



Health Research
Council of
New Zealand
Te Kaunihera Rangahau Hauora o Aotearoa

[New Zealand Government](#)

July 2011

Rules

Permissible Use of Research Funding and Operation of Contracts

These rules are effective from 1 July 2011 and replace those previously issued

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1. GENERAL INFORMATION

1.1 Definitions and Interpretation

1.1.1 In these Rules unless the context requires otherwise:

"Amendment notice" Means a schedule so named and signed by the Contractor and HRC recording in writing any variation to the terms of a Contract, which amends and forms part of the Contract.

"Applicant" Means any person, body corporate or institution (being a research provider) applying to HRC for Funding.

"Contract" Means any written agreement between HRC and a Contractor setting out the terms of a research funding contract.

"Contractor" Means any person, body corporate or host institution (being a research provider) which has entered into a Contract with HRC for Funding.

"First Named Investigator" Means the individual nominated by the Contractor as charged with the responsibility for the day to day management and control of a Contract.

"FTE" Means full time equivalent.

"Funding" Means any money allocated to a Contractor pursuant to a Contract to fund approved health research.

"HRC" Means the body corporate called the Health Research Council of New Zealand as defined in the Health Research Council Act 1990 and will for the purposes of this Contract include the Council (as that term is defined in the Health Research Council Act 1990) and staff of HRC and any other agent of HRC authorised in writing.

"HRC Funding Outcome Letter" Means the letter sent by HRC to the Contractor setting out the funding round outcomes and the requirements for a Contract to be formed.

"Key Personnel" Means individually and collectively (as the context requires) the key persons (if any) listed in a Contract, any Contract schedule or any Contract amendment.

"Proposal" Means any Applicant's research proposal application to the HRC for Funding or a Contractor's research proposal application to HRC for Funding.

"Research Overhead Recovery Rate" ("RORR")	The multiplier applied to salaries to determine overhead contribution.
"Rules"	Mean HRC policies and rules on the use of HRC Funding contained in this document and as amended by HRC from time to time.

- 1.1.2 **Headings:** clause and other headings are for ease of reference only and will not be deemed to form any part of the context or to affect the interpretation of these Rules;
- 1.1.3 **Plural and Singular:** words importing the singular number include the plural and vice versa;
- 1.1.4 **Clauses:** references to clauses are references to clauses of these Rules;
- 1.1.5 **Defined Expressions:** expressions defined in the main body of these Rules have the defined meaning in the whole of these Rules;
- 1.1.6 **Negative Obligations:** any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- 1.1.7 **Persons:** references to persons include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental or other regulatory bodies or authorities or other entities in each case whether or not having separate legal personality; and
- 1.1.8 **Statutes and Regulations:** references to a statute include references to regulations, orders or notices made under or pursuant to such statute and references to a statute or regulation include references to all amendments to that statute or regulations whether by subsequent statute or otherwise and a statute or regulation passed in substitution for the statute or regulation referred to or incorporating any of its provisions.

1.2 Introduction

These Rules set out HRC Rules on the permissible use of HRC Funding. These Rules are applicable to all Proposals, Contracts or Contract Extensions, including Scholarships and Fellowships commencing on or after 1 July 2011 and should also be read carefully by all Contractors and Applicants seeking HRC funding after that date.

- 1.2.1 Adoption of the Principles of Full Cost Funding of University Research as agreed with the Minister of Research Science and Technology (dated January 2003).
- 1.2.2 Adoption by Universities of the "Method for the Calculation of the Indirect Research Cost Rate" as developed by the NZVCC.

These Rules should also be read in conjunction with the HRC Research Proposal Guidelines.

1.3 General Rules and Conditions

- 1.3.1 If a Contract is not started in accordance with the HRC Funding Outcome Letter, no Contract will be formed and funding may be withdrawn and reallocated to HRC's funding pool.
- 1.3.2 All ethical and other approvals must be in place to allow the Contract to start no later than the date set down in the HRC Funding Outcome Letter or the date set down in the Proposal.
- 1.3.3 These Rules are to be read subject to the express terms of any Contract between HRC and a Contractor and form part of all research contracts issued. Funding may be withheld or withdrawn if there is non-compliance with the terms and conditions of any Contract between HRC and a Contractor.
- 1.3.4 First Named Investigators will usually be required to have New Zealand as their principal domicile and place of employment and be employees of the Contractor. However, at HRC's discretion, a First Named Investigator domiciled overseas may be a co-investigator on a Contract. If financial support is required for individuals who are not employees of the Contractor (irrespective of whether they are in New Zealand or overseas), a copy of the relevant signed sub-contract must be submitted to HRC for approval at the time of filing the Proposal. HRC will not contribute to the overhead of investigators whose principle domicile is outside New Zealand.
- 1.3.5 The agreed commencement date for a Contract will be set out in the Contract and the Contract will run for the prescribed term. It is the responsibility of the Contractor to ensure that the approved timeline for the research is met. Failure to meet agreed timelines will be taken seriously by HRC and may result in Funding being withheld. In the awarding of Contracts HRC may take into account the past history of the First Named Investigator and the Contractor with respect to timely completion of previous HRC Contracts.
- 1.3.6 HRC Contracts are administered through the Contractor identified on the Proposal. Any post-approval changes to a Contract (e.g. changes to Key Personnel and time extensions etc) should be referred by the First Named Investigator to the responsible office (e.g. research office) of the Contractor. The decision by the Contractor on accepting or declining the request should be based on the effect the change will have on meeting the objectives of the Contract. If the request is acceptable to the Contractor, the Contractor should communicate the request to HRC for approval and where appropriate, HRC will complete a written variation to the Contract.
- 1.3.7 A Contract may not commence until all necessary ethical approvals, biosafety approvals, other institutional approvals or statutory approvals such as SCOTT or GTAC have been obtained and evidence of such approvals provided to HRC. Contractors should allow adequate time to obtain these approvals and ensure that the commencement date for the research as set out on the Contract is achievable.
- 1.3.8 Contract Funding is for:
- (a) support of personnel;
 - (b) working expenses and equipment, and
 - (c) overhead costs.

While proposals must include budgets across these three categories, the Contracts dollars are allocated and administered as a one line budget. All Funding amounts granted are GST exclusive. Once the Contract is let, the value of the Contract is fixed unless there is a significant variation during the term of the contract or there are unexpended funds at the end of the contract (refer 5.7).

- 1.3.9 Except where these Rules form part of a Contract between a Contractor and HRC, HRC reserves the right to review and amend these Rules by issuing updated versions of the Rules from time to time. Where the Rules are updated these will be posted on the HRC website.

Where these Rules form part of a Contract between a Contractor and HRC, HRC's power to vary the Rules with respect to the existing Contract will be limited to the extent HRC is required to do so to comply with any legislative and/or regulatory change, governmental directive and/or Funding condition or as otherwise agreed with the Contractor.

1.4 Contracts with Employees of Tertiary Education Institutions and Other Research Provider Organisations

- 1.4.1 An individual who is an employee (full or part-time) of an organisation (e.g. University, Polytechnic, DHB, CRI or an independent research institute) must obtain written approval from their host institution/employer supporting their participation on any HRC contract. This would usually involve a signed declaration on the Administrative Agreement. Confirmation that they are not receiving more than 1.0 FTE from government and/or non-government research funding agencies must also be provided.
- 1.4.2 Any investigator who receives all or part of their salary from a host institution must submit proposals to the HRC through that institution unless that host institution has agreed to a sub-contract and provides an assurance they have met criterion 1.4.1. HRC career development award applicants must submit all research proposals to the HRC through a host institution. The HRC will only transfer a contract to a legal entity other than the proposing Host in exceptional circumstance and after approval from the proposing Host.
- 1.4.3 Any legal entity, private company or an individual may be subject to "Due Diligence" enquiry on the first occasion they submit a proposal to the HRC. This due diligence will enable the HRC to decide whether the proposed host is appropriate for an HRC contract.
- 1.4.4 Any proposal submitted to the HRC which fails to meet the requirements detailed in 1.4.1 to 1.4.3 above will not be processed by the HRC.

2. SUPPORT OF PERSONNEL

2.1 Appointment of Contract Staff

All appointments to Contract posts to be funded on an HRC Contract must be made in accordance with the procedures of the host Contractor.

2.2 Status of Contract Staff

While Funding may be used for the payment of salaries, personnel named or working on a contract remain the employees of the Contractor and are subject to the discipline, rules, regulations, salary scales and allowances of the Contractor. Persons financially supported by a Contractor by the proposal of Funding are not members of HRC's staff, with the exception of HRC employees (former MRC-employed researchers).

2.3 Workload relief

Heads of Department will agree in writing, to provide workload relief for research staff working on HRC contracts. (Principles of Full-Cost Funding). The written agreement will be required before a Contract can start.

2.4 Duties of Personnel

The duties of personnel engaged by a Contractor under a Contract with HRC are determined by the First Named Investigator having regard to the policies of the Contractor and to the requirements of the Contract. Teaching and/or clinical practice commitments averaging not more than 400 hours per year are accepted as a normal part of the duties of professional research personnel. Clinical staff are encouraged to take part in clinical work relevant to their research topic.

2.5 Payment of Annual Leave

HRC will normally meet the costs of annual leave for which HRC supported personnel may be eligible under the regulations of their host Contractor. The period of support and amount approved for each supported post is inclusive of earnings, which accrue on account of annual leave. Payments for accrued annual leave will not be made by HRC.

2.6 Salary Increases for Contract Staff

All HRC contracts are of fixed value and HRC will not be responsible for increases in the Contractor's staff salaries due to promotion, annual scale increments or across-the-board wage increases in excess of the approved funding provided in the Contract. The Contractor will decide the staffing for each Contract within the Funding approved by HRC. With respect to Key Personnel the Contract will specify their respective percentage FTE contribution.

2.7 Key Personnel

HRC must be advised of any changes to Key Personnel as provided in the Contract. Key Personnel are expected to devote the percentage of the FTE to the research as recorded in the HRC Contract (see also clause 4.6).

2.8 Support for Postgraduate and Masters' Students

The Contractor's research staff may enrol for a postgraduate degree (i.e. Masters or PhD) provided it meets the regulations of their employer and the academic institution at which they will be enrolled. Funding however may not be utilised for the payment of any fees.

HRC will not fund unnamed PhD or Masters students as a direct cost.

HRC provides career development awards in specific areas including Māori Health Research, Pacific Health Research, Disability Research and Clinical Research. Fees provided in the awards include tuition fees and other levies.

2.9 Membership of the HRC Research Fellowship Scheme

The HRC Research Fellowship Scheme has been disbanded and benefits to Fellows have ceased.

2.10 HRC Employees on Research Contracts

Conditions of employment for HRC employees engaged in research are those negotiated between the employee and the HRC. Conditions of employment are set out in the HRC employees' individual contracts of employment. All other rules are those set out in these Rules.

2.11 Employee Entitlements for HRC Contract Staff

A Contractor who employs research staff is responsible for all matters related to the staff employed to work on HRC Contracts. This includes without limitation all Accident Compensation Corporation levies, sick leave entitlements, annual leave entitlements, study leave entitlements, parental leave entitlements and long service leave entitlements, and the payment of bridging support in the event of failure of the Contractor to receive ongoing Funding support for salaries from HRC.

HRC will only meet the Contractor's contribution to approved superannuation schemes and Accident Compensation Corporation levies if those costs are included in the Proposal. All other employee related costs of the Contractor are expected to be covered by the facilities and administration costs paid on eligible contracts.

3. WORKING EXPENSES AND EQUIPMENT

3.1 Direct Costs (recurring costs)

The direct costs of the research include all the disbursements that can be identified and charged to a contract, e.g. material costs, expenses of research participants, casual part-time staff wages.

Any cost that is included in whole or in part in the RORR cannot be included as a direct cost.

Funding may not be used to relieve institution libraries of their responsibility. Scientific journals and books may not be purchased using contract funding. The following are considered to be expenses included in the RORR and may not be claimed as direct costs against contract funding; contributions to property costs or laboratory space, utility charges such as lighting, heating and water, telephone installation and connection fees and line charges, laboratory "bench fees", capital costs, (with the exception of minor equipment), equipment charges and

contributions to any central or group service or utility. Such costs are included in the RORR paid on an HRC Contracts.

Amounts allocated for working expenses excludes GST.

3.2 Superannuation and ACC Costs

HRC will accept as a direct cost, Accident Compensation Corporation levies and the employer contributions for eligible staff to any approved superannuation scheme for those salaries included in the Proposal and approved in the Contract or those staff where the HRC contribution is less than 100 percent FTE, the HRC will make a pro rata contribution.

Individuals holding HRC Fellowships that include taxable salaries are eligible to join a superannuation scheme provided they meet their host institution employer's rules for entry. Any Fellow who at the time of becoming a Fellow is a member of an approved superannuation scheme will be eligible to continue with the scheme. Employer contributions will be paid by HRC.

3.3 Dissemination of Research Results

Fair and reasonable charges associated with the approved publication of the results of HRC sponsored research in journals, reports, monographs or books may be paid from Funding.

3.4 Research Related Travel

3.4.1 **Conferences:** Funding may be used to meet the fair and reasonable costs of participation of the Contractor's staff at conferences, workshops, or seminars at which the results of the research will be presented. Travel costs may only include provision for senior research workers supported full-time under a Contract to attend one conference, meeting or seminar annually to a maximum of \$1,500 plus GST per annum.

3.4.2 **Other research-related travel:** Funding may be used to provide support for domestic travel specifically related to the conduct of the research, and which is set out in the Proposal to HRC unless it has been explicitly excluded as part of the Contract. Travel should be at the most economical rate practicable, and fares and allowances should be calculated in accordance with the regulations and scales of the Contractor.

Funding may be used to provide assistance with overseas travel provided the HRC is satisfied that such travel is directly relevant to the conduct of the research and that alternative sources of funds are unavailable. This provision is not intended to relieve the Contractor of its obligation to assist with the costs of overseas travel by its employees. HRC does not provide for any other means of contributing to travel costs.

3.5 Research and Study Leave

Except for HRC employees, approval for and provision of funds associated with overseas research or study leave for HRC supported staff is the sole responsibility of the Contractor.

3.6 Equipment and Capital Items

Depreciation and capital costs on existing equipment are included in the RORR. If an institution's auditors have certified that specific items of equipment have been excluded from the RORR, then depreciation on the excluded equipment can be included in Proposals and justified in the same manner as other direct costs.

Minor research equipment (up to \$5,000 plus GST for all items combined). A proportionate part of new specialised equipment (equipment to be acquired) may be included and justified on Proposals.

3.7 Sub-contracts

Applicants should at the time of submitting their Proposal set out the details of any sub-contractual arrangements with other organisations (e.g. contributions for researcher time, direct costs and overhead). Payment of overhead contributions for contract staff employed by organisations other than the Contractor will only be approved if a signed copy of the relevant sub-contract or memorandum of understanding is submitted with the Proposal. A pro forma memorandum of understanding is available to potential Applicants and Contractors from HRC. Where sub-contracts or payments to Third parties are significant (over \$20,000 plus GST) the HRC may specify these costs be paid on a reimbursement basis. Dollars allocated for sub-contracts will not be disbursed until copies of executed sub-contract documents have been copied to HRC.

3.8 Significant Disbursements to Third Parties

Where a contract includes significant (over \$20,000 plus GST) funds that are intended for Third parties (e.g. patient fees, Koha), HRC may specify these costs will be paid on a reimbursement basis. If such costs are not claimed according to the proposal time line (annual budget) the funds allocated for such costs will be progressively withdrawn.

4. OPERATION OF GRANTS

4.1 Scientific Freedom and Changes to Research Plans

The First Named Investigator is free to carry out the work approved as part of the Contract in the most promising way and may make reasonable changes to the research plan originally submitted to HRC. The circumstances under which HRC approval for changes should be sought are detailed in HRC Contracts. If, during the term of a Contract, the investigator(s) deems it necessary to make significant changes to the research plan or to an approved methodology, the changes must, where appropriate, be approved by an accredited ethics committee and/or institutional biosafety committee. The changes should also be brought to the attention of HRC and their approval obtained before any changes are implemented (see clause 1.3.4).

4.2 Reporting on Contracts

Annually within one month from the anniversary date of the Contract (or in the last year of a multi-year Contract, within three months of termination of that Contract), the First Named Investigator must submit to HRC a report on the progress of the research undertaken. The format for such reports should be consistent with that available on the HRC website. The report will include research progress against the contract objectives and milestones and FTE data.

4.3 Publications

Subject to clause 4.2, Contractors may publish the results of work supported by a Contract without seeking the approval of HRC. Such publications must carry an acknowledgement of HRC's support, but responsibility for the direction of the research should not be ascribed to HRC. In the interest of uniformity the acknowledgment should be in the following form: "This research was supported (in part) by a contract from the Health Research Council of New Zealand."

4.4 Intellectual Property Rights

Issues associated with the ownership of intellectual property arising from HRC-sponsored research are set out in the HRC's contract with the host institution.

The HRC has entered into Deeds of Agreement with the University of Auckland, University of Otago, Massey University, University of Canterbury, Waikato University, Auckland University of Technology, Victoria University of Wellington and the Malaghan Institute of Medical Research to deal with issues related to the protection and development of intellectual property arising from HRC-funded research. Researchers at these institutions should make themselves familiar, through their host institution's research office, with the Terms of these agreements when seeking to protect or develop intellectual property.

The Deed of Agreement clarifies the rights and obligations in respect of intellectual property resulting from research carried out by these universities and institutions with the assistance of the HRC, the commercialisation of intellectual property and the distribution of proceeds. Researchers at institutions other than those with a formal arrangement with the HRC should contact the

Chief Executive of the HRC with respect to any matters related to intellectual property.

It may not be clear in whom ownership of intellectual property rights are vested. Where the parties, including the sponsoring body, have entered into a legally binding agreement about the ownership of intellectual property rights, those rights will vest according to the terms mutually agreed by the parties. The law of intellectual property is complex and must be fully considered by researchers.

Material produced as a result of extraction or purification or other method of collection from the raw material(s) used in the research are the joint property of the investigator(s), the HRC, the host institution(s) and other relevant bodies or persons, which may include the person from whom the raw material(s) was/were obtained, if relevant.

4.5 Change of Circumstances and HRC's Options

HRC's Contract identifies a number of circumstances termed "Change Events" and these include:

- 4.5.1 where the Contractor notifies HRC that the research objectives cannot be achieved in the manner contemplated in the Contract;
- 4.5.2 where the research objectives of the Contract require revision;
- 4.5.3 where HRC is dissatisfied with the conduct or quality of the research project;
- 4.5.4 where HRC is dissatisfied with the level of active involvement of key personnel;
- 4.5.5 where there is a change in the ownership or control of the Contractor;
- 4.5.6 where the Contractor has not obtained all requisite consents for the research contemplated by a Contract to be undertaken;
- 4.5.7 where the Contractor fails to report as required by HRC;
- 4.5.8 where the Contractor breaches any material conditions of the Contract and fails to correct the breach in the time specified by HRC;
- 4.5.9 where the Contractor becomes insolvent, or
- 4.5.10 where HRC's available Funding is reduced, stopped or frozen for any reason beyond the control of the HRC.

Where there is a "Change Event" under 4.5.1 or 4.5.2 above, the Contractor and HRC will negotiate with a view to agreeing on the revised objectives for the Contract and will look to record such agreed amendments as an Amendment notice to the Contract.

If a "Change Event" under 4.5.4 above takes place, HRC may (but is not required to) negotiate with the Contractor with a view to retaining the involvement of Key Personnel to an extent satisfactory to HRC. For example, where a member of the Key Personnel ceases to be an employee of the Contractor and/or transfers to

another New Zealand-based research organisation (e.g. another tertiary sector educational institution) the parties to the Contract will explore the possibility of retaining the involvement of the Key Personnel in the Contract by way of the Contractor sub-contracting the services of the relevant Key Personnel.

Subject to 4.5.1, 4.5.2 or 4.5.4 if any other "Change Event" occurs HRC may, in its discretion by written notice to the Contractor, decide to:

- 4.5.11 withhold Funding payments for the Contract until negotiations are held to agree on an Amendment notice, which may include a reduction in the scope of research objectives, and the Funding provided by HRC; or
- 4.5.12 terminate the Contract so that no further Funding payments are made. HRC will terminate the Contract only where:
 - (i) HRC considers on reasonable grounds that the Contractor has not used the Contractor's best endeavours to perform the Contractor's obligations under the contract;
 - (ii) HRC considers on reasonable grounds that the Contractor has misused the Funding, or
 - (iii) HRC considers that the level of active involvement of any Key Personnel differs from that represented in the Proposal or Contract to an extent that may be detrimental to the success of the Contract.

The terms of the Contract will set out HRC's rights in the event of termination of the Contract.

4.6 Misleading or inaccurate information and HRC's options

Regardless of anything to the contrary in these Rules, where any information provided in the Proposal or subsequent correspondence or in the course of the Contract is found to be misleading or inaccurate in any material respect, HRC may, in its sole discretion, by written notice to the Contractor terminate the Contract.

The terms of the Contract will set out HRC's rights in the event of the termination of the Contract.

4.7 Active Involvement of Key Personnel

During the term of any Contract a Contractor will immediately notify the HRC upon a change in the level of active involvement of any Key Personnel including any temporary absences of one month or more in duration. The Contractor will be responsible for ensuring that such absences will not affect the time line for the Contract set out in any relevant Proposal. The Contractor will also notify the HRC if any absences of Key Personnel are likely to impact on the timely completion of the Contract.

5. ADMINISTRATION OF CONTRACTS

5.1 General Administration Policy

HRC Contracts are between HRC and host Contractors. Contractors are responsible for all relevant administration associated with the Contract. Expenditure of research Funding is subject to the administrative procedures of the Contractor and to any conditions set out in the HRC Contract together with any other rules imposed by HRC.

5.2 Allocation of Funding and Method of Payment

HRC contracts are of fixed value and will be paid out as set out in the Contract. Contracts awarded from the annual contestable round will be subject to a completion retention. Up to 8.5% (3 months of a 36 month contract) of the contract sum will be held by HRC pending receipt of a satisfactory final report. It is the sole responsibility of the Contractor to ensure that funds are allocated appropriately and that the Contract is completed on time. If the contract duration is amended then the HRC may vary the payments to match amended duration.

5.3 Accounts

Each Research Contract is unique. Related expenditure must be recorded in a manner that will allow the contract expenditure to be reported to HRC. HRC retains the right to conduct audits regarding the appropriate disbursement of HRC Contract Funding by a Contractor. HRC expects RORR to be charged to contract accounts on the basis of actual salary costs paid to key personnel (as named in the contract or subsequent amendment).

5.4 Insurance

Provision of appropriate insurance cover is the responsibility of the Contractor.

5.5 Leases and Other Agreements

No First Named Investigator or Contractor may enter into any agreement, lease or other similar commitment implying any liability on the part of HRC without HRC's express written authority.

5.6 Over-expenditure on Research Contracts

Over-expenditure on Contracts is the responsibility and liability of the Contractor.

5.7 Unexpended Funding

If the final report to the HRC discloses unexpended contract funds the HRC will discuss the matter with the host institution while reserving the right to require that they be returned.

5.8 Unattached First Named Investigator

For Contracts awarded to a Contractor acting in a private capacity, the First Named Investigator will accept all the responsibilities usually assigned to a host Contractor.

5.9 Payment of Overheads (Indirect costs)

HRC will pay overhead costs as a manpower rate to the Contractor in respect of Research Contracts. There is a Research Overhead Recovery Rate for each New Zealand University. For all other Contractors the HRC will negotiate the overhead rate to be paid on a Contract-by-Contract basis.

The Contractor determines how HRC overhead contributions are disbursed. Funds received by the Contractor as overhead contributions costs are, for example, expected to be applied to pay a contribution to the costs of office and/or laboratory space, service charges such as lighting, heating and other services, telephone installation including connection fees and line charges, library, furniture, office equipment and accessories, maintenance of equipment other than those specified as a direct cost (see clause 3.1).

6. CORRESPONDENCE

6.1 Contract Correspondence

All correspondence and notices related to the operation and administration of an HRC Contract should be addressed as provided in the relevant Contract.

6.2 Other correspondence with the HRC Secretariat

All general correspondence related to HRC Proposals and Contracts should be addressed to the Chief Financial Officer at the Health Research Council of New Zealand and not to the Chair of Council or individual committees.

6.3 HRC Secretariat Address

Lex Davidson
Chief Financial Officer
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AUCKLAND 1141

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