

**Legislative Bulletin.....February 25, 2009**

## **H.R. 1105—Omnibus Appropriations Act, FY 2009**

### **BY THE NUMBERS:**

*In millions*

<b>Division</b>	<b>FY 2008</b>	<b>Request</b>	<b>H.R. 1105</b>	<b>H.R. 1105 v. Request</b>	<b>H.R. 1105 v. FY 08</b>
Division A—Agriculture	18,093	18,744	20,456	1,712	2,363
Division B—CJS	51,803	53,685	57,652	3,967	5,849
Division C—Energy and Water	30,888	31,358	33,261	1,903	2,373
Division D—Financial Services	20,599	22,240	22,697	457	2,098
Division E—Interior	26,555	25,762	27,579	1,817	1,024
Division F—Labor-HHS	144,841	145,356	152,255	6,889	7,414
Division G—Legislative Branch	3,970	4,751	4,402	-349	432
Division H—State/Foreign Operations	32,800	38,220	36,620	-1,600	3,820
Division I—Transportation-HUD	48,821	50,624	55,000	4,376	6,179
<b>Total Spending</b>	<b>378,370</b>	<b>390,740</b>	<b>409,922</b>	<b>19,182</b>	<b>31,552</b>

#### **Excluding Emergency Appropriations, the Bill is:**

- **\$19.2 billion or 4.9% more than the request by President Bush**
- **\$19.0 billion or 4.9% more than extending the continuing resolution**
- **\$31.6 billion or 8.4% more than last year**

**Background:** More than four months into the current fiscal year, just three of the twelve FY 2009 spending bills have been enacted: Homeland Security, Defense, and Military Construction-Veterans (see RSC Legislative Bulletin for the Consolidated Security-CR 0H[here](#)). The other nine bills that fund the government were never brought to House floor prior to consideration of this legislation. Consequently, all domestic functions of the federal government are being funded through a continuing resolution that expires on March 6, 2009.

The three already-enacted appropriations bills included regular discretionary budget authority of \$600.4 billion. When the spending in the omnibus is added to this total, H.R. 1105 proposes to complete the regular appropriations process at a spending level of \$1.01 trillion—an increase of \$72.4 billion or 7.7% compared to last year. **This is the first time in U.S. history that the regular appropriations process will break the \$1 trillion mark.**

In addition, the great majority of the spending in H.R. 1 (the “stimulus”) was domestic spending and thus was for programs that fall under the jurisdiction of one of these nine bills. Including stimulus spending, the legislation will increase spending for programs in these bills by \$301 billion or 80%.

## H.R. 1105: Key Conservative Concerns

### *Take-Away Points*

- \$32 Billion Spending Increase.** The omnibus increases FY 2009 spending by \$32 billion or 8.4% compared to last year. This is on top of the spending for FY 2009 in the “stimulus.” Agencies funded by both bills receive a \$301 billion or 80% increase. The FY 2009 omnibus ends the FY 2009 regular appropriations process with a total spending level of \$1.01 trillion, **the first time in U.S. history that the \$1 trillion threshold has been crossed.**
- No Hard Choices.** The omnibus provides increases for all nine bills within it, with increases ranging from 4% to 13%. While Congress has increased the nation’s debt limit 4 times in the last 17 months, the Legislative Branch Appropriations section of the bill (which funds Congress) receives an 11% increase.
- More than 8,000 Earmarks.** The omnibus includes more than 8,000 earmarks at a cost to taxpayers of \$7.7 billion.
- End to DC School Choice.** The omnibus eliminates the successful DC Opportunity Scholarship program. The program allows low-income children to go to private schools in D.C. that best suit their needs. According to the Heritage Foundation, over 1,900 children attend private schools because of this program.
- Fairness Doctrine.** The legislation does not maintain the ban included in the FY 2008 omnibus to prohibit use of the funds for implementation of the “Fairness Doctrine.”

*For more details on these concerns, see below.*

### **Discussion of Spending Levels:**

**Across-the-Board Higher Spending:** H.R. 1105 provides an increase of between 4% and 13% for each of the 9 bills that make up the omnibus. Even the Legislative Branch bill gets an 11% increase. And compared to the Administration’s FY 2009 request (submitted by former President Bush), seven of the nine bills receive increases.

**First Time Above \$1 Trillion:** The omnibus would lead to a total spending level for the regular FY 2009 spending bills of \$1.01 trillion, which is the first time in U.S. history that the \$1 trillion mark has been crossed during the regular appropriations process.

**Adds to Already Substantial Funding in Stimulus:** When the omnibus and “stimulus” are combined, agencies included in both bills receive spending increases worth \$301 billion or 80%. For example, the omnibus bill appropriates \$152.3 billion for health care under HHS, which is \$7.4 billion (5%) above 2008 levels. The omnibus combined with duplicative “stimulus” spending provides HHS with \$276.6 billion in funding, which is an increase of 91%.

**Adds to Nation’s Debt Burden:** In January, CBO projected that the FY 2009 deficit would be \$1.186 trillion or 8.3% of GDP. This would be the largest nominal deficit in U.S. history, as well as the largest deficit as a percentage of GDP in U.S. history outside of World War II. Since January 2007, the national debt has increased from \$8.67 trillion to \$10.73 trillion, an increase of \$2.06 trillion or 23.8% in just two years. **To put this in perspective, the increase to the national debt over just the past two years is larger than the total amount of debt**

accumulated by the federal government from 1789 to 1985. The national debt may increase by another \$2 trillion [this year](#). To accommodate this additional debt burden, the Congress has passed legislation to increase the national debt four times in the last 17 months.

## **Earmarks:**

[Taxpayers for Common Sense](#) reports there are about 8,570 disclosed earmarks in the bill at a total cost of \$7.7 billion, and notes several questionable earmarks, including:

- \$713,625 Woody Biomass at SUNY-ESF.
- \$951,500 Sustainable Las Vegas.
- \$24,000 A+ for Abstinence. Specter is sponsor.
- \$950,000 Myrtle Beach International Trade and Convention Center.
- \$143,000 Las Vegas Natural History Museum, Las Vegas, NV, to expand natural history education programs.
- \$238,000 for the Polynesian Voyaging Society, Honolulu, HI, for educational programs.
- \$381,000 for Jazz at Lincoln Center, New York, NY for music education programs.

The following are some of the other examples of earmarks in the legislation:

- \$1 million to collect data on red snapper
- \$50,000 for Blue Crab research
- \$150,000 for Lobster Research
- \$7.1 million for the conservation and recovery of endangered Hawaiian sea turtle populations
- \$445,000 for Mapping of the Hudson River to build resiliency to climate change
- \$10 million for economic assistance to Maryland and Virginia to help with the blue crab disaster declaration of September 22, 2008.
- \$100,000 to prevent the spread of exotic aquatic weeds

[Politico](#) notes that some of the earmarks in the bill were requested by clients of PMA, a lobbying shop that was recently raided by FBI:

“PMA NABBED EARMARKS: The Hill’s Roxana Tiron reports that the omnibus is hock full of earmarks requested by clients of PMA, a now shuttered lobbying shop that has been raided and connected to Rep. John Murtha (D-Pa.). The Hill gives special scrutiny to Rep. Peter Visclosky (D-Ill.): “Many of these earmarks are requested for companies that are generally in the requesting lawmakers’ district or vicinity. Most of them come from the Energy and Water appropriations subcommittee, chaired by Rep. Pete Visclosky (D-Ind.). Visclosky has had a longstanding relationship with PMA--his former chief of staff was one of the top lobbyists at the firm. PMA and its employees was the single largest donor to Visclosky’s campaigns.”

## **Items of Note:**

### **Division A—Agriculture:**

- **Purchase of Vehicles:** Section 701 of this division allows the Department of Agriculture to purchase 327 motor vehicles (315 to replace existing vehicles).
- **Prohibition on Closure of Rural Development Offices:** The bill prohibits the closure or relocation of rural development offices, unless the Secretary of Agriculture determines that the closure is cost effective and would increase program delivery. This provision

also requires the Secretary of Agriculture to notify the Appropriations Committee 120 days before any closure.

- Increases funding for the **Food and Drug Administration** from \$1.72 billion to \$2.05 billion—an increase of \$335 million or 19.5% over FY 2008.
- Increases funding for the Special Supplemental Nutrition Assistance Program for Women, Infants, and Children (WIC) from \$6.02 billion to \$6.86 billion—an increase of \$840 million or 14.0% over FY 2008.
- Increases funding for the **property management at the USDA** from \$194.9 million to \$244.2 million—an increase of \$49.3 million or 25.3% over FY 2008. This is on top of the nearly \$176 million provided for this purpose in the “stimulus.”
- Increases funding for the **Rental Assistance Program** from \$478.7 million to \$902.5 million—an increase of \$423.8 million or 88.5% over FY 2008.

### **Division B—CJS:**

- Increases funding for the **Census Bureau** from \$1.24 billion to \$2.9 billion – an increase of \$1.69 billion or 134.9% over FY 2008. This is on top of the \$1 billion it received in the “stimulus” to conduct the 2010 survey.
- Increases funding for the **Pacific Salmon Coastal Recovery Program** from \$67 million to \$80 million—an increase of \$13 million or 19.4% over FY 2008. This is also \$45 million *more* than the Commerce Department’s request.
- Increases funding for total local and state law enforcement activities from \$2.68 billion to \$3.18 billion—an increase of \$495 million or 18.4% over FY 2008. The **Community Oriented Police Services (COPS)**, which received \$1 billion in the “stimulus,” is funded at \$550.5 million.
- Increases funding for the **Legal Services Corporation** from \$350.5 million to \$390 million—an increase of \$39.5 million or 11.3% over FY 2008. The program is intended to provide legal assistance to the poor in civil matters. However, the program is controversial because it engages in lobbying and advocacy of political causes, along with litigation against the federal government. The program has not been authorized since 1980.
- **Taxpayer Funded Bail for Criminals:** The bill provides \$30 million for the Edward Byrne Memorial Justice Assistance Grant (on top of the \$2 billion it received in the “stimulus”), which is a major funding source for “pretrial release and pretrial release agencies.” Pretrial release uses taxpayer dollars to compete with the private sector surety bail industry to release criminals from jail. With passage of the stimulus, taxpayers will begin funding pretrial services and pretrial agencies that compete with the tax-paying private surety bail industry. Some conservatives may believe that expanding the budgets of taxpayer-funded pretrial release programs is not fiscally responsible when the private surety bail industry can be utilized to greater degrees at no taxpayer expense.
- Increases funding for **NASA** from \$17.40 billion to \$17.78 billion—an increase of \$380.5 million or 2.2% over FY 2008.
- Increases funding for the **National Science Foundation** from \$6.13 billion to \$6.49 billion—an increase of \$362.9 million or 5.9% over FY 2008.
- Increases funding for the **National Oceanic and Atmospheric Administration (NOAA)** from \$3.99 billion to \$4.37 billion—an increase of \$377 million or 9.5% over FY 2008.

### **Division C—Energy and Water:**

- **Outsourcing/A-76 Activities:** Prohibits funds from being used under OMB Circular A-76 (governing the federal government’s outsourcing policies) to “implement any pending

or future competitive sourcing.” In other words, this provision would prohibit federal employees of agencies that receive funding under the Energy and Water Appropriations bill from having to compete with private-sector entities for certain non-inherently governmental functions of the agencies (like food service and lawn-mowing).

- Provides funding for three regional development agencies of note: the **Appalachian Regional Commission** (increased from \$73 million to \$75 million), **Delta Regional Authority** (increased from \$11.7 million to \$13.0 million), and the **Denali Commission** (decreased from \$21.8 million to \$11.8 million). Historically, some conservative Members have targeted these programs for funding reduction/elimination amendments on the House floor during consideration of the Energy and Water Appropriations bill. The efforts of these agencies are duplicated by many other agencies. In addition, the Denali Commission funds projects solely in Alaska.
- Decreases funding for the **Army Corps of Engineers** from \$5.57 billion to \$5.40 billion—a reduction of \$184.7 million or 3.3%.

### **Division D—Financial Services:**

- **Fairness Doctrine:** The omnibus does NOT continue the prohibition from the FY 2008 omnibus that prohibits funds from being used to reinstate federal speech controls on broadcast radio commonly known as the “**Fairness Doctrine.**” The repeal of the “Fairness Doctrine” in the 1980s is widely seen as giving rise to the proliferation of conservative talk radio.
- Increases funding for the **Federal Buildings Fund** under the General Services Administration (GSA) from \$84 million to \$651.2 million—an increase of \$567.2 million, or 675% over FY 2008.
- Increases funding for the **Internal Revenue Service (IRS)** from \$11.09 billion to \$11.52 billion—an increase of \$428 million or 3.9% over FY 2008.
- Increases funding for the **Small Business Administration** from \$344.1 million to \$386.9 million—an increase of \$42.7 million or 12.4% over FY 2008.
- The rule for H.R. 1105 ([H.Res.184](#)), which allows no amendments to be offered on the House floor, includes a self-enacting [amendment](#) that blocks the otherwise scheduled 2010 congressional pay raise.

### **Division E—Interior:**

- **Indian Health Services:** The bill would appropriate \$637 million for Indian Health Services, specifically for contract services and IT system upgrades. The bill also appropriates \$390 million for facilities, which when combined with the duplicative “stimulus” spending brings the total to \$1.58 billion.
- **Section 429 Rider Provision:** The bill contains language to allow the Department of Interior to regulate greenhouse gas emissions in the United States. By allowing the DOI to withdraw two rules under the Endangered Species Act, Section 429 subjects any project that increases carbon dioxide or greenhouse gas emissions to litigation if they do not first contact the US Fish & Wildlife Service to determine the impact on global warming and the polar bear population.
- **OCS:** The omnibus does NOT include a moratorium on oil and gas leasing on most of the Outer Continental Shelf and on oil shale leasing on federal lands.
- Increases funding for the **National Park Service** from \$1.97 billion to \$2.132 billion—an increase of \$160.9 million or 8.1% over FY 2008.

- Increases funding for the **National Foundation on the Arts and the Humanities** from \$289.4 million to \$310 million—an increase of \$20.6 million or 7.1% over FY 2008. This is in addition to \$50 million of funding included in the “stimulus.”
- Increases funding for the **Bureau of Indian Affairs** from \$2.29 billion to \$2.38 billion—an increase of \$84.9 million or 3.7% over FY 2008.
- Increases funding for the **Environmental Protection Agency (EPA)** from \$7.47 billion to \$7.65 billion—an increase of \$174.2 million or 2.3% over FY 2008.

**Division F—Labor-HHS:**

- Provides \$7.23 billion for **Health Resources and Services**, including: \$1.89 billion for the Ryan White HIV/AIDS Treatment Modernization Act, \$310 million for specific health care-related facilities, \$14.2 million for Native Hawaiian Health Care Activities, and \$2.19 billion for Community Health Centers (in addition to the \$500 million in the stimulus).
- **Primary Care Providers:** The bill appropriates \$219 million for training primary care providers, an increase of \$15 million compared to FY 2008. When combined with the \$500 million that is intended to “prepare our country for universal healthcare,” the total funding for primary care is \$719 million, an increase of 252%.
- **Centers for Disease Control and Prevention (CDC):** The bill appropriates \$6.28 billion for the CDC, which is \$233.4 million more than FY 2008, and \$665.3 million more than the Bush Administration’s budget request. The funding goes to HIV/AIDS, viral Hepatitis, STD, and TB research and prevention, among other items. Additional funding of \$331 million is appropriated under the Public Health Services (PHS) Act, bringing public health programs administered by the CDC to nearly \$6.6 billion.
- **National Institutes of Health:** The bill appropriates over \$30 billion for the National Institutes of Health (NIH), almost \$1 billion over the Bush Administration’s request. When combined with the duplicative \$8.2 billion in the “stimulus,” NIH will grow by 31%. Within that funding, the bill provides \$626 million for NIH buildings and facilities, a 426% increase compared to 2008.
- **Substance Abuse and Mental Health Services Administration (SAMHSA):** In addition to the \$3 billion already included in NIH funding through the different National Institutes on Drug Abuse, Mental Health, and Alcohol Abuse and Alcoholism, the bill appropriates \$3.33 billion for Substance Abuse and Mental Health Services, which is \$300 million above the Bush Administration’s request.
- **Public Health and Social Services Emergency Fund (PHSSEF):** The bill appropriates nearly \$1.4 billion for PHSSEF, almost double the previous year’s level.
- **Agency for Healthcare Research and Quality (AHRQ):** The bill appropriates \$373 million for AHRQ, with \$50 million set aside for **Comparative Effectiveness Research**, up from \$30 million in 2008. The “stimulus” provided the unprecedented CER funding level of \$1.1 billion bringing total CER to \$1.15 billion, or an increase of 3,733%.
- Increases funding for **National and Community Services Programs** from \$645.2 million to \$680.6 million—an increase of \$35.4 million over FY 2008. **AmeriCorps** is funded at \$171.2 million in this section.
- Increases funding for **Head Start** from \$5.5 billion to \$7.1 billion—an increase of \$1.6 billion or 29% over FY 2008.
- Provides \$430 million of advance appropriations for the **Corporation for Public Broadcasting** in FY 2011.
- Increases **Pell Grant** funding from \$14.2 billion to \$17.3 billion—an increase of \$3.1 billion or 21% over FY 2008. This is an addition to the \$15.6 billion for Pell Grants in the “stimulus”.

### **Division G—Legislative Branch:**

- Increases funding for the **Appropriations Committee** from \$29.7 million to \$31.3 million—an increase of \$1.6 million or 5.3% over FY 2008.
- Increases funding for the **Library of Congress** from \$563.0 million to \$607.1 million—an increase of \$44 million or 7.8% over FY 2008.
- **Staff-Led Tours:** The legislation prohibits funding in the bill from being used to eliminate staff-led tours of the Capitol.

### **Division H—State, Foreign Operations:**

- **UN Peacekeeping Fund Increase:** The bill raises the cap on contributions to UN peacekeeping from 25% to 27.1%. This request has come from the Obama Administration. The UN itself did not request these funds. At a time of financial crisis, many conservatives may have concerns that an increase in UN Peacekeeping funds is not responsible spending.
- **Global Fund to Fight AIDS, Tuberculosis and Malaria:** The fund is increased to \$900 million (\$59 million over FY2008). The Global Fund has yet to meet transparency benchmarks that were laid out in the Leadership Act of 2008.
- **Cuba:** The bill eliminates the family travel limitation to immediate family members. It was previously once every three years. The bill also eliminates the “cash-in-advance” requirement for deliveries for agriculture and medical supplies and allows for unlicensed travel for agriculture and medical marketing and sales. Furthermore, the bill zeroes out democracy funding and allows for U.S. drug intelligence to be shared with Cuba.
- Decreases funding for the **Millennium Challenge Corporation (MCC)** from \$1.54 billion to \$875 million—a decrease of \$669 million or 43% over FY 2008.
- Increases contributions to **foreign organizations** from \$1.34 billion to 1.53 billion—an increase of \$190 million or 14% over FY 2008.
- Increases funding for the **International Panel on Climate Change/UN Framework on Climate Change** by 47% to total \$8 million.
- Maintains funding for **Military Assistance to Israel** at \$2.38 billion, the same level as FY 2008.
- Provides \$15 million for the [International Fund for Ireland](#). This program provides aid to the second richest country in the world (\$43,600 per capita GDP).

### **Division I—T-HUD:**

- Increases funding for the **National Railroad Passenger Corporation (Amtrak)** from \$1.33 billion to \$1.45 billion, an increase of \$120 million or 9% over FY 2008.

### **Division J—Homeland Security, Other Provisions:**

- **Secret Service:** Provides \$100 million of emergency spending for the Secret Service.
- **Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism:** The omnibus extends the authorization for the commission through March 1, 2010.

## **Values Issues:**

**UNFPA Funding Reinstated:** Funding has been reinstated for the United National Population Fund (UNFPA), which is a controversial program that the U.S. has not funded in the past due to its past involvement with China's one-child policy. Section 7079 (b) added language that creates an exemption to Kemp-Kasten which would allow UNFPA to be funded. Kemp-Kasten is a 1984 provision that denies federal funding to organizations that are involved with coercive abortions or forced sterilization. While Kemp-Kasten provisions are still intact in the omnibus, Section 7079 (b) creates an exemption for UNFPA. This exemption will nullify the effect of Kemp-Kasten language with regard to UNFPA, thus allowing U.S. dollars to go toward organizations that may support coercive abortion or sterilization. **Note:** All other pro-life riders are included in the Omnibus.

**Increase to International Family Planning Funding (which may include abortion services):** The bill increases international family planning funding to \$545 million—an increase of \$88 million or 19 percent. With President Obama's recent repeal of the Mexico City Policy, which prohibits United States assistance to nongovernmental organizations that provide certain abortion and family planning services, this could result in international family planning dollars going to organizations that promote and provide abortion services (page 163, Division H).

**DC School Vouchers Program Terminated:** The omnibus eliminates the successful DC Opportunity Scholarship program, four years after its inception. The program allows low-income children to go to private schools in D.C. that best suit their needs. According to the Heritage Foundation, over 1,900 children attend private schools because of this program.

**Nominal Drug Pricing:** The bill contains a provision that allows non-federally funded family planning clinics (i.e. Planned Parenthood) to purchase drugs at a "nominal" price. This would include contraceptives and the morning-after pill. The clinics are then able to resell these drugs at higher prices in order to obtain a profit (page 81, 82, Division F).

**Abstinence Funding:** The omnibus decreases funding for the Community Based Abstinence Education (CBAE) program by \$13 million—to \$95 million. Whereas Title X Domestic Family Planning receives an increase of about \$7.5 million—for a total of \$307 million (page 34, Division F).

**Domestic Partnerships:** While the bill maintains a funding ban on domestic partnership benefits, report language urges the Office of Personnel Management (OPM) to "consider" federal health benefits for same-sex domestic partners of federal employees.

## **Voices from Outside the Beltway:**

"Do they really believe the American people are too stupid and gullible to not see what constitutes total waste?"

--Alan from Buffalo, MO

"How is all this spending going to help me, my neighbors, or businesses in my town? The government just takes and my daughter is being saddled with mountains of debt."

--Richard from Olney, MD

"I'm tired of the federal government taking more of our money and wasting it, without any accountability to the citizens of United States."

--Mary from Norman, OK

“We must be relentless in letting our elected officials know in no uncertain terms that we will not tolerate their attempts to sell our posterity's economic future in this manner as they, too, can be replaced at the next possible opportunity at the polls if they fail to represent us in way that is reflective of better stewardship.”

--Victoria from Northern VA

### ***Democrat Inconsistency Alert!***

--“This will not be easy. It will require us to make difficult decisions and face challenges we’ve long neglected... But I refuse to leave our children with a debt that they cannot repay – and that means taking responsibility right now, in this administration, for getting our spending under control.” -President Obama, [Fiscal Responsibility Summit](#)

--Two days later, Democrat leaders in the House bring forward a massive, unamendable bill that increases spending in all nine of the bills in the omnibus, with increases ranging of between 4% and 13%. Even the Legislative Branch division of the bill receives an 11% increase. The spending in this bill ends the regular appropriations process 8% higher than last year, and that is not counting any of the FY 2009 discretionary spending in the “stimulus.”

**Potential Conservative Concerns:** Conservatives may have various concerns with H.R. 1105, including, but not limited to the following:

**Massive Spending Increases:** H.R. 1105 provides an increase of between 4% and 13% for each of the 9 bills that make up the omnibus. For the first time in American history, the omnibus would lead to a total spending level for the regular FY 2009 spending bills of \$1.01 trillion. When the omnibus and “stimulus” are combined, agencies included in both bills receive spending increases worth \$301 billion or 80%.

**More than 8,000 Earmarks:** According to [Taxpayers for Common Sense](#), there are about 8,570 disclosed earmarks in the bill at a total cost of \$7.7 billion (see earmark section of the bill for more information).

**Fairness Doctrine:** The legislation does not maintain the ban on implementation of the “Fairness Doctrine” that was included in the FY 2008 omnibus.

**End of DC School Choice:** The omnibus eliminates the successful DC Opportunity Scholarship program, four years after its inception. The program allows low-income children to go to private schools in D.C. that best suit their needs. According to the Heritage Foundation, over 1,900 children attend private schools because of this program.

**Comparative Effectiveness Research (CER):** Some conservatives may be concerned that the bill appropriates an additional \$50 million for Comparative Effectiveness Research, which was already funded at \$1.1 billion in the “stimulus” for the establishment of a Federal Coordinating Council for Comparative Effectiveness Research. Some conservatives may be concerned that this board and money for government CER is a place-holder for the liberals’ universal health care plan and could result in a *permanent government rationing board that will determine care in place of patients and patients and doctors based on based on “cost” effectiveness rather than “clinical” effectiveness.*

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