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March/April 2016



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5935 South 56<sup>th</sup> Street, Suite B, Lincoln, Nebraska 68516-3301

Phone: (402) 423-5533 or 800-433-6742

E-mail: [ksiefken@nebgrocery.com](mailto:ksiefken@nebgrocery.com).

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## Nebraska Food News... People... Places... Things...

*This section of the magazine is dedicated to announcing the changes, additions, promotions, etc., regarding members of the grocery industry in Nebraska. We invite members to submit information that can be included in this section.*

Baker's Supermarket, 888 Saddle Creek Road, presented a \$61,000 check to United Way of the Midlands last month. The money was contributed by the store's associates.

The Bag 'N Save at 14444 West Center Road is one of eight grocery stores that Michigan supermarket operator SpartanNash will be remodeled into Family Fare stores this year. Others include stores at 3003 N. 108th St. and 2650 N. 90th St. Five other locations set for remodeling have not been identified. The company also plans to close three stores in the area in March.

Wood River will have an operating grocery store again with rural Wood River residents Jamie and Veronica Morse at the helm. The Morses cited the need for a grocery store in the community as the reason for purchasing the business from long-time owners Larry and Rosemary Brannagan.

Gary's Super Foods in North Platte has begun remodeling. Expansion to each department, some brand-new sections and more space are all on the radar for Gary's remodel set to be completed in June.

Each of the produce, dairy, grocery, meat and liquor department will expand. The store will expand from about 18,000 square feet up to about 20,000 square feet.

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## National News

At the national level, the following employment law issues should be of interest to NGIA members. For further clarification we suggest you contact legal counsel.

### Overtime Pay Exemption

The US Department of Labor recently submitted the proposed Fair Labor Standards Act (FLSA) regulation regarding the end to overtime exemption status to the Office of Management and Budget. This is the last step before the new rules go into effect. The rules could go into effect as early as this summer. The new rules change the threshold for salaried workers eligibility for overtime pay from an annual salary of \$23,660 to \$50,440. All employers should review all exempt employees who make less than \$50,000 to determine if these employees should be moved to an hourly wage or allow them to become overtime eligible.

### HR Director Considered an Employer

A Second Circuit court ruled that the “economic reality” test used under the FLSA (Fair Labor Standards Act) applies under FMLA (Family Medical Leave Act). Under this test, an HR director can be considered an employer and held liable for any violation of the FMLA. The case was based on a human resources director who wrongly denied an employee’s request for family and medical leave to care for her two sons.

### ‘Study: 45% of Americans Pay no Federal Income tax’

(New York Post) -- NYPost.com reports that “an estimated 45.3% of American households -- roughly 77.5 million -- pay no federal individual income tax, according to data for the 2015 tax year from the Tax Policy Center, a non-partisan Washington-based research group.” According to a senior staffer at the Tax Policy Center, roughly half of the 45.3% pay no federal income tax because they have no taxable income, while the other half get enough tax credits to erase their tax liability. The top 1% of taxpayers pay a higher effective income tax rate than any other group (around 23%, according to a report released by the Tax Policy Center in 2014) Nearly seven times higher than those in the bottom 50%. On average, those in the bottom 40% of the income spectrum end up getting money from the government. Meanwhile, the richest 20% of Americans pay the most in income taxes, forking over nearly 87% of all the income tax collected by Uncle Sam. <http://nypost.com/2016/02/24/45-percent-of-americans-pay-no-federal-income-tax/>

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## Human Resource Q & A: Employee Records

As cited in ThinkHR's HR Insights brought to you by UNICO Group.

**Q: In the process of auditing I-9s, we have found a few anomalies and want a second opinion as to how to handle them:**

1. What should we do when the employee was hired after November 6, 1986 but we cannot find a record of an I-9 on file? Should we complete a new one? What date should we use?
2. If the employee marked "US Citizen" on the I-9 but provided documentation showing permanent residency, how should we reflect that on the form?
3. What about correct the employee date and signature line when the employee listed his date of birth instead of date signed?

**A:** 1. The advice we have received from our immigration attorneys is that if an employer discovers that the Form I-9 is not on file for a current employee, the employer should request that the employee complete section 1 of the current Form I-9 immediately and submit documentation as required in Section 2. The new form should be dated when completed--never post-dated.

2. & 3. If the documentation on the employee's Form I-9 is incorrect or incomplete, then the employer should use the existing Form I-9 and make corrections near the incorrect or incomplete space. If using paper copies, use a different color pen to note the change. The employer and employee may draw a line through inaccurate information, write the correct information on Form I-9, initial and date of the correction. The employer should also make a note in the file that a self-audit was completed on that date. Make sure that the signature relates to the attestation ("I attest, under penalty of perjury ..."). If your company is audited, the examiners will want to have proof that you exhibited a good faith effort to audit your records and correct deficiencies.

**Q: Are the I-9's date sensitive and do they expire after a period of time and have to be updated?**

**A:** Once your employee has completed the I-9 and you have certified the documents as valid, then you retain the completed I-9 for as long as the employee works for you. When the employee leaves your company, you must keep the I-9 until the later of 3 years after the date of hire or one year after the date employment ended. The only time you have to

track expiration dates is when the employee presents a government-issued work authorization document with an expiration date. You must reverify his/her employment authorization no later than the date of the expiration of the employment authorization.

Please note that US citizens and noncitizen nationals never need reverification. You do NOT need to track expiration dates on documents like expired US passports, Permanent Resident cards, driver's licenses, etc..

**Q: Can I continue to employ a long-term employee with an expired Permanent Resident Card while she applies for US citizenship? She has provided us with all of the documentation showing her filing status for citizenship.**

**A:** The employee is still authorized to work pending the outcome of the application process. In fact, in the directions and guidance provided by the USCIS for reverifying expired documents, it expressly states that expired Permanent Resident cards do NOT need to be reverified.

This guidance can be found in the USCIS booklet entitled "Handbook for Employers" at <http://www.uscis.gov/files/form/m-274.pdf>. In that booklet it states the following: "NOTE: U.S. citizens and noncitizen nationals never need reverification. Do not reverify the following documents: An expired U.S. passport or passport card, an Alien Registration Receipt Card/Permanent Resident Card (Form I-551), or a List B document that has expired."

For more information or to review the full text of the regulations, you can find them and other immigration information at: <http://www.uscis.gov/portal/site/uscis/m.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=31b3ab0a43b5d010VgnVCM10000048f3d6a1RCRD&vgnextchannel=7d316c0b4c3bf110VgnVCM1000004718190aRCRD>.

**Q: Outside of our workers' compensation carrier, does our business need to track and report on workplace injuries?**

**A:** OSHA (the federal Occupational Safety and Health Administration) does require businesses to keep records of work-related illnesses and injuries, unless the business employs 10 or fewer workers and/or the business is in a low-hazard industry. Detailed information about the posting requirements and businesses excluded can be found on the OSHA website at [www.osha.gov](http://www.osha.gov).

Your state may also have additional safety requirements. For more information for your particular location, you can check the state laws on our resource portal or give us a call. You must report significant injuries or illnesses diagnosed by a physician or other licensed health care professional and any other work-related illnesses or injuries if they result in any of the following: death; days away from work; work restrictions or transfer to another job; medical treatment beyond first aid; or loss of consciousness. If you have any questions about whether an illness or injury is work-related, contact your broker or attorney. OSHA has three forms for illness/injury records:

1. OSHA Form 300, "Log of Work-Related Injuries and Illnesses" (annual record of all injuries/illnesses);

2. OSHA Form 300A, "Summary of Work-Related Injuries and Illnesses". This report is an annual summary and you must post a copy of this summary in a conspicuous place where notices to employees are customarily posted no later than February 1st of the year following the year covered by the records and keep it posted until April 30th; and

3. OSHA Form 301, "Injury and Illness Incident Report" (individual incident report of an employee's injury or illness on the job).

These forms should be updated within seven calendar days of learning of a recordable incident and retained for five years after the end of the year in which the incident occurred. Do not post the Form 300 or the Form 301, as these records have information relating to each specific injured/ill employee and you want to protect the employee's personal health information. The only form that must be posted for public inspection is Form 300A, which summarizes the incidents for the year.

**Q: If a new hire volunteers information about medical issues, can the employer ask for a doctor's fit-for-duty certification?**

**A:** Exercise caution in requesting medical documentation from applicants or employees, unless the applicant or employee is specifically requesting some form of accommodation in order to do his/her job or the employer has directly observed or has evidence that the employee is having difficulty in the job due to some type of limitation. If the employee discloses the information in the interview and/or onboarding process without a request for accommodation, we recommend the

interviewer ask the employee if accommodation is requested. If not, then we recommend moving the conversation on to the bona fide requirements of the job. An employer should consider the following questions before requesting a fitness-for-duty medical certification:

Did the applicant or employee ask for an accommodation? If so, then requesting medical certification and suggestions in order to aid the applicant/employee may be appropriate.

Does the employer request this information for all employees/applicants for the same position?

If the employer is considering asking for medical certification based upon the new hire's health disclosure AND the new hire is not requesting any form of accommodation in order to do the job, then we recommend NOT asking for that medical certification unless the employer asks for it for all new hires in that position on a routine basis.

From a practical perspective, an employer should gather medical information only if there are concerns about the employee's ability to perform the essential functions of the job, considering any physical or mental limitations. An employer should request and consider only the information that is "job related and consistent with business necessity". Here are a few scenarios where requesting a medical fitness for duty certification may be appropriate:

- The employee has admitted that his medical condition may be linked to performance problems and has requested assistance (i.e. his medications are making him forgetful, he is not taking the medications because they make him dizzy and he needs to work in high places, etc.);

- The employer has knowledge that an employee's medical condition may potentially pose a safety or health hazard to himself or others (i.e. an employee with seizures driving a delivery truck);

- The employer directly observes severe symptoms that indicate that there is a medical condition that impairs performance or could be a threat to the health and safety of the employee or others.

For more information, visit: EEOC Disability Discrimination: <http://www.eeoc.gov/laws/types/disability.cfm> EEOC Prohibited Employment Policies/Practices: <http://www.eeoc.gov/laws/practices/index.cfm> Pre-Employment Inquiries and Medical Questions: [http://www.eeoc.gov/laws/practices/inquiries\\_medical.cfm](http://www.eeoc.gov/laws/practices/inquiries_medical.cfm)

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## Gary's Foodtown Implements Nu-Val



Gary Anderson, owner of Gary's Foodtown in Laurel started using Nu-Val, a new method of rating food items in his store. The rating system gives his customers the ability to determine nutritional values of the various foods carried in Gary's store. The Nu-Val symbol that is placed below each food item depicts the nutritional value of each food. The tags rate foods from 1 to 100, with 100 being the most nutritional. The nutritional value of foods vary throughout the store. The system focuses on nutritional value and does not factor in fats or carbs. The system does assist customers in choosing items that will lead to healthy eating and improved nutrition.



## Nebraska Grocery Industry Association 2016 Calendar of Events

- April 15 . . . . . Tentative Nebraska Legislature Adjourns
- April 19-21 . . . Day In Washington Supermarket Industry Fly-In (FMI, NGA, FIAE)
- April 20 . . . . . AWG Kansas City Summer Show
- May 3-4 . . . . . AWG Springfield Summer Show
- June 5-9 . . . . . National Grocers Executive Leadership Development Program, Ithaca, NY
- June 9 . . . . . NGIA Spring Golf Outing at Iron Horse
- June 20-23 . . . FMI Connect – Chicago
- July 26 . . . . . B&R Golf Outing
- Aug. 17 . . . . . AWG Kansas City Holiday Show
- Aug. 24-25 . . . SpartanNash Fall Trade Show in Minneapolis
- Sept. 9-10 . . . . Affiliated Foods Midwest Fall Trade Show in Omaha
- Sept. 11-15 . . . National Grocers Association: The Sustainable Growth Conference, Ithaca, NY
- Sept. 23-24 . . . AWG Springfield Holiday Show
- Sept. 22 . . . . . Hackers & Snackers Golf Extravaganza

*If you would like to have your event listed on the calendar, please contact the NGIA office*



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with Leslie Sarasin, President &  
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FMI President & CEO Leslie Sarasin  
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Batali and Robert Irvine about which  
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Wednesday, June 22, 10 am - 11 am



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**12:00 p.m.** shotgun start. The tournament is a Texas Scramble format. Three flights will be established after scores are turned in. Prizes include a \$50 Pro Shop Gift Certificate for each Flag Prize Winner and each Flight Winner. Fees include the driving range, green fees, cart fees, 2 beverages on the course, box lunch and dinner. Each team sest their own foursome. Those players without a full group will be combined with other players.

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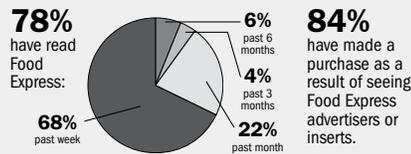
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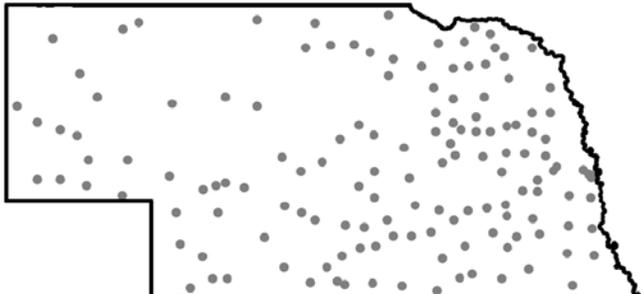
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## What Can YOUR Business Learn from Mercedes-Benz USA?

### Five Unexpected Truths About Customer Service

*When Mercedes-Benz USA realized it wasn't delighting its customers, it dialed up an overhaul. A new book by consultant Joseph Michelli shares its journey—and reveals some surprising insights on what today's customer wants and needs from companies like yours.*

New York, NY (January 2016)—To drive a Mercedes-Benz is to say, “I’ve arrived.” It’s hard to argue that point. MBUSA is known the world over for its superb engineering and the quality of its luxury automobiles. Yet despite a brand synonymous with “the best,” it wasn’t long ago that MBUSA’s customer experience was falling short of expectations. That’s why a few years back it launched a company-wide transformation to instill a “true customer obsession” in employees and dealer partners alike.

Consultant Joseph Michelli, who worked with MBUSA on its journey, says its story reveals and reinforces some surprising truths about the nature of service. “Everything about how customers make decisions, and what they expect from the buying experience, has changed,” says Joseph Michelli, “We simply live and work in a different service universe now—and we ignore its principles at our own peril.”

MBUSA’s efforts to create a seismic culture shift—which involved a complex and aggressive deployment of people, process, and technology strategies—were incredibly successful. In the space of two years, the company catapulted customer sales satisfaction from an unenviable #6 spot to the #1 position on the J.D. Power SSI survey.

Michelli’s book, *Driven to Delight*, shares a wealth of details on what MBUSA did to elevate its customers’ pre-sales, sales, and service journey. It offers readers the tools they need to craft a compelling leadership vision, actionable guidelines to tactically effect

transformational change, and inspiration for creating experiences that produce customer loyalty and a willingness to refer others to their business. Here Michelli identifies just a few of the “business lessons” every leader (especially those representing high-end luxury brands) can learn from the Mercedes-Benz story:

**Even Mercedes-level product quality can’t overcome mediocre service.** Thanks to the endless options spawned by the global economy and the world of information just a mouse click away, customers now demand world-class service. This truth was brought home to MBUSA when competitors started making inroads in the marketplace with high-quality luxury automobiles and the ability to provide a better dealership experience.

“Bottom line: Customers want the best car in the world and the best service in the world,” says Michelli. “And you’d better figure out how to give it to them.”

**Older, well-established companies are at a distinct DISadvantage.** It’s easier to come in after a shift in consumer behavior and tailor your company to meet the new needs than to reinvent yourself. Brands like Lexus, which entered the marketplace in the late ‘80s, could design an optimal customer experience from the outset. MBUSA, on the other hand, had to transform the mindset and behavior of longstanding dealers beyond an established product-centric perspective entrenched through generations of dealer ownership. “In many ways, market ownership is a burden,” reflects Michelli. “If you’re not careful, it can make you complacent and slow.”

**Customers now have a say in employee pay.** This trend cuts across a wide swath of industries, public and private. Thanks to the Affordable Care Act, hospitals now have a portion of their reimbursement linked to results on a standardized patient experience survey. In the last few years, MBUSA has made a similar shift: President and CEO Steve Cannon worked with his dealer partners to make customer-centric changes to their dealer compensation structures. “Basically MBUSA is saying, ‘We’re linking part of your guaranteed margin to your performance in our customer experience initiative,’” explains Michelli. “While this is scary for dealers, it’s the best way to engage them to make the needed changes and hold them accountable for doing so.”

**Prepaid is better than “free.”** When Mercedes-Benz launched its prepaid maintenance program, it got better satisfaction scores than with so-called “free” alternatives offered by competitors. This may be partly because customers realize that “free” maintenance programs are really paid for in the vehicle purchase price and because they’re aware that many exclusions exist—but Michelli feels it’s mostly because it allows for worry-free driving.

“Customers will pay to avoid being annoyed and inconvenienced,” he says. “They’re still paying—but they’re getting it over with now so they don’t have to deal with it again and again later. It’s like Amazon Prime where you pay upfront for ‘free’ shipping, or the fast passes at amusement parks where you pay more to avoid long lines. It’s a more honest way of doing business, and customers appreciate it.”

**Saying yes when customers expect a no goes a long way.** Driven to Delight tells the story of a Mercedes-Benz owner who left some fur earmuffs in the back seat when she took her car in for service. When she picked

it up, the earmuffs were gone. The customer asked the dealership if the earmuffs could have fallen out. She didn’t really expect to hear from them—but to her surprise and delight, she received a check for the lost item soon thereafter. “It’s so important to train and empower your partners and employees to surprise customers this way,” notes Michelli. “It’s gotten so that people expect to hear no from companies. If you can say yes, you’re ahead of the game.”

Michelli says these are just a few of the lessons to be learned from Driven to Delight. “I’ve written books on some of the world’s most customer-centric brands, so I know how hard it has been for Mercedes and its dealer base to orchestrate such a dramatic culture change,” he says. “They made an amazing turnaround in just a few years. All businesses can learn from them—and I don’t just mean the steps they took, but the desire and determination to continue on the path until they reached their goal.”

*About the Author: Joseph A. Michelli, PhD, CSP, is an internationally sought-after speaker, organizational consultant, and New York Times number-one best-selling author. He is a globally recognized thought leader in customer experience design. For more information, please visit [www.josephmichelli.com](http://www.josephmichelli.com).*

*About the Book: Driven to Delight: Delivering World-Class Customer Experience the Mercedes-Benz Way (McGraw-Hill; December 2015; ISBN: 978-0-07-180630-5; \$27.00) is available at bookstores nationwide and from major online booksellers.*

## How To Survive Generational Transition In A Family Business

If you're part of a family business, there's good news and bad news, says Family Business USA president Henry Hutcheson.

More than 70 percent of all businesses in the United States are family businesses, generating more than half of the U.S. Gross National Product (GNP). However, two out of three don't survive to the next generation, and with 500,000 new businesses starting each month in the United States, family businesses are replaced at a rapid rate.

How does a family business remain on the plus side of these statistics?

"There are a number of sound practices while sustaining a family business," Hutcheson says, "but there's a big difference between working with your children and lining up your succession plan with your kids in mind."

Hutcheson, author of "Dirty Little Secrets of Family Business" ([dirtylittlesecretsoffamilybusiness.com](http://dirtylittlesecretsoffamilybusiness.com)), provides tips for dealing with the biggest threat to a family business – surviving transition to the next generation.

- Identify your children's individual strengths. It's impossible for your son or daughter to think and act exactly like you. If you're the founder of the business, this may be even more difficult to keep in mind because you started a business from scratch. Your children may not have the same entrepreneurial spirit. That's perfectly okay, because your business is in a different stage from when you started it. While experience has given you a large bank of knowledge, allow your successor to shine and contribute at their pace. Guide them gently; they will want to do some things their own way. Let them know when they've done something exceptional,

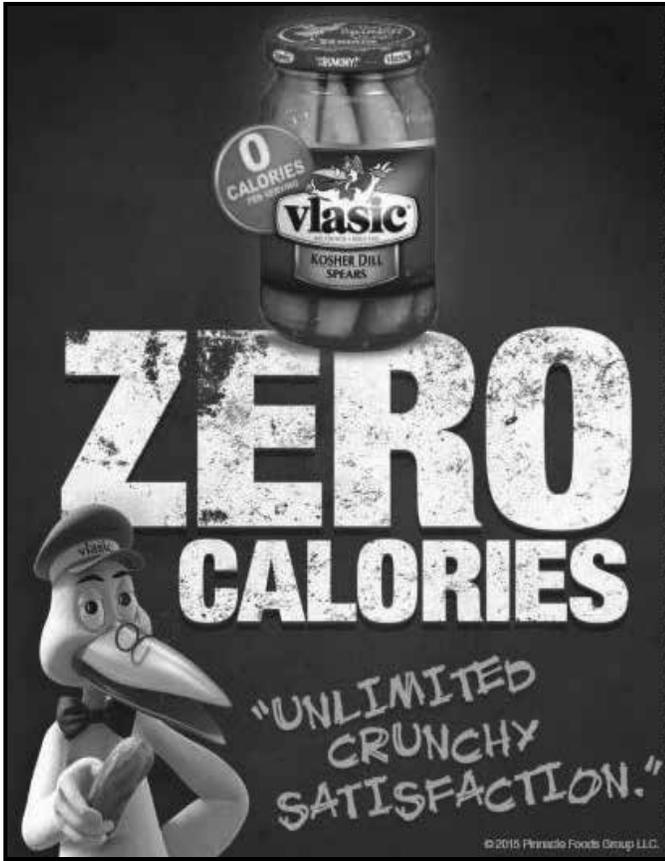
especially if you wouldn't have thought of it.

- Expose your children to all aspects of the job. Merchandising, production, management, buying, marketing, financial planning – the list goes on regarding all the things to understand in general management. You may not be an expert in all areas, but you know more than the average employee. To start preparing your children for the top position, they must understand how things work at the bottom. When they've spent time in the trenches, they better comprehend operations, and the kind of people they'll need to employ in the future.

- Stretch your children's abilities by having them work for another company. The period after graduation is a scary phase of life, but jumping into the family business right away isn't the best move. Children have an urge to distinguish themselves from their parents, and working for another company is a great way to do so. Let them spread their wings, learn new things and appreciate small victories outside of the business. If and when they choose to work for the family business, they'll feel better about the decision.

"A mentoring relationship toward the next generation is also extremely helpful," Hutcheson says. "It provides a realistic but loving perspective."

*About Henry Hutcheson: Henry Hutcheson is president of Family Business USA ([www.familybusinessusa.com](http://www.familybusinessusa.com)) and specializes in helping family and privately held businesses successfully manage transition, maintain harmony, and improve operations. He is a popular speaker at professional, university and corporate-sponsored events*



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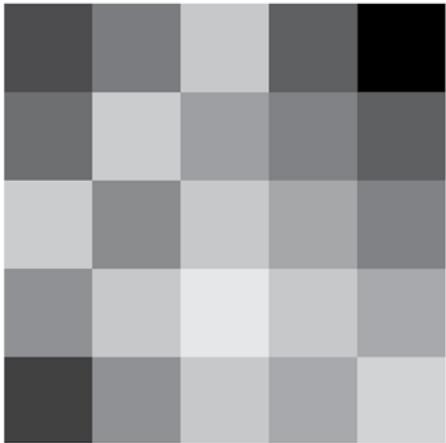
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