

# LIQUIDITY OPPORTUNITIES: PPP AND EMPLOYEE RETENTION CREDIT



February 23, 2021

# Today's speakers



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# Agenda

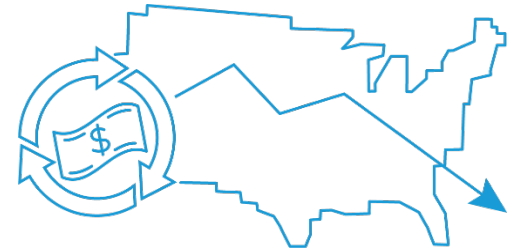
Topic	
Introductions	5 min.
Consolidated Appropriations Act, 2021	5 min.
Paycheck Protection Program updates	25 min.
Employee retention credit updates	25 min.

# Consolidated Appropriations Act – Signed into law Dec. 27, 2020

- COVID-related Tax Relief Act of 2020
  - Clarification of tax treatment for forgiveness of covered Paycheck Protection Program (PPP) loans
    - No amount of PPP loan forgiveness is included in gross income
    - No deduction is denied for expenses paid with PPP funds (PPP deduction fix)
    - No tax attribute is reduced by reason of cancellation of indebtedness
    - No basis increase is denied by reason of the exclusion from gross income
  - Applicable to 2020 PPP loans and 2021 PPP loans
  - Similar tax treatment applicable to –
    - Emergency Economic Injury Disaster Loan Program (EIDL) grants and targeted EIDL advances
    - Loan payment subsidies
    - Grants for shuttered venue operators

# Consolidated Appropriations Act – Signed into law Dec. 27, 2020

- Economic Aid Act – 2021 Paycheck Protection Program
  - Appropriated \$284 billion into continued access and second draw programs
  - Extends PPP through March 31, 2021
  - Expands allowable uses of PPP funds to –
    - Covered operations expenditures
    - Covered property damage costs
    - Covered supplier costs
    - Covered worker protection expenditures
  - Adds specific group insurance payments as eligible payroll costs
    - group life, disability, vision, or dental insurance
  - 60% payroll requirement still applies

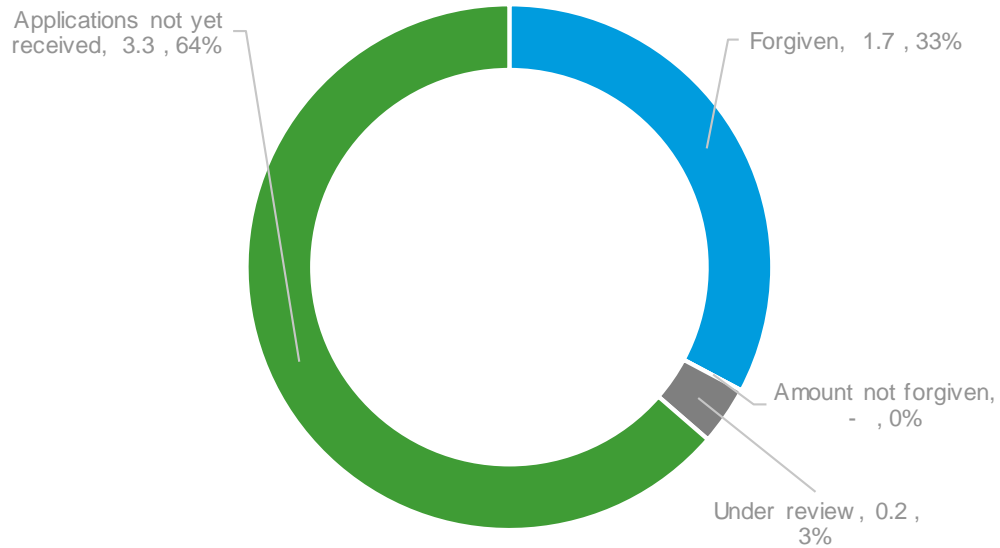


# Consolidated Appropriations Act – Signed into law Dec. 27, 2020

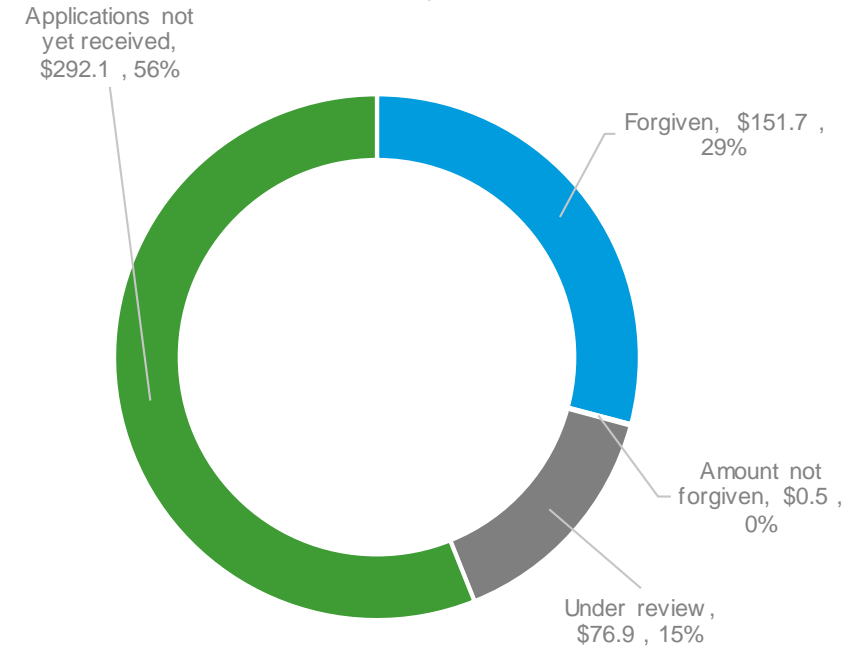
- Taxpayer Certainty and Disaster Tax Relief of 2020
  - Improved coordination between Paycheck Protection Program and Employee Retention Tax Credit (ERC)
    - Allows 2020 and/or 2021 PPP borrower to claim employee retention tax credit

# PPP updates – Loan forgiveness

2020 PPP loan forgiveness by volume  
Total loans submitted for forgiveness: 5.3M



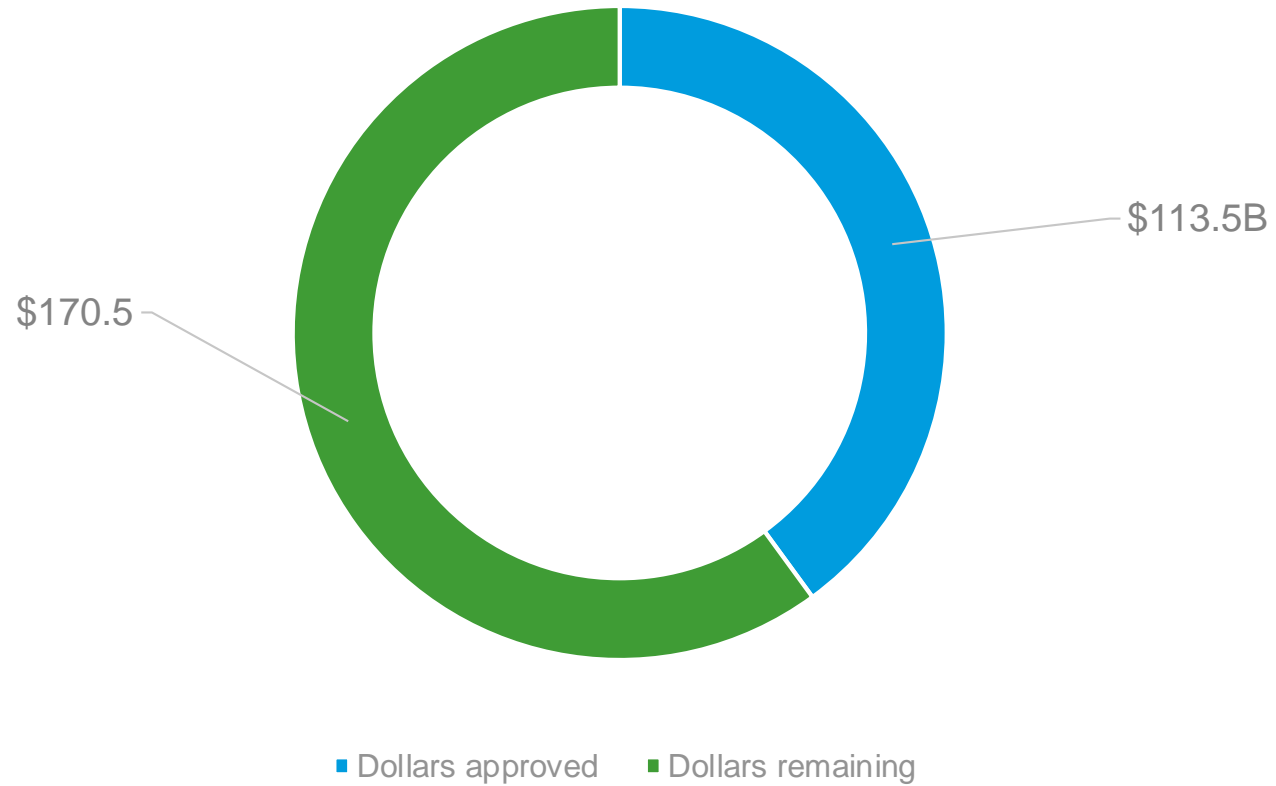
2020 PPP loan forgiveness by dollar amount  
Total dollars: \$521.2B



Data from SBA.gov as of 2/18/2021

# PPP updates – 2021 PPP lending

2021 PPP funding - loans approved 1,804,910



Data from SBA.gov as of 2/18/2021



# PPP updates – 2021 PPP lending (cont.)

## Industry for 2021 PPP

NAICS Sector Description	Loan Count	Net Dollars	% of Amount
Accommodation and Food Services	134,166	\$18,000,672,008	18%
Construction	112,199	\$13,698,112,577	14%
Professional, Scientific, and Technical Services	157,368	\$11,278,917,750	11%
Manufacturing	59,628	\$10,710,113,544	11%
Health Care and Social Assistance	119,187	\$10,445,628,653	10%
Other Services (except Public Administration)	135,205	\$6,544,574,315	6%
Retail Trade	83,200	\$4,834,082,256	5%
Wholesale Trade	37,121	\$4,163,502,290	4%
Administrative and Support and Waste Management and Remediation Services	51,346	\$4,023,797,033	4%
Agriculture, Forestry, Fishing and Hunting	179,260	\$3,508,175,635	3%
Transportation and Warehousing	55,298	\$3,148,054,071	3%
Arts, Entertainment, and Recreation	40,441	\$2,279,310,449	2%
Real Estate and Rental and Leasing	49,274	\$2,259,522,678	2%
Educational Services	22,759	\$1,804,613,503	2%
Information	17,196	\$1,506,673,576	1%
Mining	7,338	\$1,235,763,385	1%
Finance and Insurance	23,276	\$879,158,395	1%
Public Administration	3,824	\$279,911,014	0%
Management of Companies and Enterprises	1,416	\$172,854,669	0%
Utilities	1,276	\$151,280,500	0%



Approvals through 02/07/2021

8

# 2021 PPP – First draw program

- Documentation and substantiation generally similar to 2020 PPP
- Slight changes to loan application form
- Borrower can choose to use the following for payroll cost formula
  - 2019 payroll – monthly average
  - 2020 payroll – monthly average
  - Trailing 12 month payroll – monthly average

# 2021 PPP – First draw program (cont.)

- Qualifiers

- Must have not more than 500 employees (300 for certain borrowers) on an affiliated basis, or
- A business concern that has an affiliation waiver –
  - A business in which the NAICS code begins with 72
  - A business which is a franchise and has a franchise identifier code, as assigned by SBA
  - A business concern that has received funding from an SBIC,
- Or, a business concern that meets the SBA size standards for its NAICS code, or
- A business concern that meets the SBA alternative size standard tests

# 2021 PPP – Second draw program

- Loan amount computation

- Most borrowers can use 2.5x average monthly payroll costs, with a maximum loan size of \$2 million
- A business concern whose NAICS code begins with 72 can use 3.5x average monthly payroll, with a maximum loan size of \$2 million
- Borrower can choose to use the following for payroll cost formula –
  - 2019 payroll – monthly average
  - 2020 payroll – monthly average
  - Trailing 12 month payroll – monthly average

# 2021 PPP – Second draw program (cont.)

- Qualifiers

- Borrower must attest that they have spent or will spend the full amount of the initial draw PPP loan on qualified expenses
- Borrower must not have more than 300 employees on an affiliated basis
  - Same affiliation waivers apply to second draw as initial draw
- Borrower must have had a 25% decline in gross receipts, as demonstrated by comparing quarterly receipts in one 2020 quarter to the same quarter in 2019
  - Gross receipts include receipts of affiliates

## 2021 PPP – Second draw program (cont.)

- Gross receipts based on “accounting method” of borrower
  - Do you issue monthly or quarterly internal financial statements?
  - Consistency in comparison is most critical
  - Gross receipts generally equal all sources of income, except for net capital gains and losses
  - Gross receipts do not, however, include proceeds from 2020 PPP loan

# 2021 PPP – Second draw program (cont.)

- Gross receipts for tax-exempt entity
  - Includes, but is not limited to:
    - The gross amount received as contributions, gifts, grants, and similar amounts without reduction for the expenses of raising and collecting such amounts
    - The gross amount received as dues or assessments from members or affiliated organizations without reduction for expenses attributable to the receipt of such amounts
    - Gross sales or receipts from business activities (including business activities unrelated to the purpose for which the organization qualifies for exemption, the net income or loss from which may be required to be reported on Form 990-T)

# 2021 PPP – Second draw program (cont.)

- Gross receipts for tax-exempt entity
  - Includes, but is not limited to:
    - The gross amount received from the sale of assets without reduction for cost or other basis and expenses of sale, and
    - The gross amount received as investment income, such as interest, dividends, rents, and royalties.





# 2021 PPP – Loan submission items

- SBA appears to be doing a more “front-end” review for potential borrower issues as well as economic necessity
  - Various hold codes issued by the SBA to PPP lender
  - Examples:
    - Inactive business
    - Potential ineligible business size
    - Potential affiliation issue
    - Foreign-country related issues

# 2021 PPP – Late breaking updates

- Update on February 22, 2021
  - PPP will only accept applications from companies with fewer than 20 employees
  - Exclusive access period will last 14 days and will start Wednesday, February 24 and end on March 9
  - Changes for determining loan amounts for sole proprietors, independent contractors, and self-employed workers

# Final comments

- Be aware of other aid programs and interaction with PPP / ERC

	PPP Applicant	Shuttered Venue Operators Grant Applicant	COVID-19 EIDL Applicant
<u>PPP Recipient</u>	First Draw PPP borrowers may be eligible to apply for Second Draw PPP loans	May apply for SVOG if received a PPP loan prior to 12/27/20	May apply for EIDL; PPP and EIDL can't be used for the same purpose/costs
<u>Shuttered Venue Operators Grant Recipient</u>	Not eligible to apply for PPP loan	May be eligible to receive a supplemental SVOG award	May apply for EIDL; SVOG and EIDL can't be used for the same purpose/costs
<u>COVID -19 EIDL Recipient</u>	May apply for PPP; EIDL and PPP can't be used for the same purpose/costs	May apply for SVOG; EIDL and SVOG can't be used for the same purpose/costs	The same business cannot apply for more than one EIDL

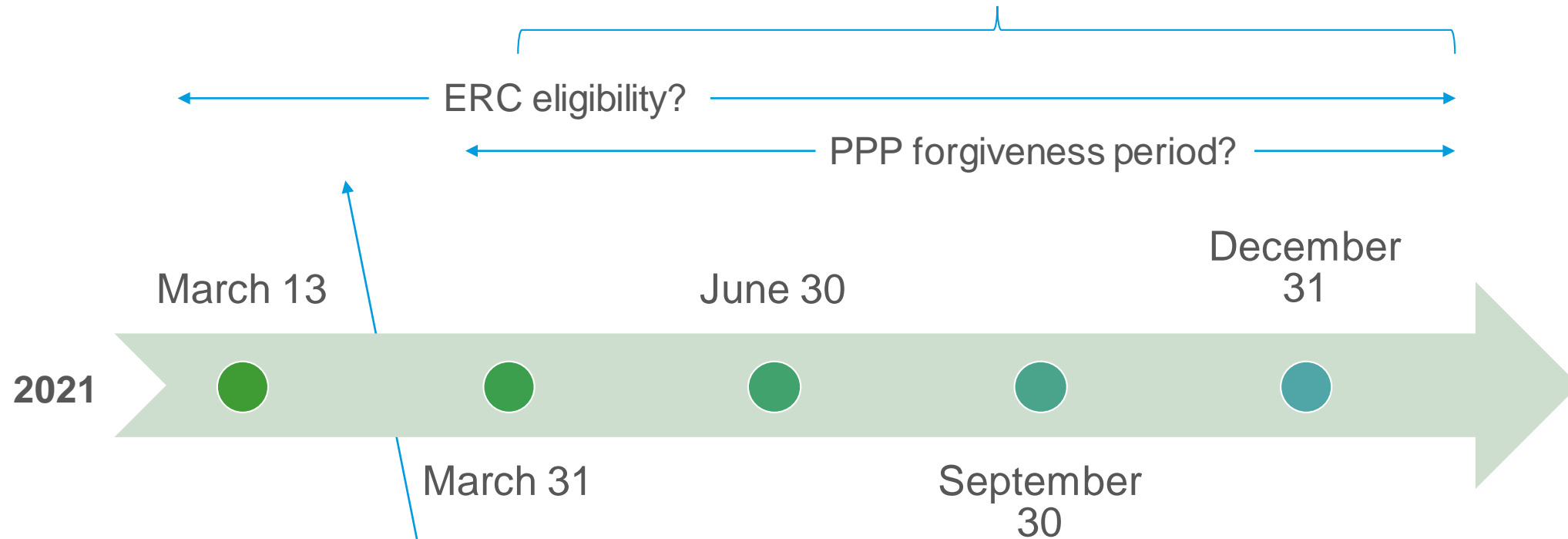
Chart from SBA.gov

# Employee retention credit overview

	2020	2021
What is it?	50% payroll credit up to \$10,000 per wages per employee	70% payroll credit up to \$10,000 of wages per quarter per employee
Who is eligible?	<ul style="list-style-type: none"> <li>Fully or partially impacted by a government order limiting commerce, travel or group meetings <b>OR</b></li> </ul>	
	50% decline in gross receipts compared to same quarter in 2019	20% decline in gross receipts compared to same quarter in 2019
What are qualified wages?	>100 full-time employees in 2019: Wages/healthcare expenses attributable to time NOT working	>500 full-time employees in 2019: Wages/healthcare expenses attributable to time NOT working
	</ 100 full-time employees in 2019: ALL wages/healthcare expenses paid	</ 500 full-time employees in 2019: ALL wages/healthcare expenses paid

# ERC and PPP overlap

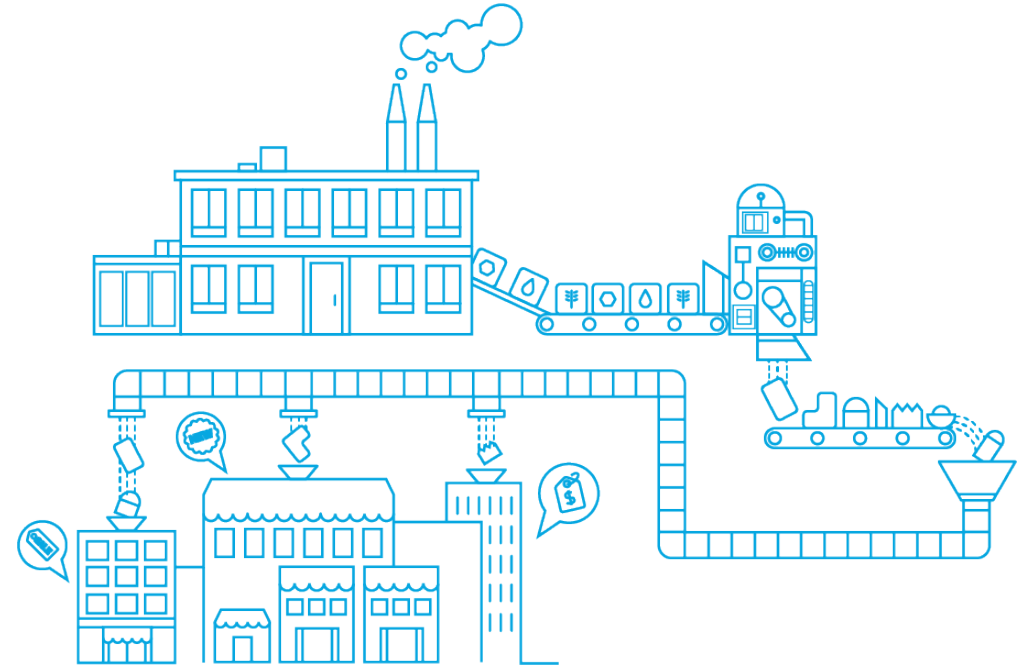
In overlapping periods, is there enough for both?



Might be some periods with no overlap?

# Fully or partially impacted by a government order

- Lots of orders by various bodies
- Not as easy as essential vs. non-essential
- Starting point: what business operations were limited by orders in place (perhaps direct or indirect)



# Industries that may benefit from ERC

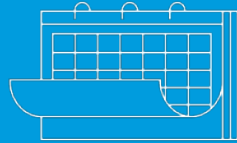
- Restaurants
- Retail
- Professional services
- Non profits
- Medical practices
- Manufacturers

# ERC and PPP wages and employees

It's not quite that simple....



Have to count full-time employees



Have to identify time not working



Have to use definitions of wages & possibly make adjustments



# Employer size and ERC (assume 2020)

90 employees, making average of \$60,000 per year

Shutdown for 6 weeks

$6 / 52 = 11.5\%$  portion of year impacted by orders

$11.5\% \times \$60,000 = \$6,900$

$90 \times \$6,900 \times 50\% = \$310,500$

300 employees, making average of \$60,000 per year

10% of everyone's work could not be done for 9 months of the year

$\$60,000 \times 10\% \times 9/12 = \$4,500$

$300 \times \$4,500 \times 50\% = \$675,000$

# Controlled groups and ERC

	Item	Impact
Eligibility	Fully or partially impacted by a government order limiting commerce, travel or group meetings	All employers are a single employer so orders impacting one entity may cause partial suspension for all entities
	Significant decline in gross receipts for the quarter	Total for controlled group
Calculation of wages	Number of full-time employees in 2019	Total for controlled group

# Resources

[Contact us for assistance](#)

Article: [Employee retention credit significantly expanded for 2021](#)

Video: [Game-changing updates to the Employee Retention Tax Credit](#)

Article: [A business guide to the December coronavirus relief package](#)

Resource center: [Coronavirus tax relief resource center](#)



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ATTENTION

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