

# Water Resources Development Act and New Initiatives



October 2021

**PREPARED FOR**

National Water Supply Alliance

**PRESENTED BY**

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# Agenda



- WRDA 2020
  - Review water supply provisions
  - Review NWSA 2020
- Potential new initiatives
- Working groups

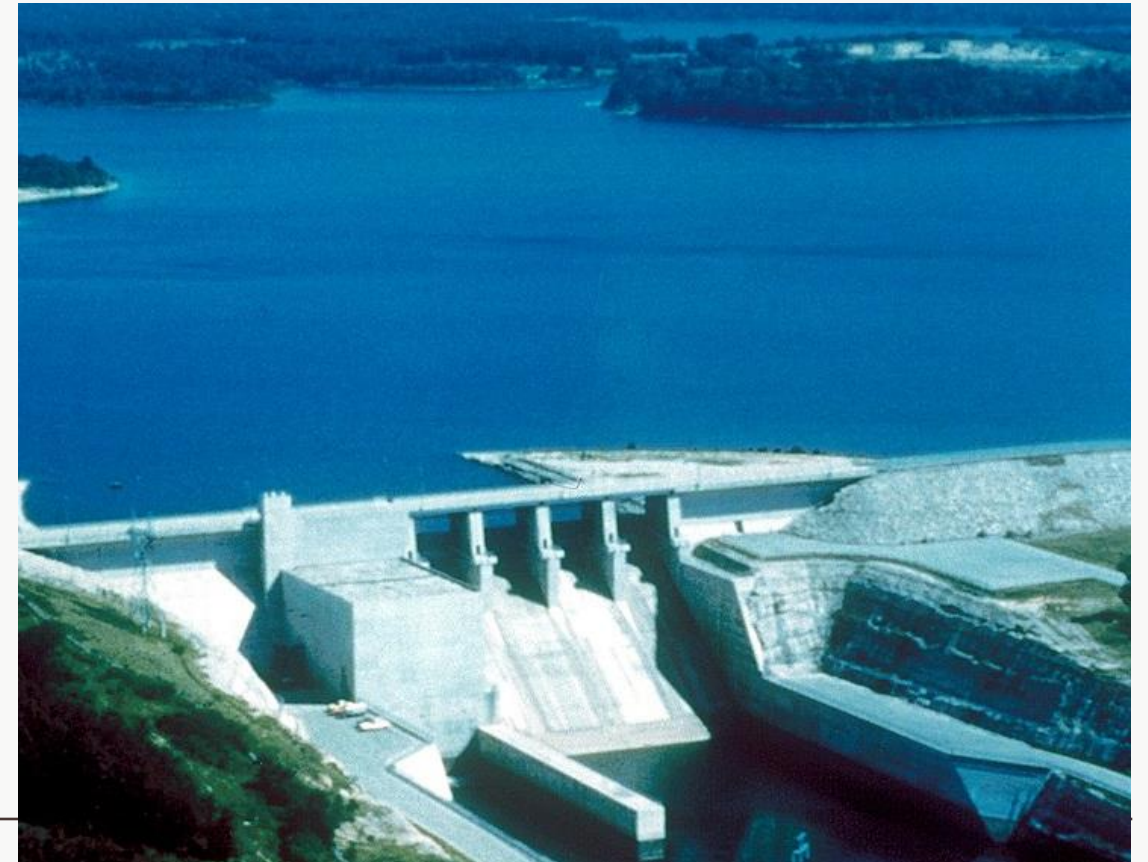


# WRDA 2020



## Points of interest to NWSA

Sec. 110	Implementation of Principles Requirements
Sec. 156	Planning Assistance to States
Sec. 158	NAS study regarding water supply data
Sec. 161	Project studies by non-federal interests
Sec. 221	USACE study to analyze the benefits and consequences of adding water supply as a primary mission





# Principles, Requirements & Guidelines

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## Sec. 110: Final Agency Specific Guidance with 180 days

Fourth iteration of interagency project formulation guidelines

PG&R establishes the “federal objective” in water resources planning

- Maximize “national economic development”
- Maximize environmental and other social benefits

Also rules for benefit:cost evaluation and assessment of “benefits forgone”

CEQ to undertake rulemaking to implement for Corps



# Principles and Requirements

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## Sec. 156: Planning assistance to states

Directs USACE to give **equal priority to all Corps missions, including water supply and water conservation**, in implementing this program



# NAS Study of water supply data

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## Sec. 158: USACE to contract with National Academies ...

To study the Corps' ability to facilitate data sharing

To describe common standards

To define commonly used terms



# Water Supply as Primary Mission

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## Sec. 221: Corps study

To study the “benefits and consequences” of adding water supply as a primary mission, and how doing so would affect the Corps’ ability to carry out future projects

To include a study of projects at which water supply is or could profitably be added as a purpose; and

To make recommendations

By June 2022

# Cramer Amendment (*not adopted*)

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## Surplus water / natural flows / state primacy

Proposed solution to N. Dakota's surplus water problem

Originally: no contract needed to take "natural flow"

As amended: "state primacy," but only for Western states

Compromise: no contracts required surplus water in the Upper Missouri until 2030; Corps real estate guidance revised to allow easements without a contract



# NWSA initiatives

## WRDA 2020

### **Amortization of Repair, Rehabilitation & Replacement costs**

Expand Sec. 203 authority for non-federal “feasibility studies” to include water supply reallocation studies

Accelerate delivery of water reallocation studies (expand SMART Planning requirements to include)



# New initiatives?

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## Potential topics for working groups...

### **Dam Safety Action Classification (DSAC) policy reform**

PMA / preference customers contributed funds reform

Rights to dredged or “made” storage

NEPA / 404 / project delivery streamlining

O&M RR&R billing

Other?





# Dam Safety Action Classification (DSAC)

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## ER 1110-2-1156: flood storage no reallocation for DSAC III to I

No flood pool reallocation for DSAC 1, 2 or 3

DSAC 3 based on “consequence” alone

Exceptions possible, but difficult

Proposed solution:

- Prohibition should be based on dam-specific risk analysis, not rating alone
- Prioritize DSAC studies based on water supply interest
- Other ideas



# PMA / Preference customer projects

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## WRDA 1996 § 216: contributed funds to uprate hydro

Secretary may use “contributed funds” to “uprate” existing plants subject to certain findings, including no “major operational change”

Preference customers contribute substantial funds based on decisions made without input from water supply stakeholders ... and then oppose reallocations based on their investment

Proposed solution: establish a process that includes current and potential water supply stakeholders; require specific written findings like a reallocation report; include appropriate disclaimers in the contributed funds agreements



# NEPA / Project streamlining

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## Phase 2 NEPA regulations

Phase 2 NEPA rulemaking is imminent

Could we establish a specific track for water supply projects?

- Designate as “critical infrastructure”
- Categorical exclusion subject to thresholds (15% , 50,000 acre-feet)
- Approved methods for specific elements: eg, demand analysis; specific considerations for pumped storage projects, etc.
- Amend NEPA (WRDA) to state “controversy” alone does not trigger EIS (for water supply reallocations)

# Next steps

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# Next Steps

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**Identify priorities**



**Form**



# Next steps

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Whether for 2022 or 2024 ...

Select priorities

Form working groups to generate specific proposals

Mobilize



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# Team Profile (Georgia 40pt)

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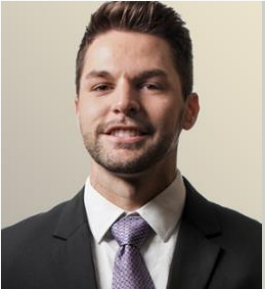
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# Individual Profile (Georgia 40pt)

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# Multiple Lawyers (Georgia 40pt)



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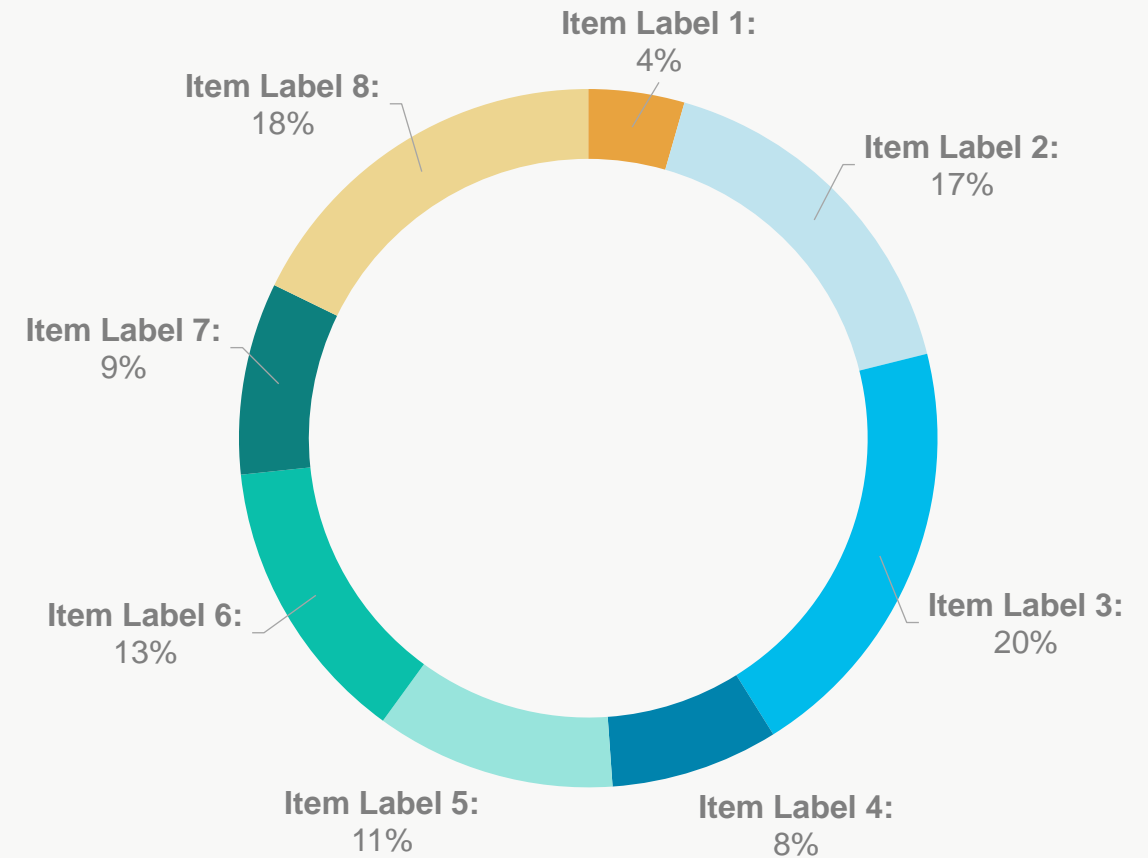
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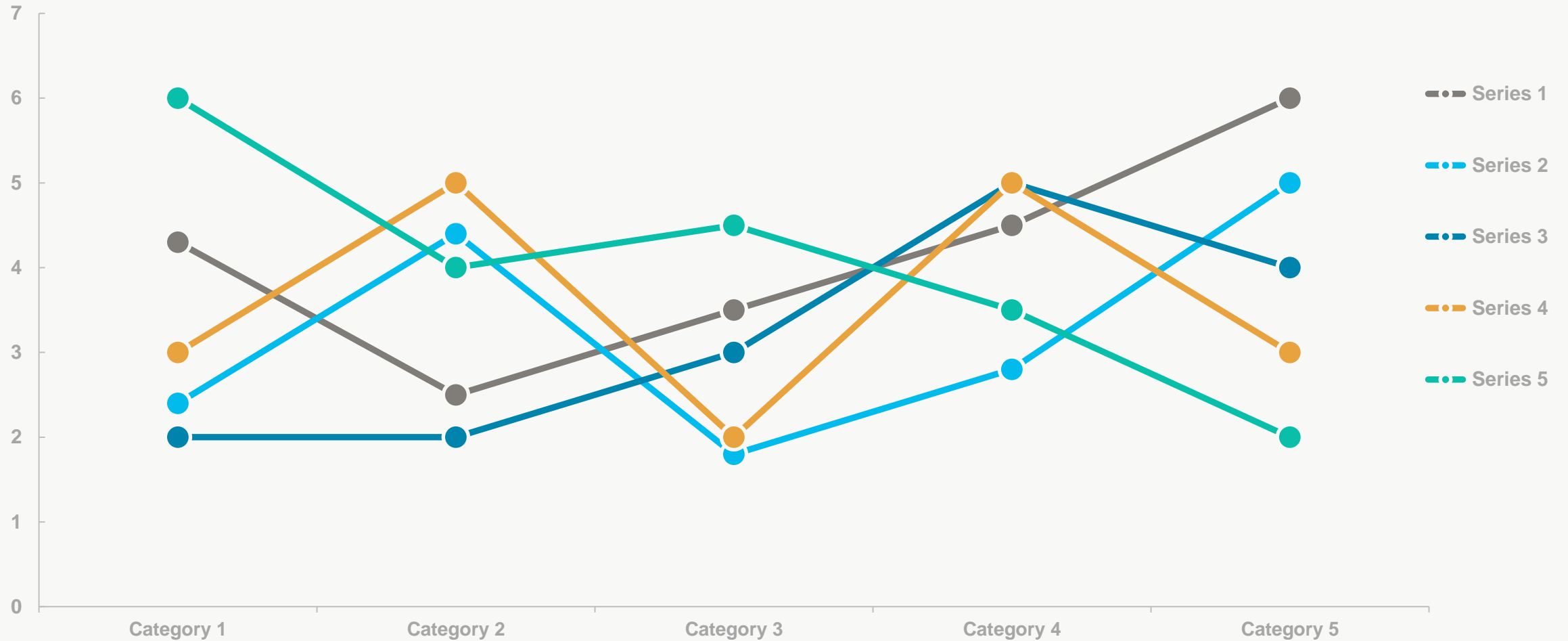
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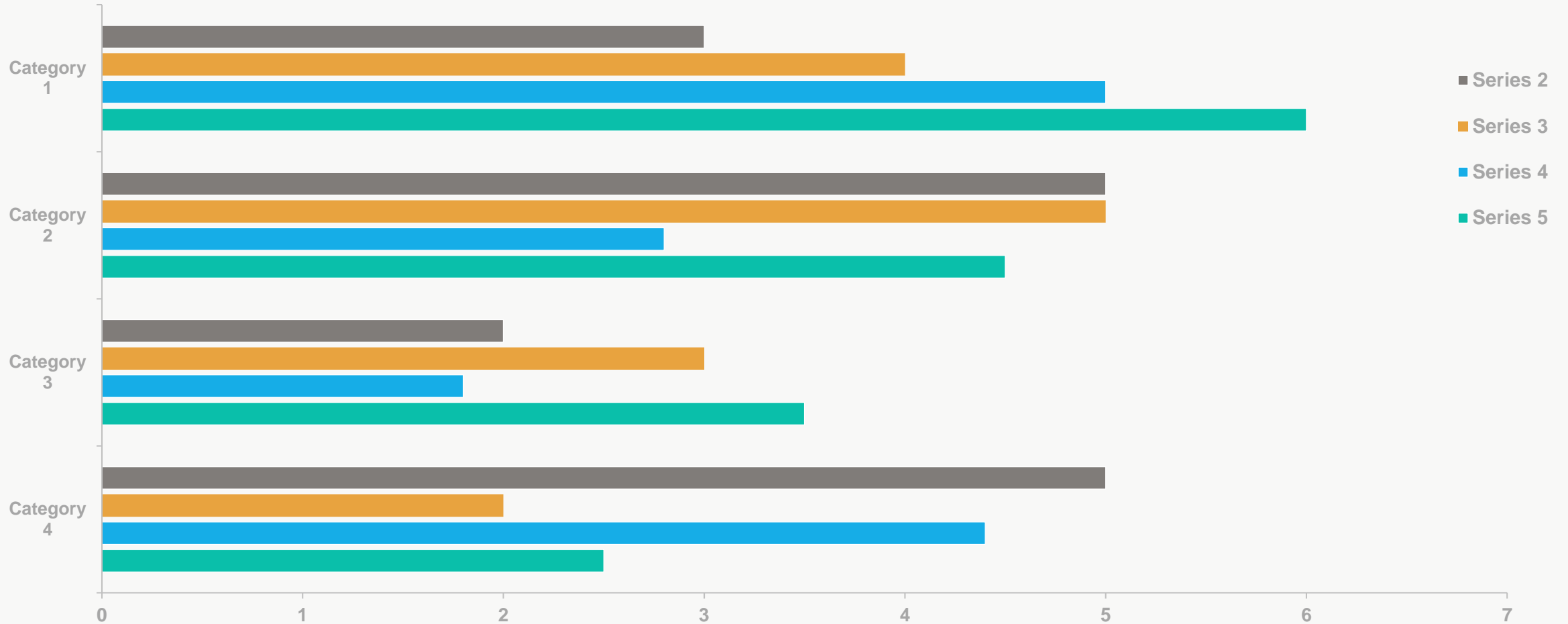
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# Infographics: Table (Georgia 40pt)

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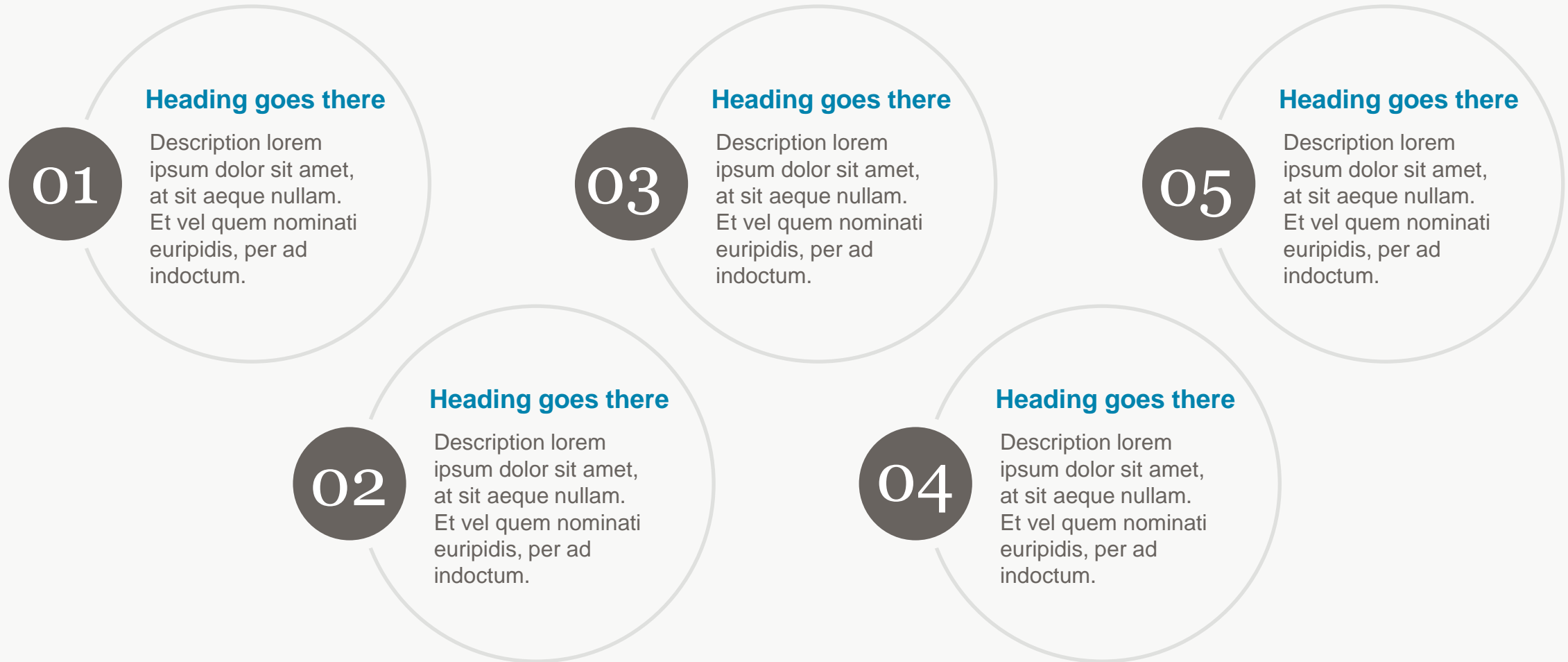
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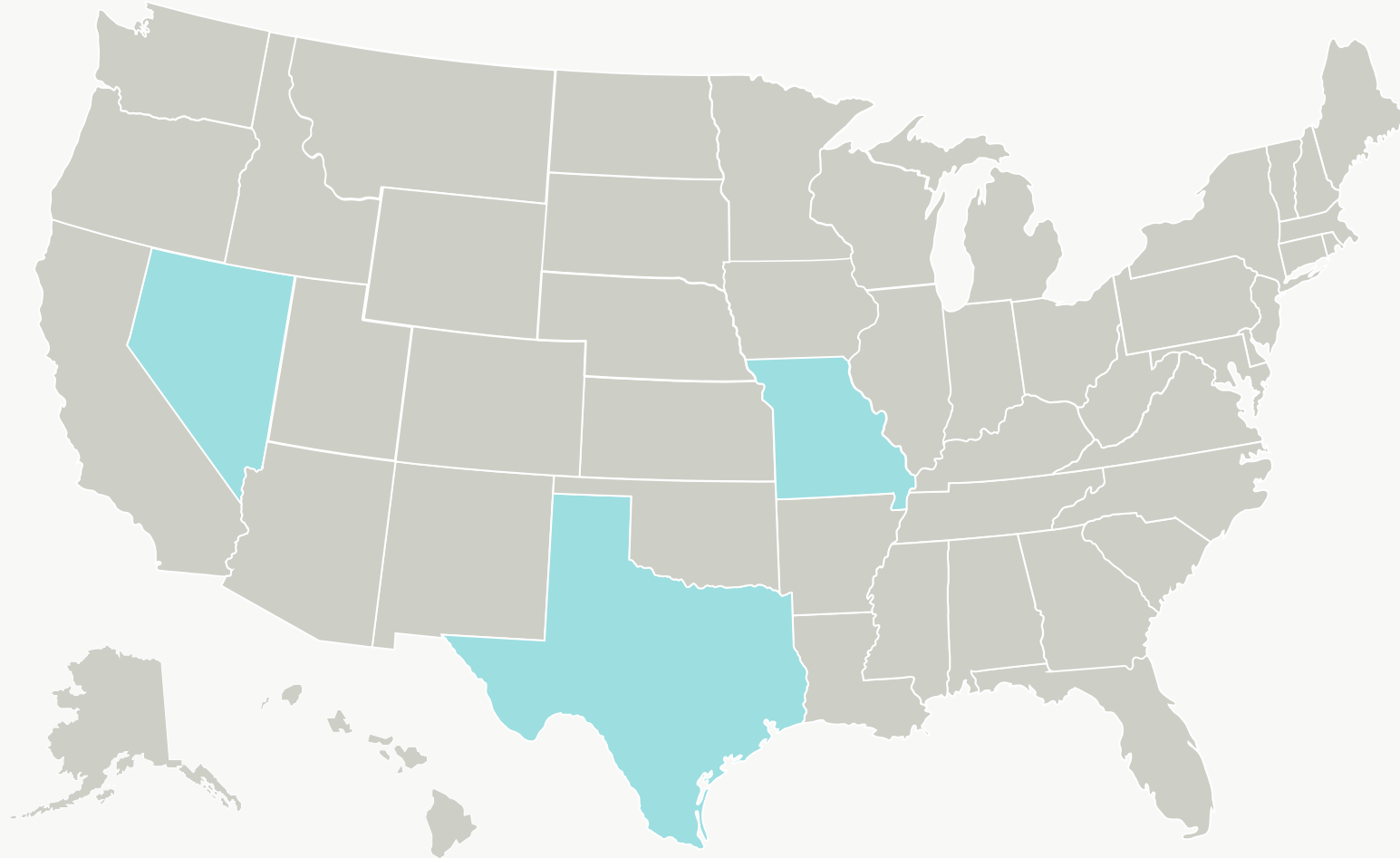
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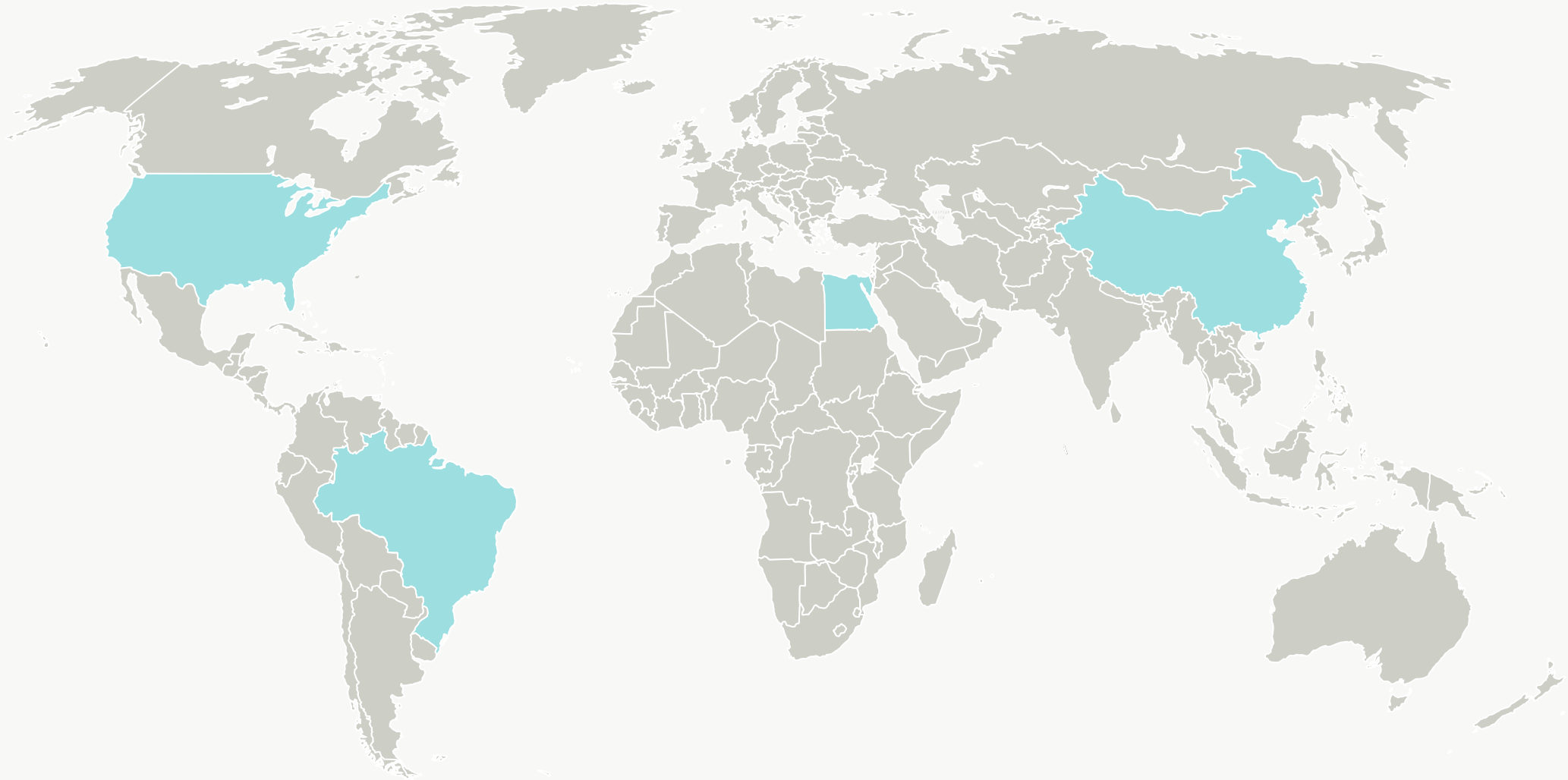
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# Infographics: World Map (Georgia 40pt)





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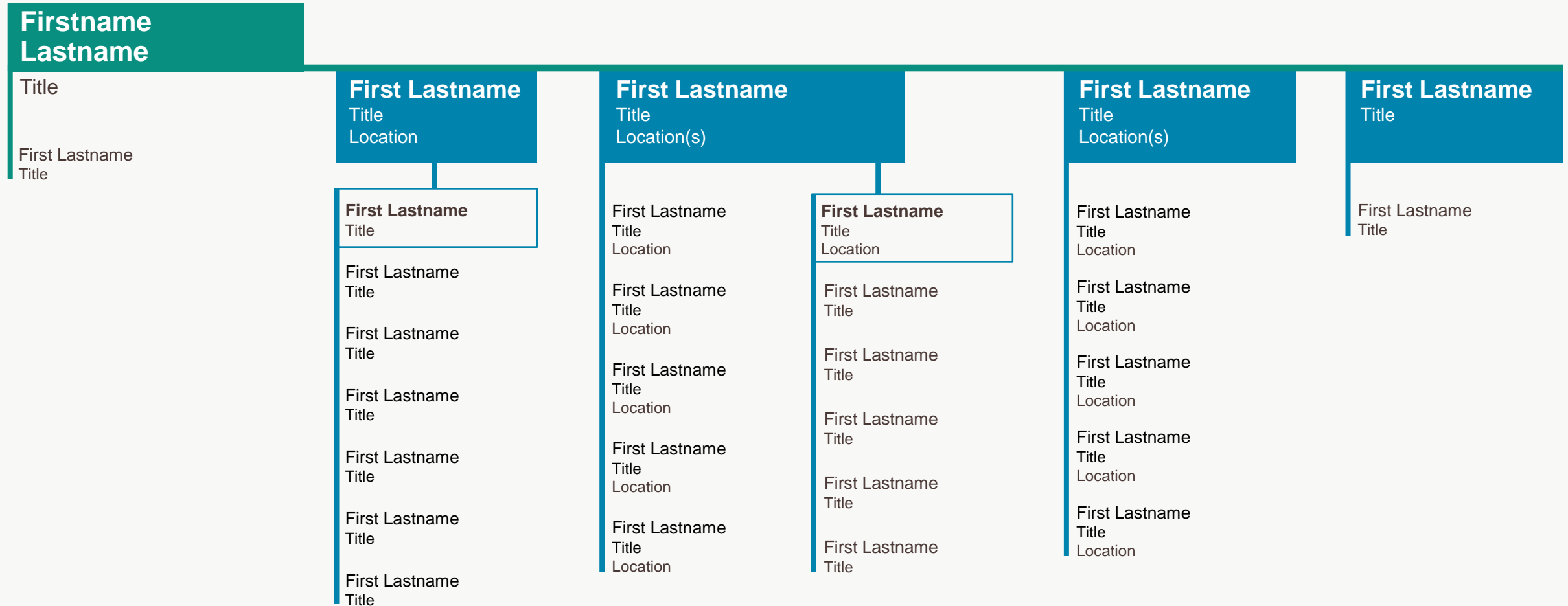
“King & Spalding LLP provides a top-level quality of service delivered by the top echelon of lawyers in the field.”

*Legal 500 USA 2018*

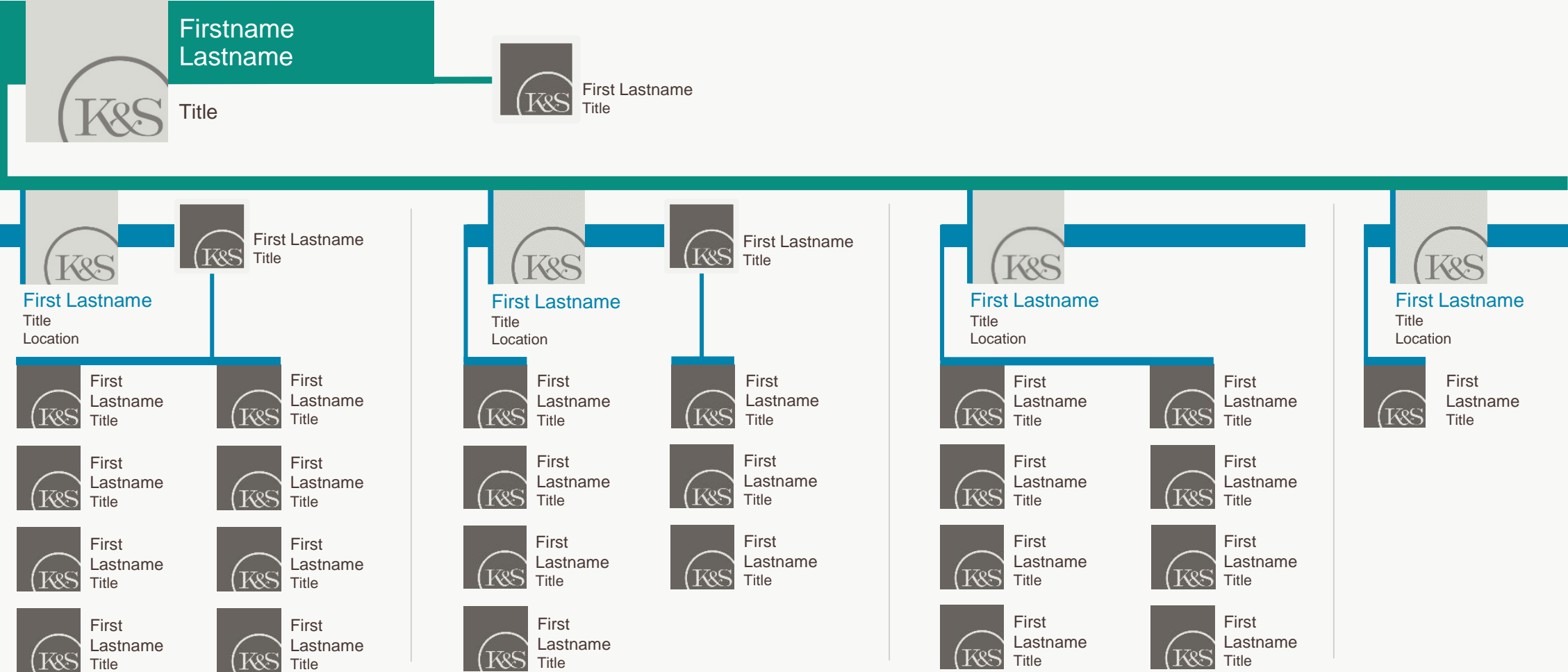
“They are cost-effective, practical and results-focused and are able to bridge the gap between US-style and non-US-style advocacy and meet our needs while being appropriate to the standards of practice in the various jurisdictions involved.”

*Chambers Asia-Pacific 2018*

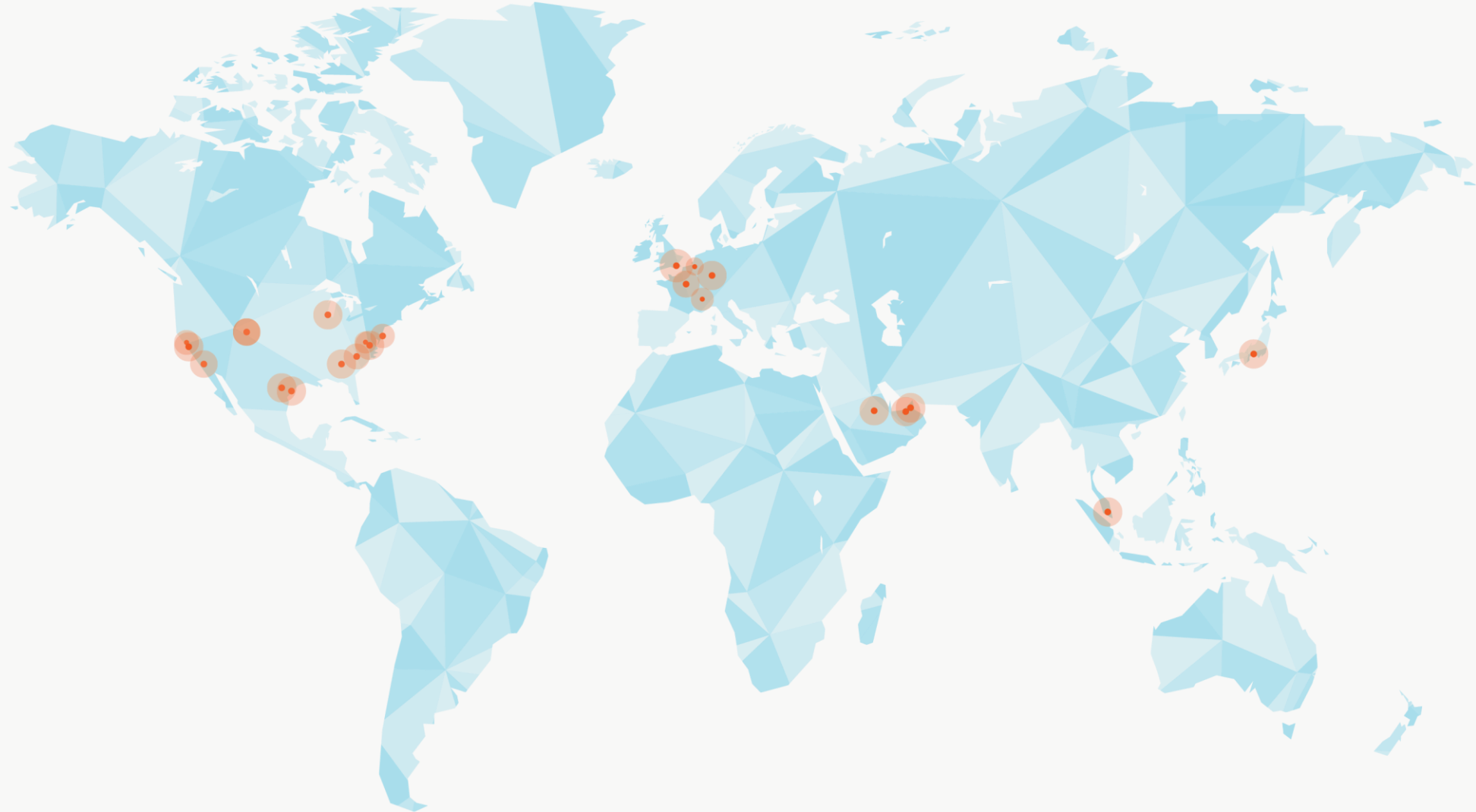
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# Organization Chart Photos (Georgia 40pt)



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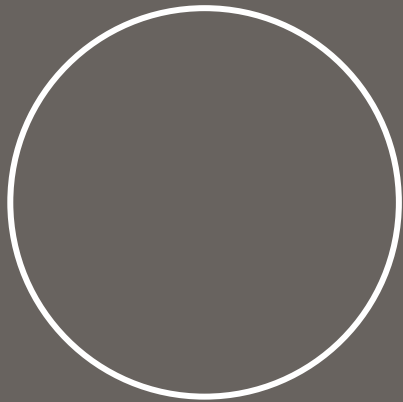




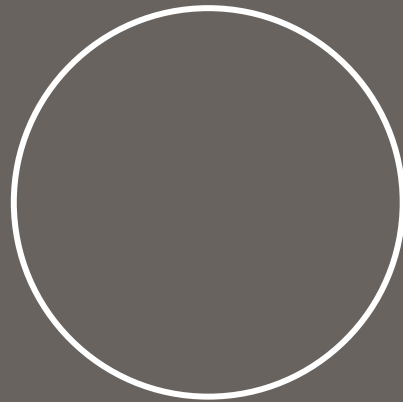
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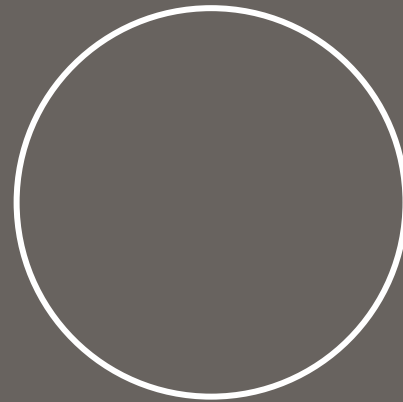
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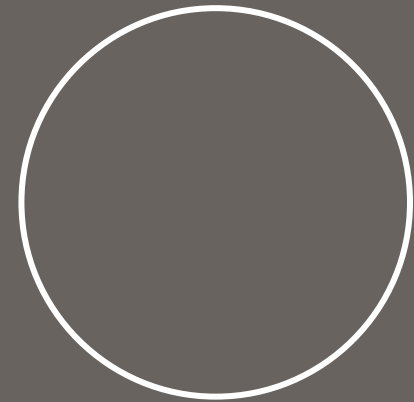
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