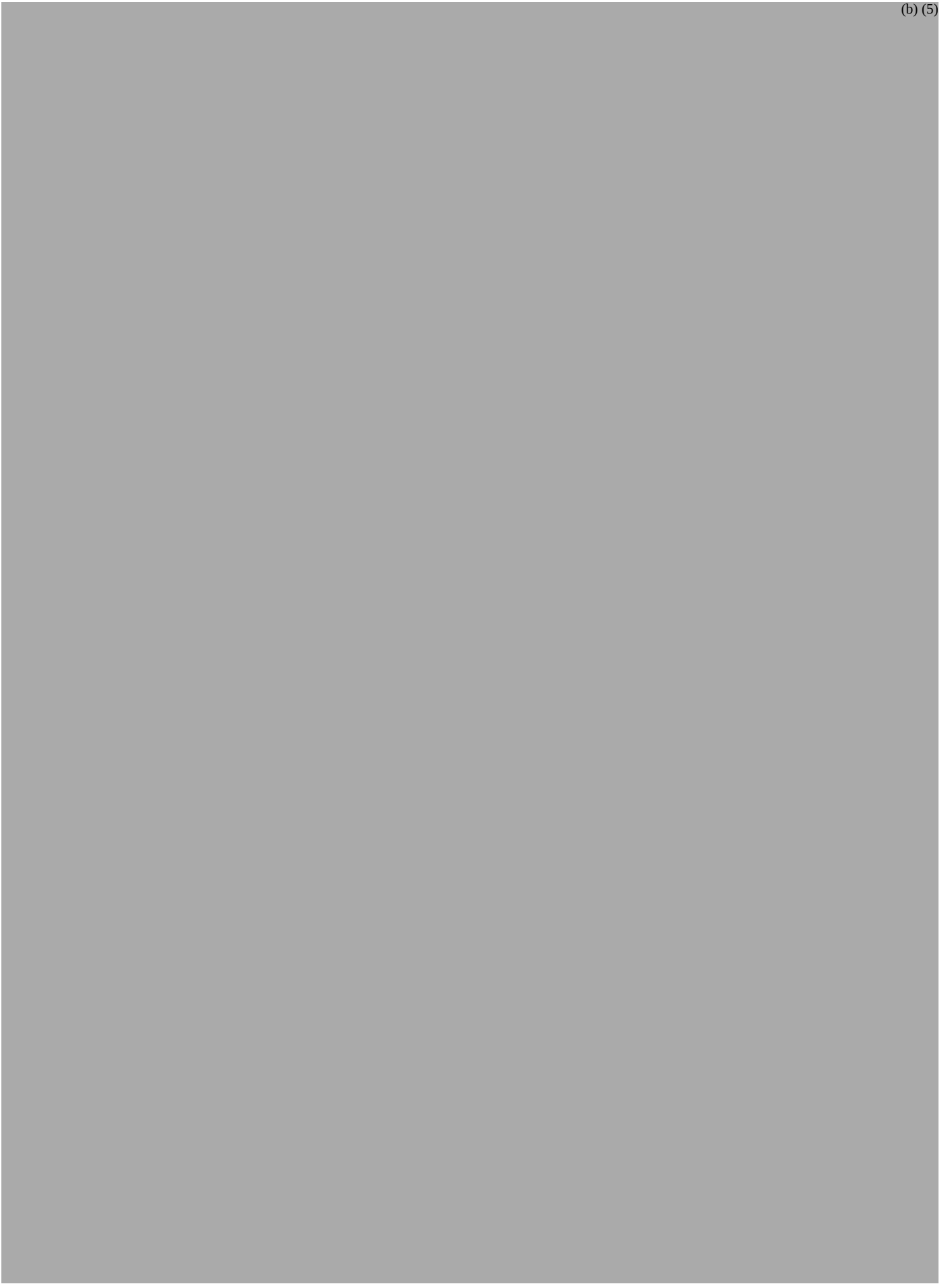
T-Net: (b) (6)

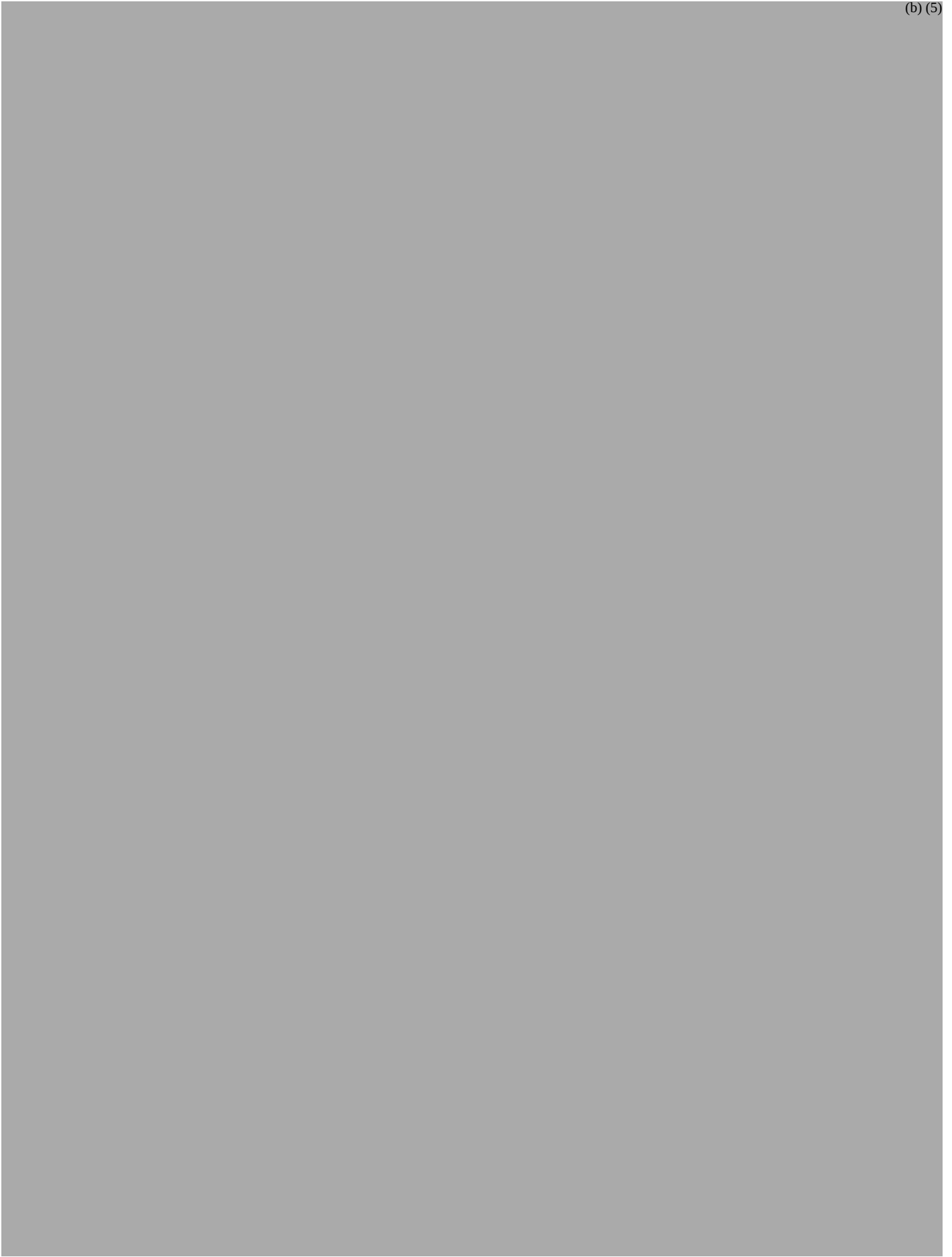


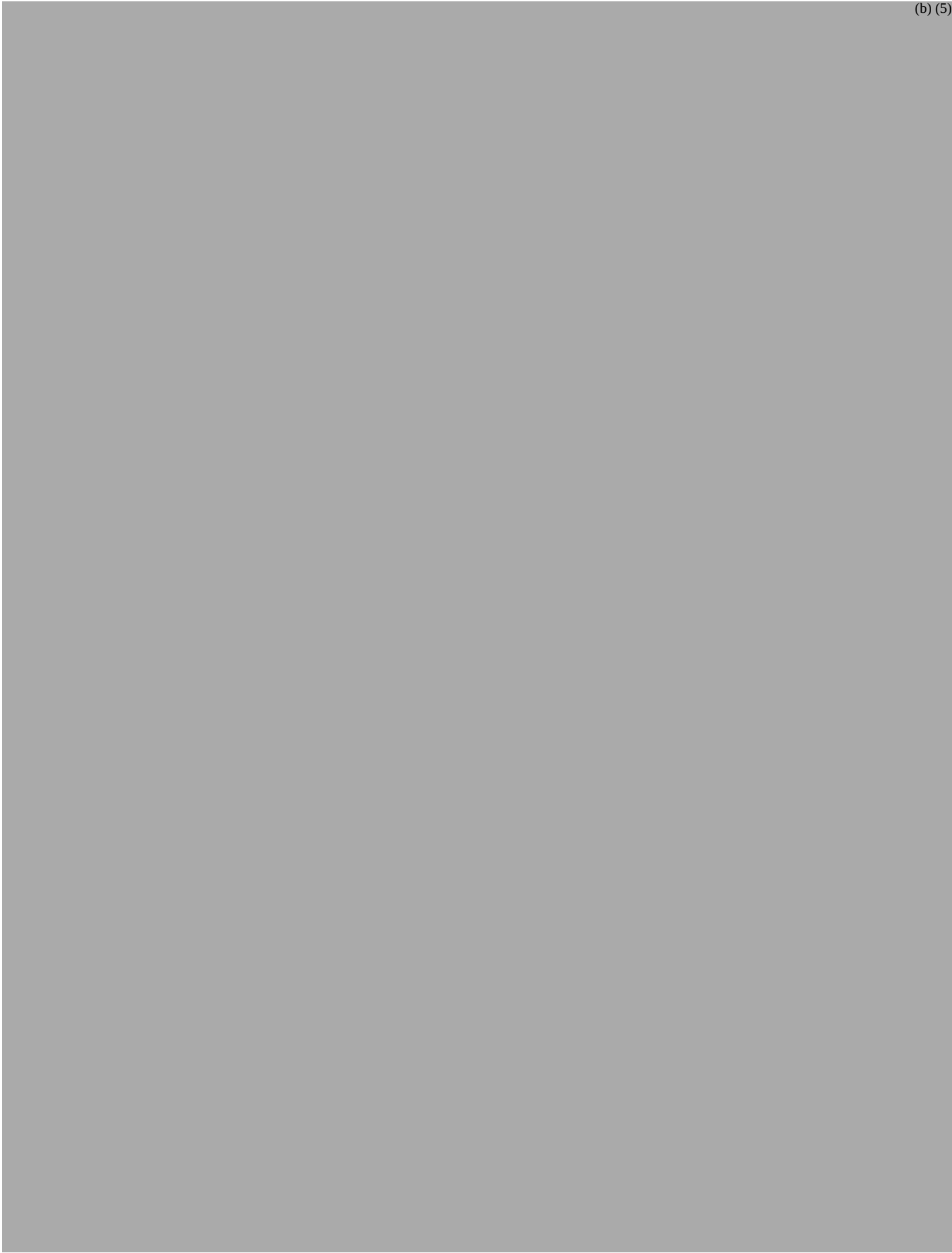


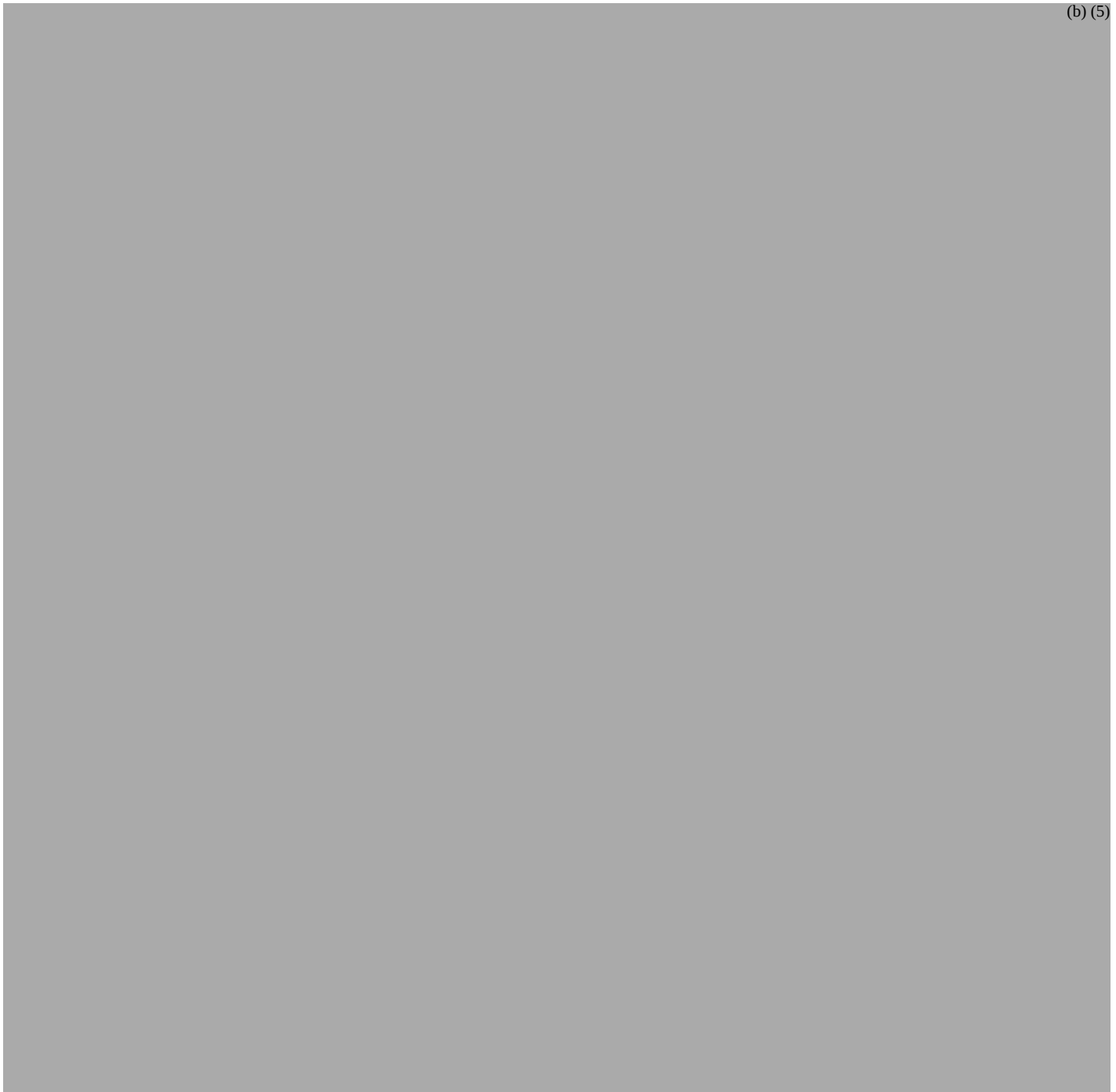
















(b) (6), "Keene,
Danyail S. (CMS/OL)"
(b) (6), "Shuy, Caitrin
(HHS/ASFR)" (b) (6),
"Atkinson, Leslie (HRSA)"
(b) (6), "Mango, Paul
(HHS/IOS)" (b) (6), "Destro,
Brenda (HHS/ASPE)" (b) (6)
Cc: "Morse, Sara (HHS/ASL)"
(b) (6), "Armstrong, Rebekah
(HHS/ASL)" (b) (6),
"Pence, Laura (HHS/ASL)"
(b) (6), "Twomey, John K.
(HHS/ASL)" (b) (6), "Vitek,
Traci (HHS/ASL)" (b) (6),
"Moughalian, Jen (HHS/ASFR)"
(b) (6), "Stecker, Judy
(OS/IOS)" (b) (6)
Subject: Pelosi - Mnuchin TA by 3pm

Attached is an OMB request for TA on the
Pelosi-Mnuchin bill.
Please share this with your divisions ASAP.
There is a very real chance this becomes law
next week, so now is the time to make
necessary changes technical corrections.
Please send CMS TA to Rebekah Armstrong
Human Services TA to Traci Vitek
Discretionary TA to Laura Pence

Begin forwarded message:

From: "Vaeth, Matt J. EOP/OMB"
(b) (6)
Date: March 15, 2020 at 9:40:32
AM EDT
To: "Arbes, Sarah (HHS/ASL)"
(b) (6),
"Blackwell, Edith (HHS/OGC)"
(b) (6),
"Pence, Laura (HHS/ASL)"
(b) (6), "Nelson,
Thayer (HHS/OGC)"
(b) (6),
"Friedman, Richard (HHS/OGC)"

(b) (6)

Cc: "Menard, Barbara A.
EOP/OMB"

(b) (6),

"Michelson-Horowitz, Daniel J.
EOP/OMB"

(b) (6)

(b) (6), "Reilly,

Tom M. EOP/OMB"

(b) (6),

"Sills, Sara R. EOP/OMB"

(b) (6),

"Wright, Sophia M. EOP/OMB"

(b) (6)

**Subject: HHS COLLEAGUES:
Please Review ASAP**

Good morning HHS colleagues.

**We have been asked to have
HHS review the language from
the House-passed HR 6201 for
any needed technical corrections
today.** It may surprise you that a

100+ page bill that was posted at
12:30AM and passed at 1AM
appears to have some technical
issues! :)

We understand that this effort is
being done for an expected
enrollment correction that would
pass the House on Monday
(tomorrow), so time is very critical
here. I don't have a hard and fast
deadline for review, but as early
as you can review and pass along
issues you have flagged today,
please do. For the sake of
expediency, when you have
comments ready please send
them to us and to the staff at
Treasury who were on the e-mails
on Friday where HHS responded;
we understand that Treasury is
leading the charge on this.

(b) (5)

(b) (5)

That said, if you identify any other technical issues that need to be corrected, please let us know about those as well.

I will be online if you have any questions. Thank you very, very much for this review.

--Matt

<COVID-19 Amendment Language 03142020 1126.pdf>

<A031320.047--6201EHMODIFIED.XML.pdf>

<FDSECSUSP_xml 2020.3.13.2345.pdf>

From: [Hallett, Adrienne \(NIH/OD\) \[E\]](#)
To: [NIH Director's Executive Committee](#)
Subject: Fwd: May Hearing Guidance
Date: Sunday, May 3, 2020 9:53:32 PM

FYI.

From: Yaworske, Jason A. EOP/OMB (b) (6)
Sent: Sunday, May 3, 2020 9:06 PM
Cc: Ueland, Eric M. EOP/WHO (b) (6); Hodgson, Christopher (ovp.eop.gov) (b) (6)
Subject: May Hearing Guidance
Importance: High

Agency legislative affairs teams,

With the April guidance expiring and Congress preparing to come back into session, we are providing updated guidance for how to approach hearing requests. This guidance is intended to last through May, but may be amended in the interim if Task Force duties allow.

(b) (5)

(b) (5)

Thank you, and please let us know if you have any questions.

Jason

Jason Yaworske
Associate Director for Legislative Affairs
Office of Management and Budget

(b) (6) (o)

(b) (6) (c)