

U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC COMMISSION MEETING

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SATURDAY, SEPTEMBER 6, 2008

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The meeting convened telephonically in Apartment 1703, 401 South 12th Street, Arlington, Virginia 22202, at 11:00 a.m., Gerald A. Reynolds, Chairman, presiding.

PRESENT:

GERALD A. REYNOLDS, Chairman
ABIGAIL THERNSTROM, Vice Chairman
TODD F. GAZIANO, COMMISSIONER
GAIL L. HERIOT, COMMISSIONER
PETER N. KIRSANOW, COMMISSIONER
ARLAN D. MELENDEZ, COMMISSIONER
MICHAEL YAKI, COMMISSIONER

MARTIN DANNENFELSER, Staff Director

STAFF PRESENT:

DAVID BLACKWOOD, General Counsel
TINALOUISE MARTIN, Director, Office of Management
EMMA MONROIG, Solicitor and Parliamentarian
DEBRA CARR, Associate Deputy Staff Director, OSD
PAMELA A. DUNSTON, Chief, ASCD
KARA SILVERSTEIN, Attorney-Advisor (OSD)

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P-R-O-C-E-E-D-I-N-G-S

(11:07 a.m.)

CHAIRMAN REYNOLDS: Good morning. This is Chairman Reynolds. It is approximately -- well, it's 11:07 Eastern Standard Time on September 6, 2008.

We're having a telephonic meeting with the Commissioners participating from different locations. I will call the name of each Commissioner in order to determine if there is a quorum to hold the meeting. First up, Vice Chair Thernstrom?

(No response.)

Commissioner Gaziano?

COMMISSIONER GAZIANO: Here.

CHAIRMAN REYNOLDS: Commissioner Heriot?

(No response.)

Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Here.

CHAIRMAN REYNOLDS: Commissioner Melendez?

COMMISSIONER MELENDEZ: Here.

CHAIRMAN REYNOLDS: Commissioner Taylor?

(No response.)

Commissioner Yaki?

(No response.)

Commissioner Yaki?

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1 COMMISSIONER YAKI: Oh, yes, I'm here.
2 I'm sorry. There's a time lag, because I'm three
3 hours behind.

4 (Laughter.)

5 COMMISSIONER GAZIANO: And let the record
6 reflect that no one voted "present."

7 CHAIRMAN REYNOLDS: Is the Staff Director
8 present?

9 STAFF DIRECTOR DANNENFELSER: Present.

10 CHAIRMAN REYNOLDS: Is the Court Reporter
11 on the line?

12 THE COURT REPORTER: Yes.

13 CHAIRMAN REYNOLDS: Okay. The meeting
14 will come to order. If a Commissioner wants to make a
15 statement, please identify yourself first. Whenever
16 it's necessary to take a vote, the following procedure
17 will be followed. I will call out the name of each
18 Commissioner. The Commissioner should then answer
19 yes, no, or abstain. After the voting is concluded, I
20 will read out how each of you has voted, in order to
21 ensure that the tally is correct.

22 First item up, I move to approve the
23 agenda. Is there a second?

24 COMMISSIONER YAKI: Second.

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1 COMMISSIONER GAZIANO: Second.

2 CHAIRMAN REYNOLDS: And who was --

3 COMMISSIONER GAZIANO: Gaziano seconds.

4 COMMISSIONER YAKI: No, wait. Yaki
5 seconded that.

6 COMMISSIONER GAZIANO: Oh, you beat me to
7 it, then.

8 CHAIRMAN REYNOLDS: Discussion? No, I'm
9 sorry. All those in favor -- bear with me.
10 Commissioner Gaziano, how do you -- how do you vote?

11 COMMISSIONER GAZIANO: Aye.

12 VICE CHAIR THERNSTROM: Hi.

13 CHAIRMAN REYNOLDS: I'm sorry. Is that
14 Abigail Thernstrom?

15 VICE CHAIR THERNSTROM: I'm finally here.
16 I've been waiting forever on this line.

17 CHAIRMAN REYNOLDS: Okay. The Court
18 Reporter, please note that Vice Chair Thernstrom has
19 joined the call.

20 So, Vice Chair Thernstrom, you vote how?

21 VICE CHAIR THERNSTROM: On what?

22 CHAIRMAN REYNOLDS: Okay. We are voting
23 to accept the agenda.

24 VICE CHAIR THERNSTROM: Yes.

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1 CHAIRMAN REYNOLDS: Okay. And --

2 VICE CHAIR THERNSTROM: And, by the way, I
3 should say our electricity has been out. It is back
4 on, but it has -- if I go blank on this call, it will
5 be because the electricity is out again.

6 CHAIRMAN REYNOLDS: Okay. Well, call in
7 on your cell phone if that happens.

8 VICE CHAIR THERNSTROM: I will.

9 CHAIRMAN REYNOLDS: Okay. Commissioner
10 Gaziano, that was aye, is that correct?

11 COMMISSIONER GAZIANO: Correct.

12 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

13 COMMISSIONER KIRSANOW: Aye.

14 CHAIRMAN REYNOLDS: Commissioner Melendez?

15 COMMISSIONER MELENDEZ: Yes.

16 CHAIRMAN REYNOLDS: Commissioner Yaki?

17 COMMISSIONER YAKI: Yes.

18 CHAIRMAN REYNOLDS: And the Chairman votes
19 aye.

20 Okay. Discussion? I'm sorry.

21 VICE CHAIR THERNSTROM: Yes, what are we
22 discussing?

23 COMMISSIONER YAKI: We just voted to
24 approve it.

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1 CHAIRMAN REYNOLDS: Yes. I'm
2 discombobulated.

3 COMMISSIONER YAKI: I know it's early for
4 you. I know it's early for you, Mr. Chair.

5 CHAIRMAN REYNOLDS: Okay. All right. So
6 Vice Chair Thernstrom voted -- well, it was a
7 unanimous vote.

8 VICE CHAIR THERNSTROM: It was a unanimous
9 vote.

10 CHAIRMAN REYNOLDS: Okay. Next up, last
11 week you were provided with a summary of the
12 Commission's fiscal year 2010 budget estimate. As you
13 can see, the Commission is asking for approximately
14 \$12.4 million, which is about \$770,000 more than the
15 estimated budget that we submitted to OMB for 2009.

16 This increase reflects funding for 16 new
17 hires, including four additional Commissioner
18 Assistants, so that all Commissioners will have an
19 assistant. It also includes incurring significant
20 cost to comply with the strategic goals set out in the
21 Commission's strategic plan.

22 These goals include shaping a national
23 conversation on the current and future civil rights
24 issues that identify civil rights priorities for

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1 policymakers, expanding the capacity of federal
2 agencies to raise the awareness of civil rights, and
3 efficiently and effectively executing their civil
4 rights enforcement responsibilities by engaging in
5 strategic partnerships.

6 To achieve these long-term goals, the
7 Commission is seeking funding for several new
8 initiatives, including completing and distributing a
9 high quality report on the results of a national civil
10 rights conference, supporting more chartered advisory
11 committees than in prior years. Our goal is going to
12 be to -- is to charter 95 percent of our SACs as
13 opposed to the 33 percent which happened in fiscal
14 year 2007. Also, partnering with other federal
15 agencies to conduct public outreach campaigns.

16 May I have a second?

17 VICE CHAIR THERNSTROM: Second.

18 CHAIRMAN REYNOLDS: Discussion?

19 VICE CHAIR THERNSTROM: Mr. Chairman, what
20 are -- what are our priorities in that package of
21 possible additional spending, were we to be able to
22 afford any of it, any of the proposals?

23 CHAIRMAN REYNOLDS: I'm sorry. Are you --
24 if we get the money --

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1 VICE CHAIR THERNSTROM: If we --

2 CHAIRMAN REYNOLDS: -- then --

3 VICE CHAIR THERNSTROM: If we have some
4 money to spend, what are our priorities?

5 CHAIRMAN REYNOLDS: Well, the bulk of it
6 -- and the Staff Director can jump in, but the bulk of
7 it is going toward hiring. We are adding 16 -- 16
8 FTEs over what we have now, so we would go from 45
9 FTEs to 61.

10 VICE CHAIR THERNSTROM: And what
11 percentage of the -- right. And that includes the
12 special assistants.

13 CHAIRMAN REYNOLDS: That's correct.

14 VICE CHAIR THERNSTROM: The new special
15 assistants. Okay. But as I recall, it also includes
16 some other hiring. Is that not correct?

17 COMMISSIONER HERIOT: Hello?

18 CHAIRMAN REYNOLDS: Yes.

19 COMMISSIONER HERIOT: Hi, guys. Can I be
20 heard now?

21 CHAIRMAN REYNOLDS: Commissioner Heriot.

22 COMMISSIONER HERIOT: I was there on time.
23 I just couldn't talk. Nobody could hear me.

24 VICE CHAIR THERNSTROM: Yes. Well, I had

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1 some trouble getting on, too.

2 THE COURT REPORTER: Please identify
3 yourself.

4 COMMISSIONER HERIOT: Yes. So I voted on
5 the motion to approve the minutes. And I voted aye,
6 but no one could hear me.

7 CHAIRMAN REYNOLDS: Okay.

8 THE COURT REPORTER: Excuse me. Can you
9 please identify yourself?

10 COMMISSIONER HERIOT: Gail Heriot.

11 THE COURT REPORTER: Thank you.

12 CHAIRMAN REYNOLDS: Okay. Well --

13 VICE CHAIR THERNSTROM: I should have the
14 budget in front of me, Gerry. But it's -- but the
15 hiring and I -- as I -- do I --

16 CHAIRMAN REYNOLDS: Yes, I will read -- I
17 will go down the list. It is four new commission
18 assistants.

19 VICE CHAIR THERNSTROM: Yes.

20 CHAIRMAN REYNOLDS: A deputy staff
21 director.

22 VICE CHAIR THERNSTROM: Exactly.

23 CHAIRMAN REYNOLDS: A social scientist for
24 OCRE.

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1 VICE CHAIR THERNSTROM: Yes. So this is
2 my question -- that's what I remembered. This is my
3 question. If we have to pick and choose, have we set
4 some priorities? Are we going to set some priorities?
5 Is it a good idea to do so, or a bad idea to do so?

6 CHAIRMAN REYNOLDS: Well, I think that at
7 this point we are essentially asking for what we need,
8 and we will see what we get back on the passback. And
9 I suspect, while I'm fairly confident that we're not
10 going to get all that we request -- and that point I
11 think it will be appropriate for us to start making
12 some priorities.

13 VICE CHAIR THERNSTROM: Okay.

14 CHAIRMAN REYNOLDS: If we get everything,
15 then there is very little work to do.

16 VICE CHAIR THERNSTROM: Right. No. I
17 mean, the assumption is we're not going to get
18 everything. That was my question about priorities.

19 CHAIRMAN REYNOLDS: Well, then, it will
20 depend on what we get.

21 VICE CHAIR THERNSTROM: Okay.

22 CHAIRMAN REYNOLDS: I mean, if we get 90
23 percent of what we request, that's -- that's -- that
24 will shape the discussion in a particular way. If we

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1 -- if we get last year's budget or less, then that's a
2 completely different --

3 VICE CHAIR THERNSTROM: Right.

4 CHAIRMAN REYNOLDS: -- conversation.

5 VICE CHAIR THERNSTROM: Right.

6 COMMISSIONER HERIOT: Well, if we don't
7 set priorities now, is there a possibility that
8 somebody else is going to set them for us?

9 CHAIRMAN REYNOLDS: No. We will decide
10 how money is spent.

11 VICE CHAIR THERNSTROM: Okay. So we don't
12 need to have that discussion at this point.

13 CHAIRMAN REYNOLDS: Other questions?

14 COMMISSIONER MELENDEZ: Commissioner
15 Melendez. Are we going to then, depending on how much
16 money we get, hold another meeting to prioritize at a
17 later date? Is that what you're saying?

18 CHAIRMAN REYNOLDS: Exactly.

19 COMMISSIONER GAZIANO: We first have to do
20 that for 2009 -- this is Commissioner Gaziano --
21 assuming there is a passback. Won't we have to
22 address 2009 first?

23 STAFF DIRECTOR DANNENFELSER: This is the
24 Staff Director. The congressional committees have

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1 approved \$8.8 million for 2009. There is a question
2 whether or not Congress is going to be operating on a
3 continuing resolution, in which case we could be at
4 the \$8,460,000 that we are currently running at for
5 2009. So we are going to have to deal with that.

6 The full Congress -- you know, both -- it
7 hasn't even gone to the floor. The appropriations
8 have not gone to the floor of the House or Senate at
9 this point. And it's -- I think it's quite likely
10 that we're going to be dealing with a continuing
11 resolution.

12 COMMISSIONER GAZIANO: Well, I am still
13 confident Commissioner Yaki can get that increased.
14 But apart from that, I think we will have to deal with
15 that first.

16 CHAIRMAN REYNOLDS: Hold on now. He
17 hasn't come through on our budget increase yet,
18 despite his close relationships. Commissioner Yaki,
19 that was an insult, and I would like you to respond to
20 it. All right.

21 COMMISSIONER YAKI: This is Commissioner
22 Yaki, and all I can say in response to that is, you
23 know, when I feel like you deserve it, maybe I'll make
24 that call.

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1 COMMISSIONER GAZIANO: Okay.

2 VICE CHAIR THERNSTROM: I will refrain
3 from asking what it is we have to do to deserve it.

4 COMMISSIONER GAZIANO: We shouldn't have
5 opened the can of worms. Let's move on.

6 CHAIRMAN REYNOLDS: I suspect it would
7 involve a razor, so --

8 COMMISSIONER YAKI: And because you have
9 to ask, as -- if you have to ask, then that's part of
10 the problem.

11 VICE CHAIR THERNSTROM: I do know that.
12 It was a facetious remark.

13 THE COURT REPORTER: Excuse me. I can
14 only have one person speaking on the line at once for
15 the record.

16 CHAIRMAN REYNOLDS: I'm sorry?

17 THE COURT REPORTER: This is the Court
18 Reporter.

19 CHAIRMAN REYNOLDS: Repeat yourself.

20 THE COURT REPORTER: This is the Court
21 Reporter.

22 COMMISSIONER YAKI: Our Court Reporter --
23 this is Commissioner Yaki -- has said that our light,
24 bantered colloquy has completely discombobulated his

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1 ability to transcribe all of the insults we just
2 hurled at each other.

3 CHAIRMAN REYNOLDS: Well, that's good. We
4 can protect the guilty, and that came from the
5 Chairman.

6 All right, folks. Back to business.
7 Comments, questions?

8 COMMISSIONER MELENDEZ: Yes. Commissioner
9 Melendez. Besides hiring staff, going to the second
10 page about all of these other expenditures, are we
11 going to talk about that?

12 CHAIRMAN REYNOLDS: We will talk about
13 anything you want to talk about. Which document are
14 you referring to?

15 COMMISSIONER MELENDEZ: Well, this -- the
16 overview of the 2010 budget formulation. I'm looking
17 at all of the -- the four new Commissioners, and then
18 on the second page we're talking about 30-second
19 public service announcements for 80,000 estimate,
20 55,000 completing and distributing a high-quality
21 report on results of a national civil rights
22 conference. Is that part of this, or is that
23 something separate?

24 CHAIRMAN REYNOLDS: It's part of it.

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1 COMMISSIONER MELENDEZ: Okay. But we
2 don't see that line item yet in this budget, or where
3 is that at on the first page? That's just staff, I
4 see, but the breakdown of the other parts of the
5 budget, including those things, are something we can
6 talk about also?

7 CHAIRMAN REYNOLDS: Yes. Do you have a
8 particular question you -- I mean, is there a
9 particular bullet point you want to discuss?

10 COMMISSIONER MELENDEZ: I was retaining
11 and going down to that last bullet, next-to-the-last
12 bullet point that says "retaining an organizational
13 efficiency consultant to assess and make
14 recommendations for improving our organizational
15 structure and overall efficiency, 120,000 estimate."

16 Haven't we done something like that
17 already, or are you saying that we're going to do
18 something similar? Because I know we've had
19 consultants coming in looking at organizational
20 processes. I was just wondering what that one was
21 about.

22 CHAIRMAN REYNOLDS: We did -- we had a
23 consultant to come in. You will recall Booz Allen
24 came in and provided us some guidance with respect to

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1 our -- the rechartering of the SACs, increasing the
2 efficiencies and putting some procedures in place.
3 And this is -- this is broader. It's not focused just
4 on the rechartering of SACs. That has been done.

5 COMMISSIONER YAKI: Commissioner Melendez
6 -- Commissioner Yaki -- I believe that that line item
7 was to send me away during Commission meetings to
8 faraway places.

9 CHAIRMAN REYNOLDS: Yes. You are not too
10 far from Alcatraz.

11 This is Chairman Reynolds. A question for
12 the Staff Director. The two PSAs that's -- the
13 estimate is \$80,000. That seems -- that seems low.
14 Is that for -- is that just for production costs?
15 Could you provide some discussion as to what is
16 covered by the \$80,000?

17 STAFF DIRECTOR DANNENFELSER: Well, it's a
18 combination of the production and distribution of the
19 two PSAs. As it notes, there is one in English and
20 one in Spanish.

21 COMMISSIONER GAZIANO: Yes. I assume
22 networks run these for free, if they find them
23 appealing. Isn't that correct?

24 STAFF DIRECTOR DANNENFELSER: Oftentimes

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1 they do. They will do that, but there's also, you
2 know, costs in getting them -- getting them
3 distributed. The air time is free if they agree to do
4 that.

5 COMMISSIONER GAZIANO: Naturally, there
6 are those costs, but that was my assumption. Thanks
7 for confirming it.

8 CHAIRMAN REYNOLDS: Okay. And that
9 exchange was between Commissioner --

10 COMMISSIONER GAZIANO: Gaziano.

11 CHAIRMAN REYNOLDS: -- Gaziano and the
12 Staff Director.

13 COMMISSIONER YAKI: Mr. Chairman?

14 CHAIRMAN REYNOLDS: Yes. Commissioner
15 Yaki?

16 COMMISSIONER YAKI: Are those PSAs for
17 radio or for TV?

18 CHAIRMAN REYNOLDS: Mr. Staff Director?

19 VICE CHAIR THERNSTROM: They're for radio,
20 right?

21 COMMISSIONER YAKI: They've got to be for
22 radio, because the cost is just way too --

23 VICE CHAIR THERNSTROM: Yes. No, it's for
24 radio.

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1 STAFF DIRECTOR DANNENFELSER: It is for
2 radio -- radio announcements, yes.

3 COMMISSIONER YAKI: Okay. Because it is a
4 lot easier to get air time for that.

5 VICE CHAIR THERNSTROM: I don't think we
6 have ever done TV.

7 CHAIRMAN REYNOLDS: Other questions?

8 (No response.)

9 If there are no additional questions or
10 comments, it is time to vote. Vice Chair Thernstrom,
11 how do you vote?

12 VICE CHAIR THERNSTROM: Aye.

13 CHAIRMAN REYNOLDS: Commissioner Gaziano?

14 COMMISSIONER GAZIANO: Yes.

15 CHAIRMAN REYNOLDS: Commissioner Heriot?

16 COMMISSIONER HERIOT: Yes.

17 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

18 COMMISSIONER KIRSANOW: Aye.

19 CHAIRMAN REYNOLDS: Commissioner Melendez?

20 COMMISSIONER MELENDEZ: I'll abstain.

21 CHAIRMAN REYNOLDS: Commissioner Yaki?

22 COMMISSIONER YAKI: Yes.

23 CHAIRMAN REYNOLDS: And the Chairman votes
24 in the affirmative. Just to recap the vote,

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1 Commissioners Thernstrom, Gaziano, Heriot, Kirsanow,
2 Yaki, Reynolds, voted in the affirmative.
3 Commissioner Melendez abstained. The motion carries.

4 Folks, unless you want to discuss some
5 other items, we are done for the day.

6 COMMISSIONER MELENDEZ: Question.

7 CHAIRMAN REYNOLDS: Yes.

8 COMMISSIONER MELENDEZ: For the Friday
9 meeting next week, I was trying to determine how long
10 that was going to go. And were we holding a business
11 meeting after the briefing, and what time would that
12 actually start?

13 CHAIRMAN REYNOLDS: Okay. As for the
14 first question, when it ends really depends on us. I
15 mean, the speakers have 10 minutes, and depending on
16 how many questions are asked and the length of the
17 exchanges -- in other words, I can't answer you. I
18 can't answer that question.

19 COMMISSIONER HERIOT: We do have to be
20 prepared to sustain through the afternoon, don't we?

21 COMMISSIONER GAZIANO: Right. So I just
22 -- I scheduled to fly back Saturday morning, just
23 because I wasn't real sure.

24 VICE CHAIR THERNSTROM: Yes. No, I think

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1 that's a good idea, and that --

2 COMMISSIONER HERIOT: I scheduled
3 Saturday, too.

4 CHAIRMAN REYNOLDS: Okay.

5 VICE CHAIR THERNSTROM: It would also
6 allow us to take a break for lunch.

7 STAFF DIRECTOR DENNENFELSER: That would
8 be good.

9 VICE CHAIR THERNSTROM: Which I think
10 would be great.

11 CHAIRMAN REYNOLDS: Are there any other
12 questions?

13 COMMISSIONER YAKI: Yes. This is
14 Commissioner Yaki. Why are we thinking it's going to
15 go late on Saturday afternoon?

16 CHAIRMAN REYNOLDS: Oh, no, we don't.

17 VICE CHAIR THERNSTROM: Friday.

18 COMMISSIONER HERIOT: On Friday.

19 COMMISSIONER YAKI: Friday?

20 COMMISSIONER HERIOT: We have both a
21 briefing and a meeting.

22 COMMISSIONER YAKI: Oh. Well, I'm leaving
23 Friday.

24 VICE CHAIR THERNSTROM: What time are you

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1 leaving?

2 COMMISSIONER YAKI: The usual time.

3 COMMISSIONER GAZIANO: Yes. Let's adjust
4 the agenda to reflect that.

5 CHAIRMAN REYNOLDS: Folks, identify
6 yourselves, so that these witty comments can be
7 attributed to the authors.

8 Any other questions?

9 COMMISSIONER YAKI: No.

10 CHAIRMAN REYNOLDS: All right, folks.
11 We're done. Thank you very much.

12 (Whereupon, at 11:27 a.m., the proceedings in the
13 foregoing matter were concluded.)

14

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