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FBIHQ DIOG Training

FEDERAL BUREAU OF INVESTIGATION

OVERALL CLASSIFICATION:
UNCLASSIFIED

Session B - Quantico

**Sensitive Investigative Matters (SIM)
Undisclosed Participation (UDP)**

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DIOG Section 10, 16
Sensitive Investigative Matters (SIM)
Undisclosed Participation (UDP)

SSA ...

Division ...

– (Tel Number)

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Course Overview

Overall Training Objective:

Provide an instructional foundation on the DIOG and then apply the knowledge gained by using hypothetical examples and scenarios. Upon completing this course of instruction you should have a firm grasp of the concepts and principles underpinning the DIOG.

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Course Overview

Participation Standards:

Questions are welcome; however, if your question is about a specific set of facts that may divert the training objective, please direct your question to one of the Training team members at a break for a response.

During the scenario exercises, participants will be called upon to provide their response to particular facts or circumstances. Each Unit/Section should select a representative to speak for the Unit/Section and rotate that responsibility among the group. The scenarios are meant to prompt discussion, but the presenters must keep the scenario moving forward. Please understand that everyone may not be able to voice their perspective in the group setting. Keep in mind there may be several avenues to reach the same justified conclusion. You may use your handouts and training aids to inform your decision.

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DIOG Section 1: Scope & Purpose

- **DIOG applies to all investigative and intelligence collection activities conducted by the FBI**
 - within the United States
 - in the United States territories
 - outside the territories of all countries
- **DIOG does not apply to investigative and intelligence collection activities of the FBI in foreign countries**
 - governed by AGGs for Extraterritorial FBI Operations (national security and criminal)

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DIOG Section 1: Scope & Purpose

In addition to this policy document, each FBIHQ substantive Division has a Policy Implementation Guide (PG) that supplements the DIOG.

As a result, numerous FBI manuals, electronic communications, letterhead memoranda, and other policy documents are incorporated into the DIOG and Division PGs, thus, consolidating FBI policy guidance.

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DIOG Overview

The AGG-Dom replaces the following six guidelines:

- The Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations (May 30, 2002)
- The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (October 31, 2003)
- The Attorney General's Supplemental Guidelines for Collection, Retention, and Dissemination of Foreign Intelligence (November 29, 2006)
- The Attorney General Procedure for Reporting and Use of Information Concerning Violations of Law and Authorization for Participation in Otherwise Illegal Activity in FBI Foreign Intelligence, Counterintelligence or International Terrorism Intelligence Investigations (August 8, 1988).
- The Attorney General's Guidelines for Reporting on Civil Disorders and Demonstrations Involving a Federal Interest (April 5, 1976)
- The Attorney General's Procedures for Lawful, Warrantless Monitoring of Verbal Communications (May 30, 2002) [only portion applicable to FBI repealed]

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As of May 19, 2009

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Policy Environment for Domestic Operations

Constitution, Statutes, and Executive Orders

AG GUIDELINES (AGG-Dom)

Apply to domestic national security and criminal investigative activities, including interagency coordination and intelligence analysis.

FBI's Domestic Investigations and Operations Guide (DIOG)

Program Policy Implementation Guides

Program
Guide

Program
Guide

Program
Guide

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DIOG: Table of Contents

1. Scope and Purpose	→ 10. Sensitive Investigative Matter
2. General Authorities and Principles	11. Investigative Methods
3. Core Values, Roles and Responsibilities	12. Assistance to Other Agencies
4. Privacy and Civil Liberties, and Least Intrusive Methods	13. Extraterritorial Provisions
5. Assessments	14. Retention and Sharing of Information
6. Preliminary Investigations	15. Intelligence Analysis and Planning
7. Full Investigations	→ 16. Undisclosed Participation
8. Enterprise Investigations	17. Otherwise Illegal Activity
9. Foreign Intelligence	Appendices



DIOG Overview

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The Test...

50 questions

- Multiple Choice**
- True/False**

**** Max 20 mins each question***

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DIOG Overview

Taking the test...

- Access to testing site
- Materials
 - DIOG
 - Charts
 - PowerPoint slides
 - Notes

**** Max 20 mins each question***

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DIOG Section 6: Preliminary Investigations

Overview:

Certain investigative matters should be brought to the attention of FBI management and DOJ officials because of the possibility of public notoriety and sensitivity. Accordingly, assessments and predicated investigations involving "sensitive investigative matters" have special approval and reporting requirements.

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DIOG Section 10: Sensitive Investigative Matter

- **Investigations and Assessments are deemed "sensitive" when they involve activities of:**
 - A domestic public official (corruption or nat'l security threat)
 - A political candidate (corruption or nat'l security threat)
 - A religious or political organization or individual prominent in such organization (as either a victim or the subject of the assessment or investigation)
 - News media
 - Matters having an academic nexus (FBI policy)
 - Any other matter which should be brought to the attention of FBIHQ or DOJ, in the judgment of authorizing official

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DIOG Section 10: Sensitive Investigative Matter

- **Domestic Public Official Defined:**

An individual elected or appointed to a position of trust in a federal, state, local or tribal government entity or political subdivision thereof. A matter involving a domestic public official is a sensitive investigative matter if the assessment or predicated investigation involves **corruption** or a **threat to the national security**.

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DIOG Section 10: Sensitive Investigative Matter

- **Corruption Defined:**

Typically involves payment of bribes, kickbacks or other things of value in exchange for official action or inaction with respect to the public official's duties.

- **Threat to the National Security Defined:**

International terrorism; espionage and other intelligence activities, sabotage, and assassination, conducted by, for, or on behalf of foreign powers, organizations, or persons; foreign computer intrusion; and other matters determined by the Attorney General, consistent with E.O. 12333.

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DIOG Section 10: Sensitive Investigative Matter

- **Political Candidate Defined:**

An individual who is seeking election to, or nomination for election to, or who has authorized others to explore on his or her behalf the possibility of election to, an office in a federal, state, local or tribal governmental entity or political subdivision thereof. As with domestic public officials, a matter involving a political candidate is a sensitive investigative matter if the assessment or predicated investigation involves corruption or a threat to the nation security.

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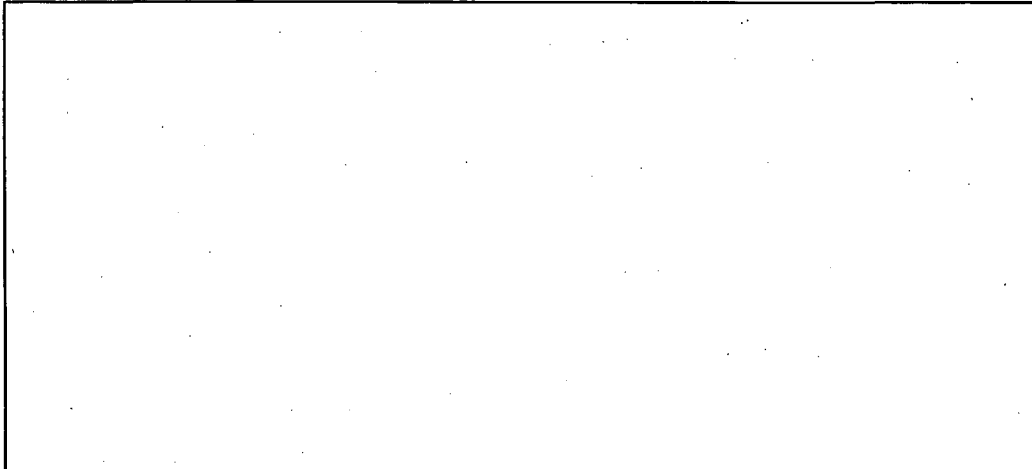
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DIOG Section 10: Sensitive Investigative Matter

- **Political Organization or Individual Prominent is
such an Organization Defined:**



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DIOG Section 10: Sensitive Investigative Matter

- **Religious Organization or Individual
Prominent in such an Organization Defined:**

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DIOG Section 10: Sensitive Investigative Matter

- **Member of Media or News Organization Defined:**

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- **Refer to the DIOG Classified Appendix for additional guidance**

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DIOG Section 10: Sensitive Investigative Matter

- **Other Matters Defined:**
 - **Any matter that in the judgment of the official authorizing an investigation that should be brought to the attention of FBIHQ and other DOJ officials.**
 - **As a matter of FBI policy, “judgment” means the decision of the authorizing official is discretionary.**

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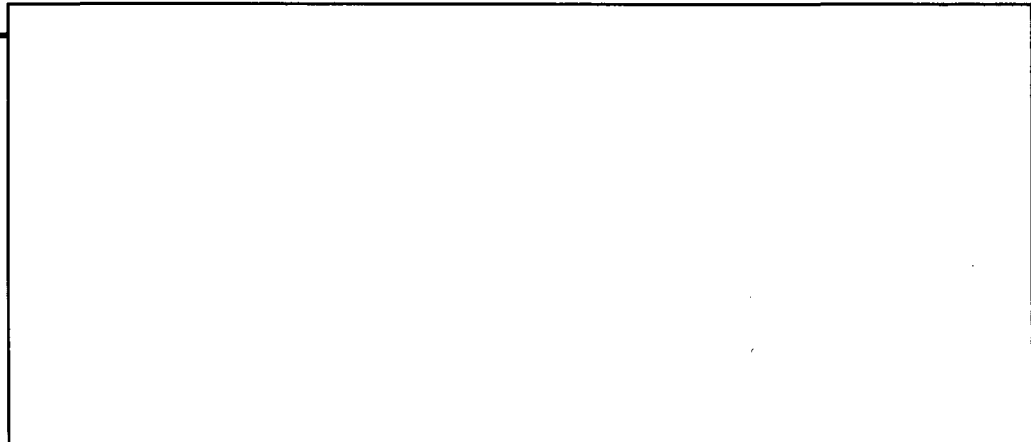
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DIOG Section 10: Sensitive Investigative Matter

- **Academic Nexus Defined:**



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- **Refer to the DIOG Classified Appendix for Additional Guidance**

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DIOG Section 10: Sensitive Investigative Matter

- **Factors to Consider (FBI employee, CDC/OGC, Approving Official):**
 - Seriousness/severity of the violation/threat;
 - Significance of information sought to the violation/threat;
 - Probability that that proposed course of action will be successful;
 - Risk of public exposure, and if there is such a risk, the adverse impact or the perception of the adverse impact on civil liberties and public confidence; and
 - Risk to the national security of public welfare if the proposed course of action is not approved (i.e., risk of doing nothing.
- **Least Intrusive Method Feasible**

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DIOG Section 10: Sensitive Investigative Matter

- **Types 1 and 2 Assessments:**

If sensitive investigative matter develops after initiating Assessment – obtain CDC Review and SAC approval “as soon as practicable.”

FBIHQ notification is not required.

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DIOG Section 10: Sensitive Investigative Matter

- **Types 3, 4, and 6 Assessments:**

If sensitive investigative matter circumstances are known to exist before initiating assessment – prior CDC review and SAC approval are required.

If SIM circumstances develop after initiating assessment – investigative activities must stop until CDC review and SAC approval have been obtained.

FBIHQ notification is not required.

All Type 6 Assessments require prior FBIHQ CMS approval. If a sensitive investigative matter arises after initiation of Type 6 Assessment, notice must be provided to FBIHQ CMS.

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DIOG Section 10: Sensitive Investigative Matter

- **Predicated Investigations (PIs and FIs):**
 - Prior CDC review and SAC approval required
 - Written notification to the appropriate FBIHQ Unit Chief and Section Chief
 - Notice to United States Attorney's Office, if applicable
 - FBIHQ Section must provide written notification to DOJ Criminal Division or NSD no later than 30 calendar days after initiation
 - See DIOG Classified Annex for [REDACTED]

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DIOG Section 10: Sensitive Investigative Matter

- **A Sensitive Operations Review Committee**

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DIOG Section 10: Sensitive Investigative Matter

- **Sensitive Monitoring Circumstance:**
- **Consensual monitoring of communications when a sensitive monitoring circumstance is involved requires approval by the DOJ Criminal Division or, if the investigation concerns foreign intelligence or a threat to the national security, by the DOJ National Security Division**
- **A Sensitive Monitoring Circumstance includes electronic monitoring in an:**
 - **Investigation of a member of Congress, a federal judge, a member of the Executive Branch at Level IV or above, or a person having served in such capacity in the previous two years (continued on next slide)**

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DIOG Section 10: Sensitive Investigative Matter

- **A Sensitive Monitoring Circumstance includes (cont.):**
 - Investigation of the governor, lieutenant governor, or attorney general of any state or territory, or a judge or justice of the highest court of any state or territory, concerning an offense involving bribery conflict of interest, or extortion
 - A party to the communications in the custody of the Bureau of Prisons or the U.S. Marshal Service or is being or has been afforded protection in the Witness Security Program
 - Any occasion where the U.S. Attorney General, the Deputy Attorney General, or an Assistant Attorney General has requested the FBI to obtain prior approval for the use of consensual

monitoring in a specific investigation

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SIM Example

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SIM Example

Scenarios:

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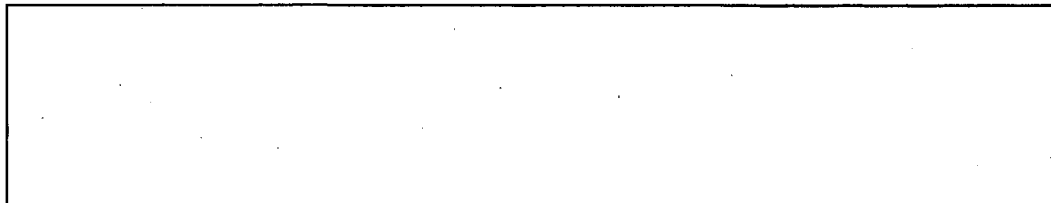


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SIM Example

Scenarios: *cont'd*

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Does this example meet the standard of a SIM?

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DIOG Section 16: Undisclosed Participation

Overview:

Undisclosed participation (UDP) takes place when anyone acting on behalf of the FBI, including but not limited to an FBI employee or confidential human source (CHS), becomes a member or participates in the activity of an organization on behalf of the U.S. Government without disclosing FBI affiliation to an appropriate official of the organization

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DIOG Section 16: Undisclosed Participation

- Policy driven by EO 12333
- AGG-Dom required a UDP policy and AG approval of that policy
- FBI Policy seeks uniformity in National Security Investigations and Criminal investigations



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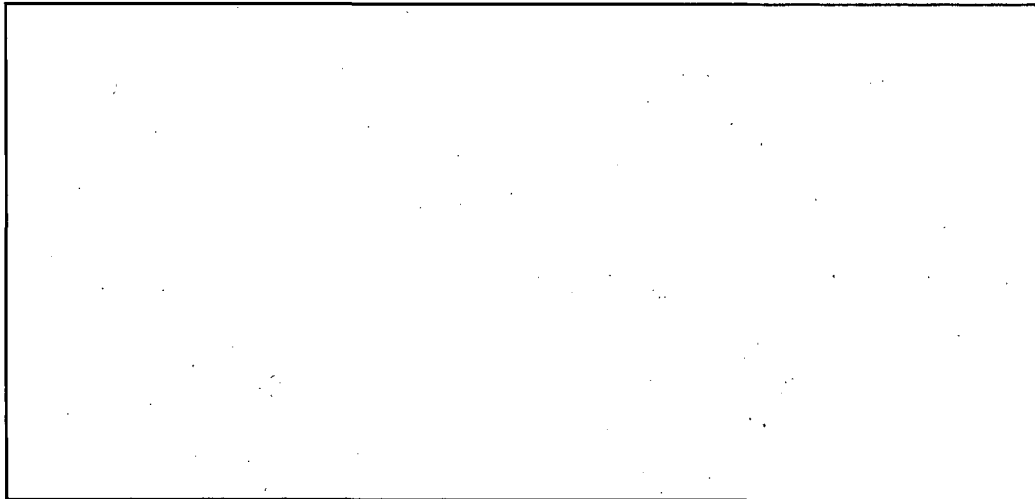
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DIOG Section 16: Undisclosed Participation



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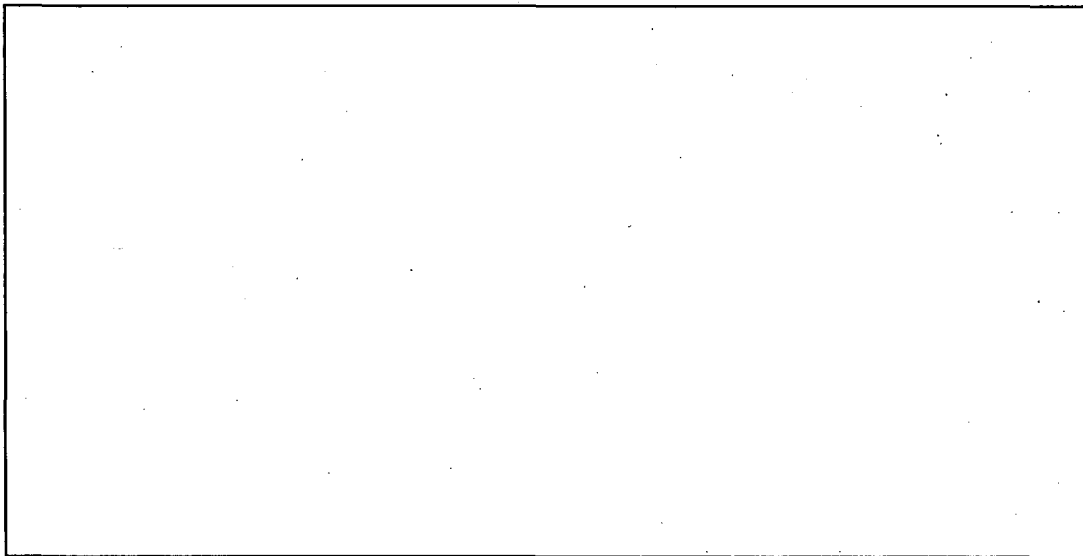
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DIOG Section 16: Undisclosed Participation



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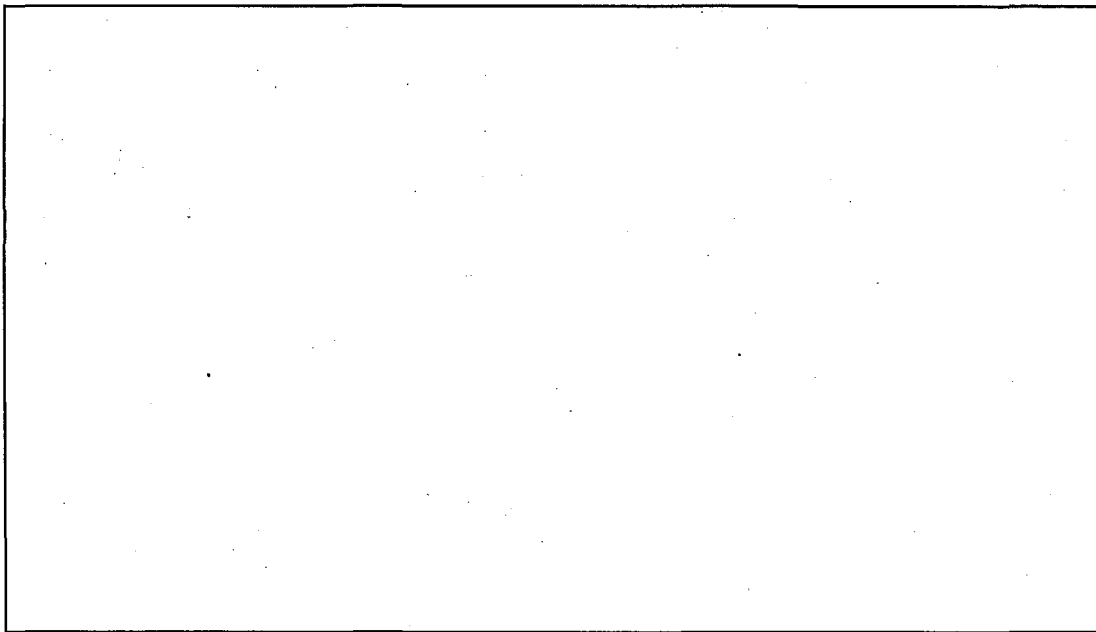
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DIOG Section 16: Undisclosed Participation



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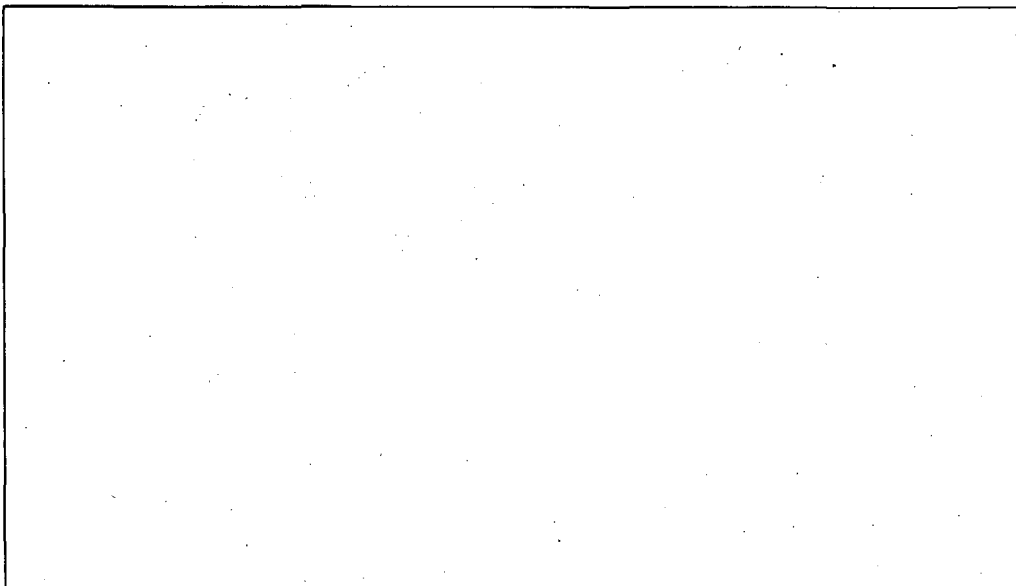
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DIOG Section 16: Undisclosed Participation



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DIOG Section 16: Undisclosed Participation

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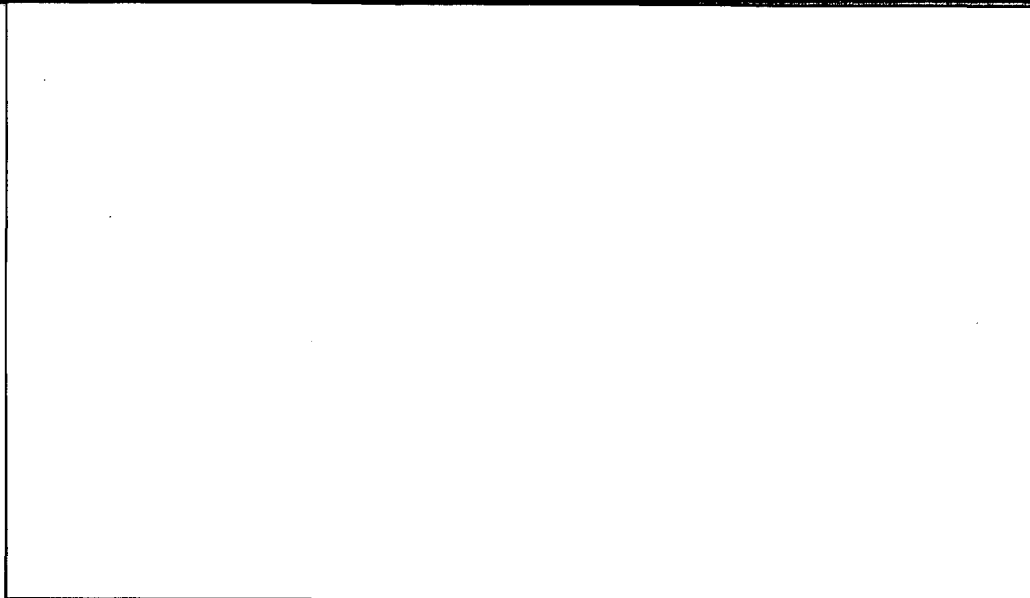
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DIOG Section 16: Undisclosed Participation



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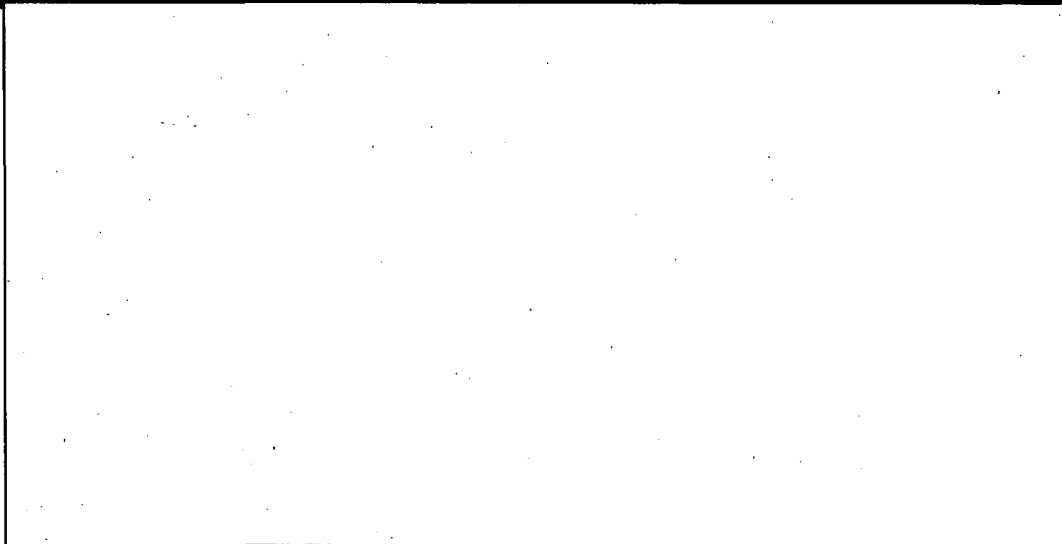
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DIOG Section 16: Undisclosed Participation



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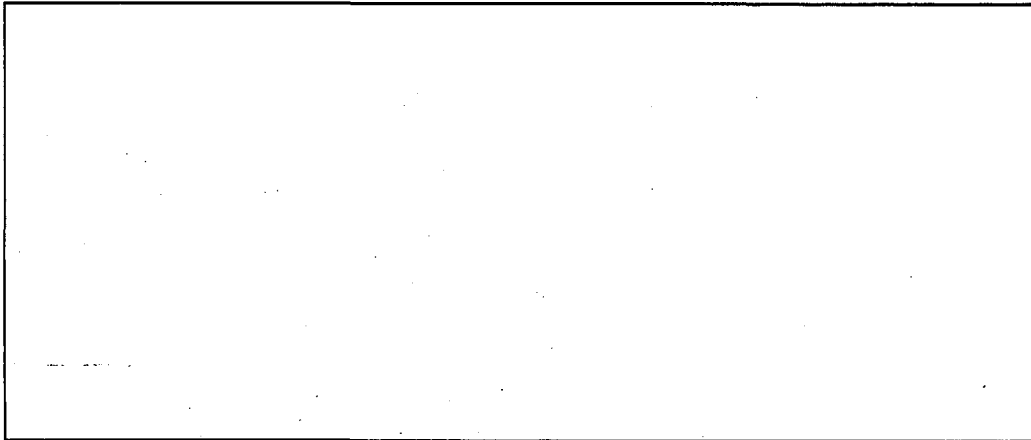
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DIOG Section 16: Sensitive UDP

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DIOG Section 16: UDP Approval

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Undisclosed Participation (UDP)

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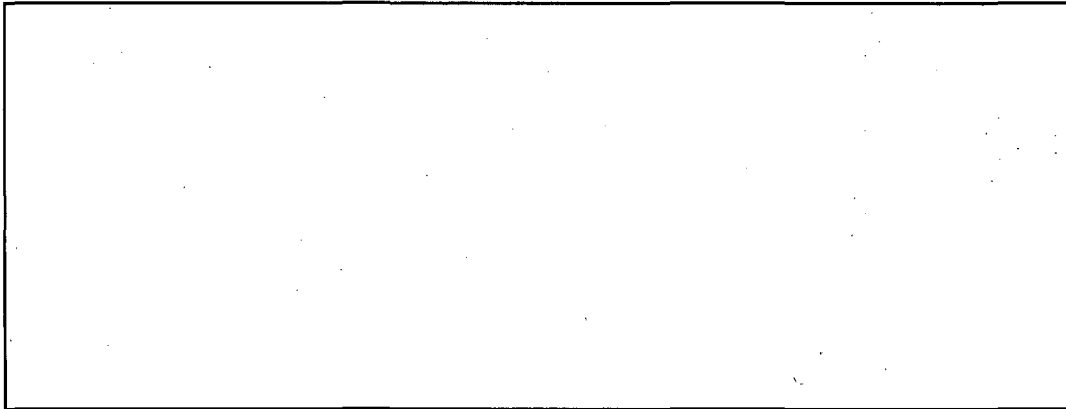
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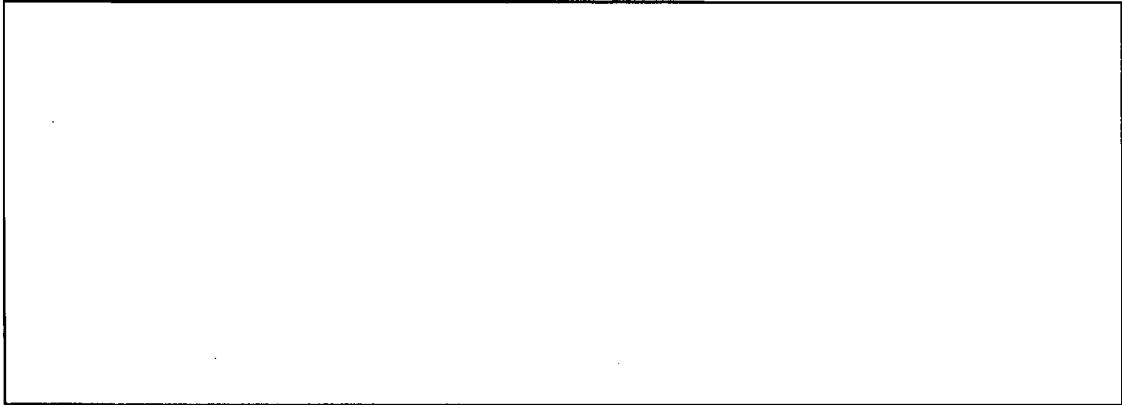
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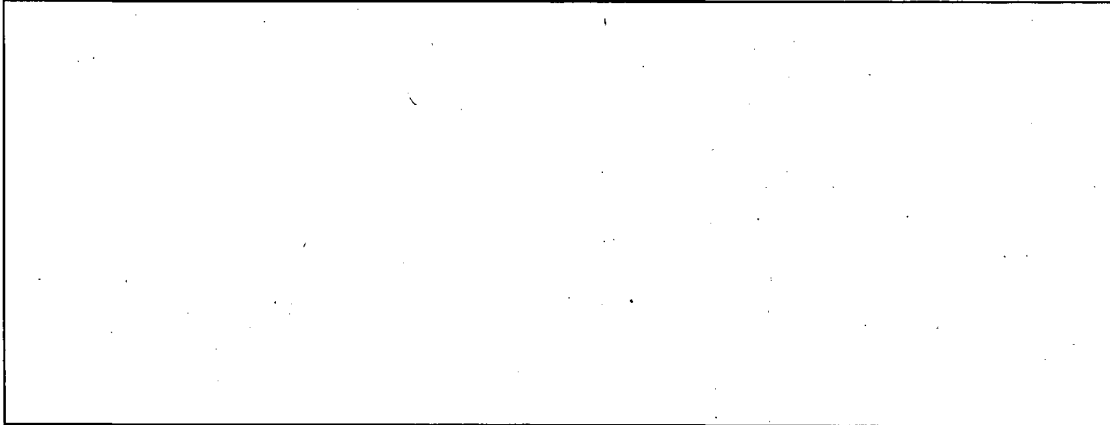


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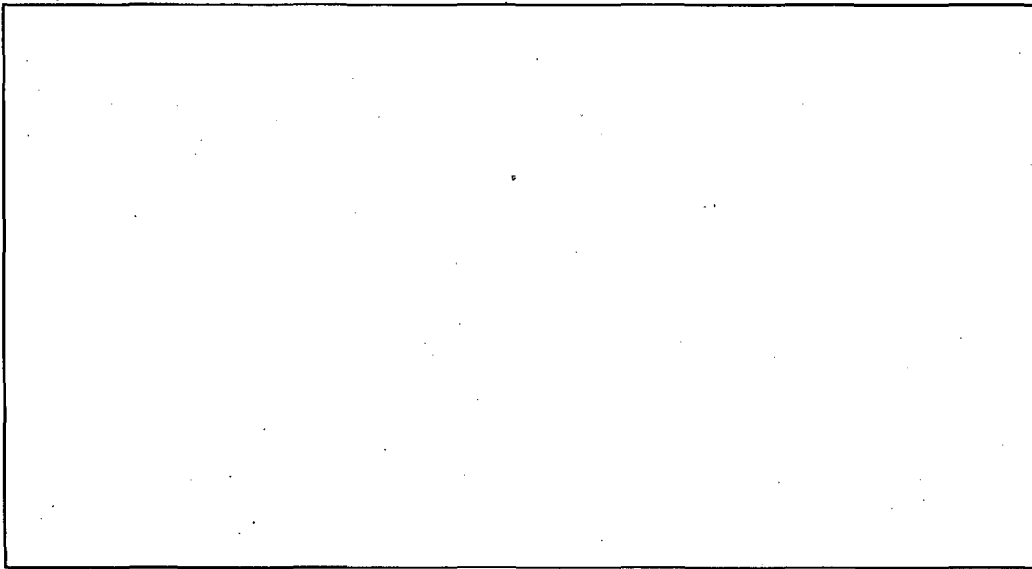
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DIOG Section 16:



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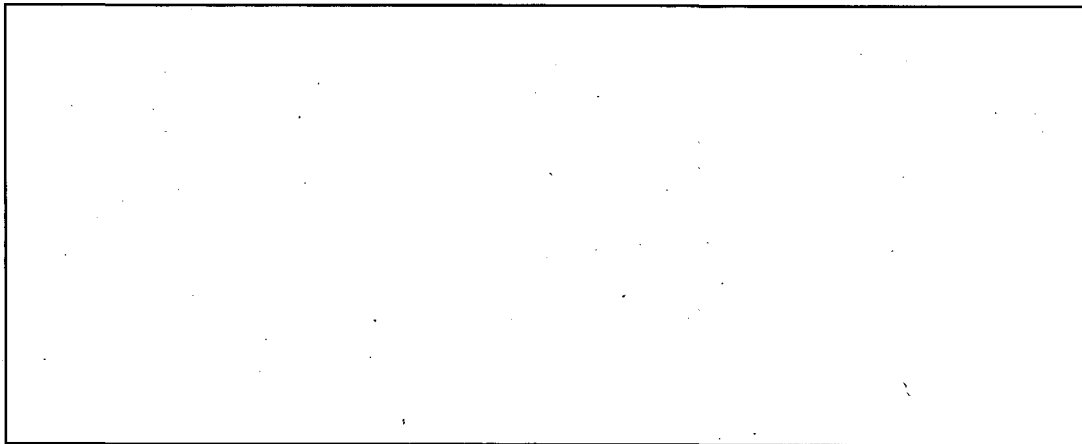
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DIOG Section 16:



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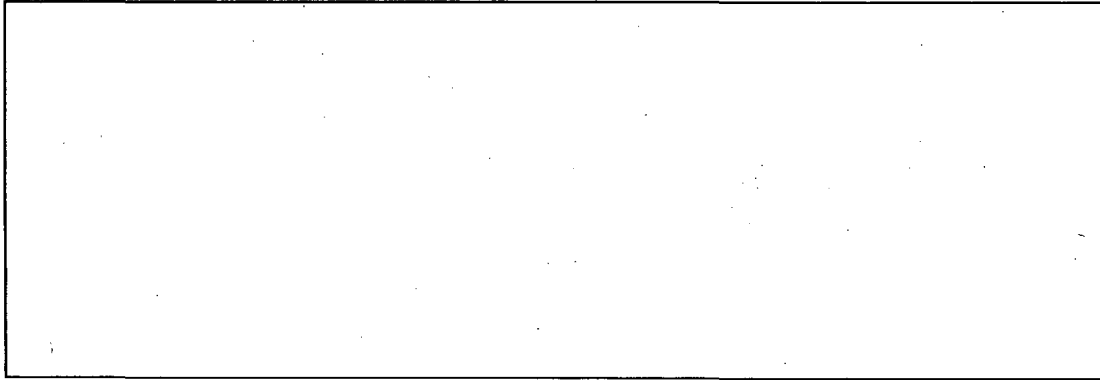
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DIOG Section 16:

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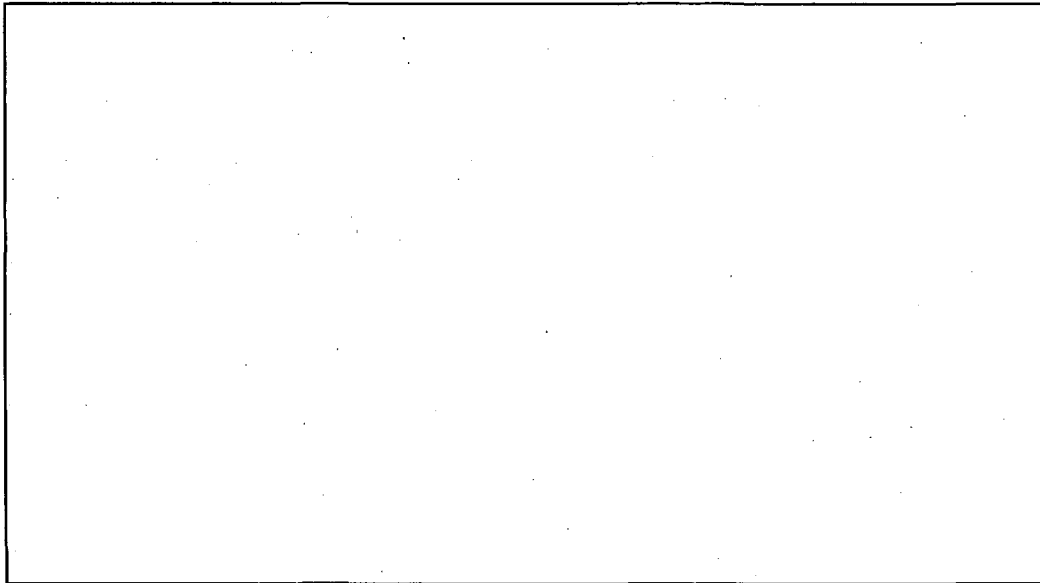
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DIOG Section 16:



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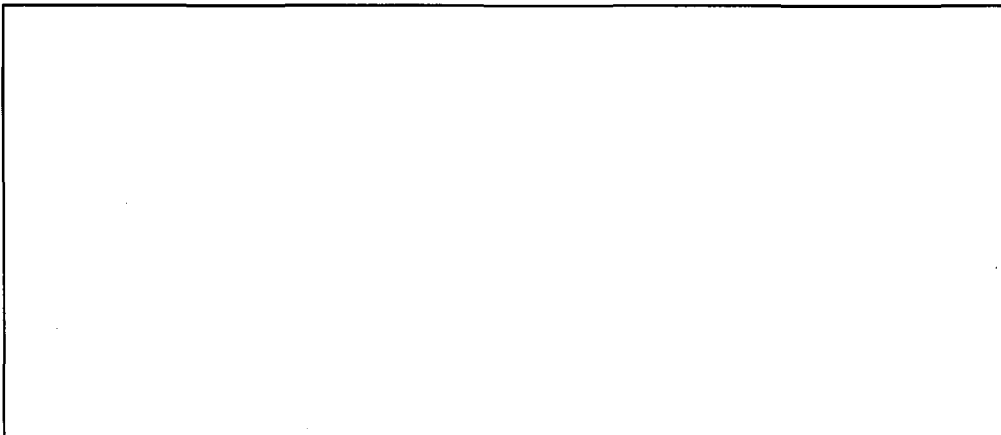
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DIOG Section 16: Standards for Review and Approval

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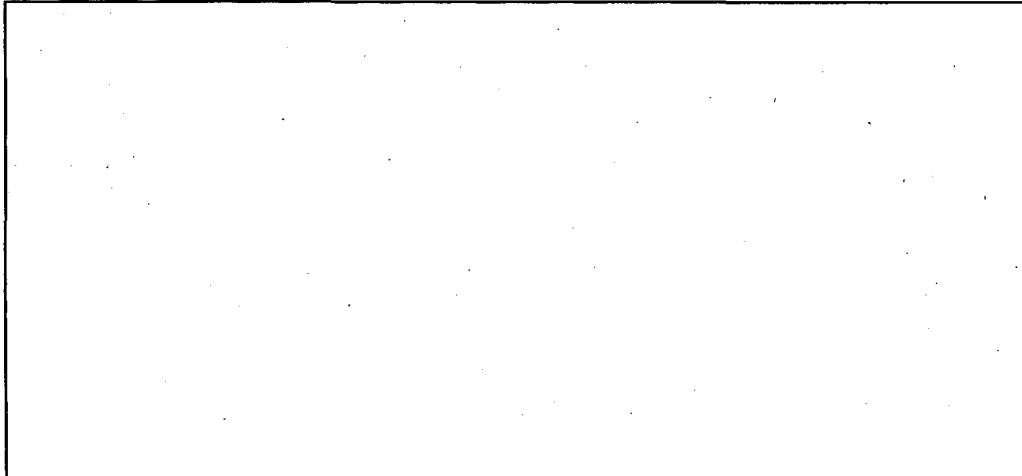
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DIOG Section 16: Standards for Review and Approval



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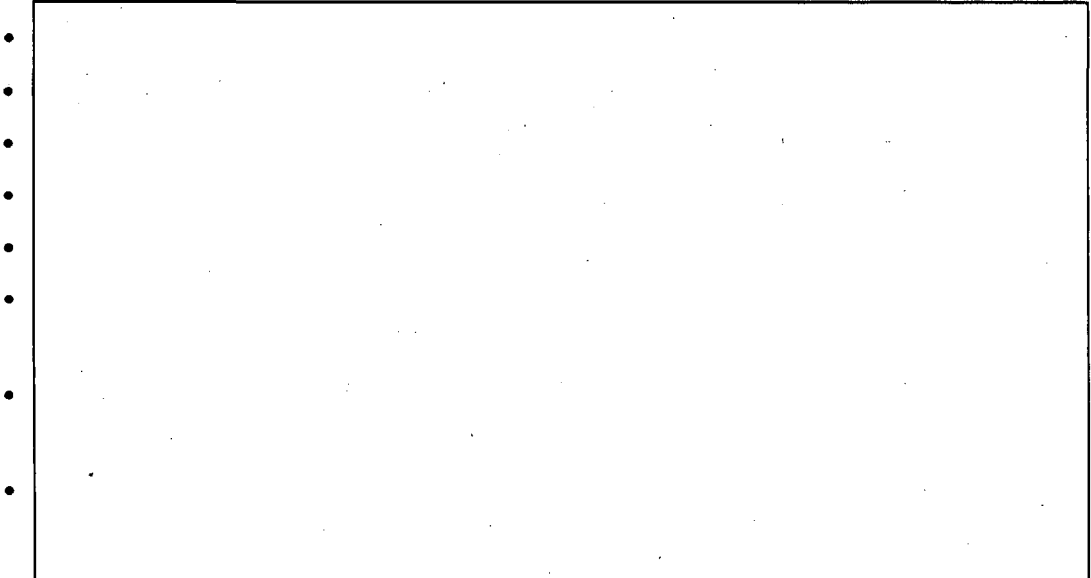
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DIOG Section 16:



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Example

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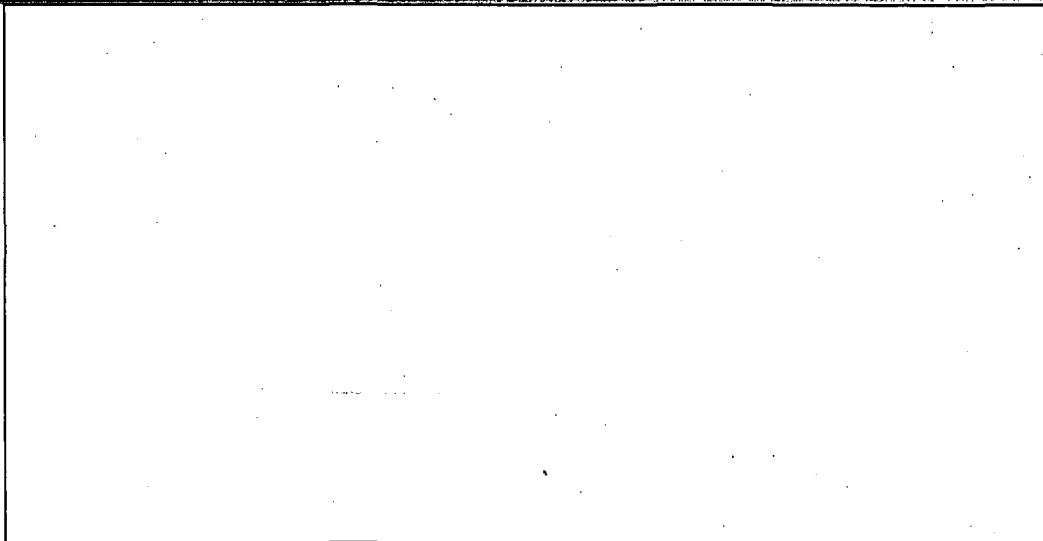
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Scenario



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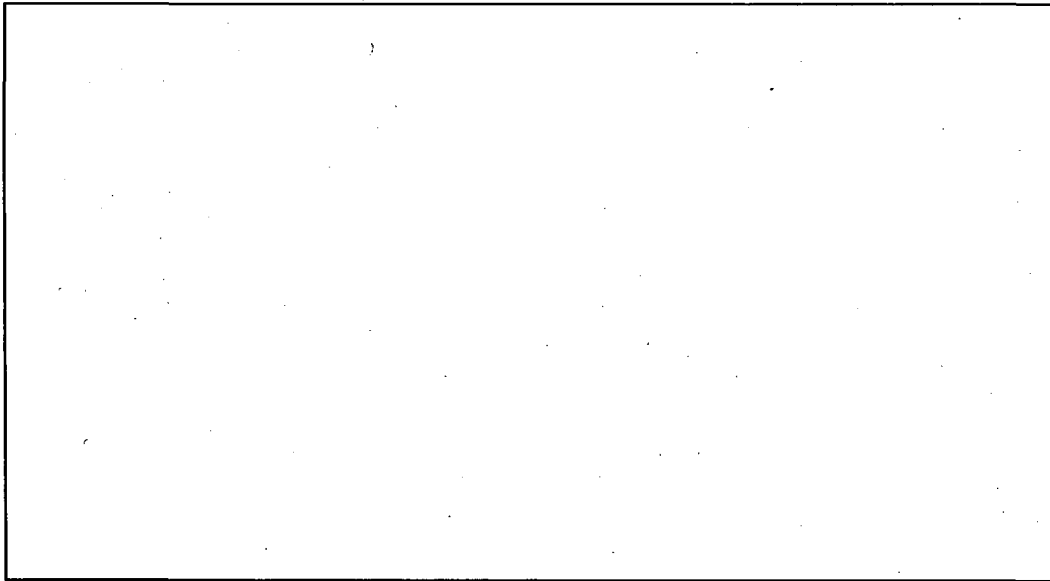
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Scenario



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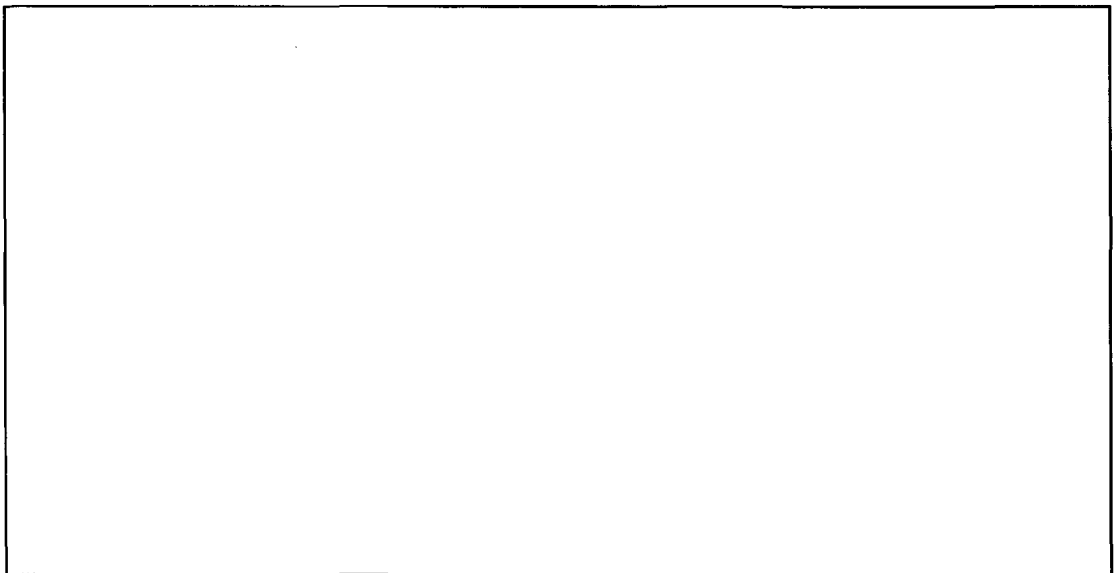
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Scenario



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Scenario

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Scenario

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Scenario

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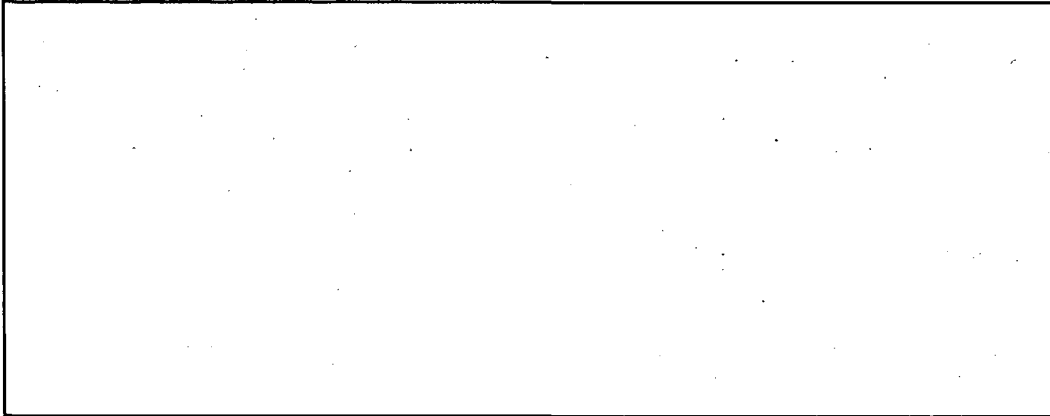
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Scenario

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Scenario

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Scenario

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Scenario

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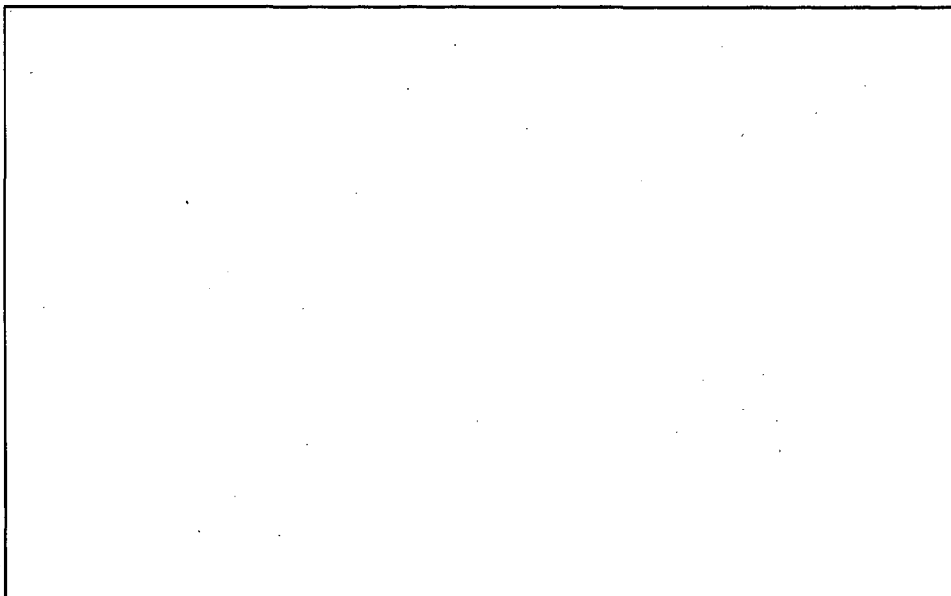
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Scenario



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Scenario

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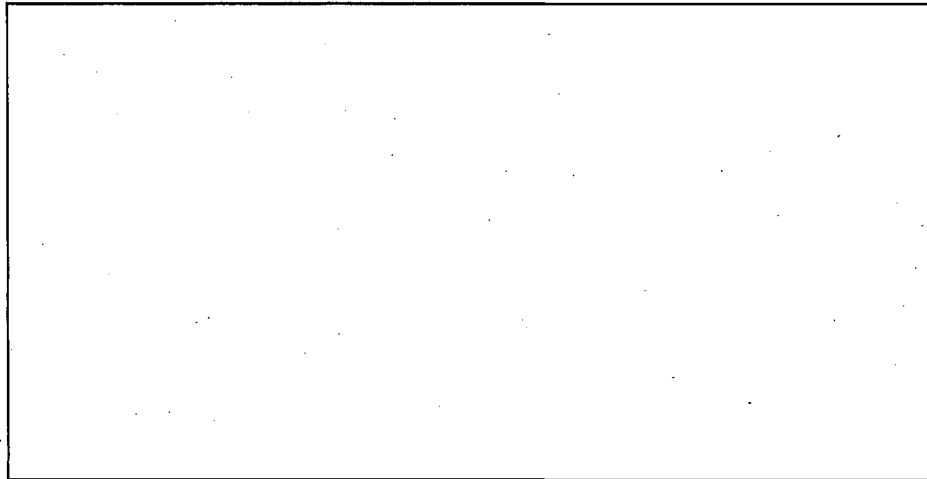
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Scenario



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Scenario

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FBIHQ DIOG Training

Thank you...

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