

APR 28 2008

BEFORE THE ARBITRATOR

RELATIONS COMMISSION

In the Matter of the Petition of

OSHKOSH PUBLIC LIBRARY

To Initiate Arbitration Between Said Petitioner and

**OSHKOSH PUBLIC LIBRARY EMPLOYEES,
LOCAL 796-A, AFSCME, AFL-CIO**

Case 359

No. 66516

INT/ARB-10841

Dec. No. 32153-B

Appearances:

Davis & Kuelthau, S.C., by William G. Bracken, Labor Relations Coordinator, on behalf of Oshkosh Public Library.

Mary Scoon, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, on behalf of AFSCME Local 796-A.

Arbitrator: David E. Shaw

ARBITRATION AWARD

Oshkosh Public Library, hereinafter referred to as the "Library" filed a petition with the Wisconsin Employment Relations Commission to initiate interest arbitration pursuant to Sec. 111.70(4)(cm)6, of the Municipal Employment Relations Act with respect to an impasse between it and Oshkosh Public Library Employees, Local 796-A, AFSCME, AFL-CIO, hereinafter referred to as the "Union". The parties selected the undersigned to issue a final and binding award pursuant to Sec. 111.70(4)(cm)6 and 7, Stats., and the undersigned was so appointed by order of the Commission dated September 27, 2007. A hearing was held on December 12, 2007 in Oshkosh, Wisconsin, at which the parties were given the opportunity to present testimony and documentary evidence, as well as arguments, in support of their respective positions. The hearing was not transcribed and the parties filed briefs and reply briefs, the last of which was received on February 16, 2008.

Based upon consideration of the statutory criteria, the evidence, and the arguments of the parties, the undersigned issues the following Award.

BACKGROUND

The Union represents "all regular full-time and regular part-time employees of the Library", but "excluding Librarians I, II, III, IV, supervisory, confidential personnel and casual hourly employees."

There are currently 54 employees (24.74 FTE) in four classifications in the bargaining unit. The Library has its own budget and an independent Board of Directors. The Library receives approximately 66% of its funding from the City of Oshkosh, hereinafter referred to as the "City", 22% of its funding from Winnebago County, and the remainder from the Winnefox Library System fees. The City informs the Library of the amount it is allocating and the Board then bases its budget on that amount and the other funding.

The Library and the Union were party to a collective bargaining agreement which expired on December 31, 2006. The parties have agreed that the successor agreement will be for the period January 1, 2007 through December 31, 2009.

The City reached voluntary settlements with three of its bargaining units, Police, Police Supervisors, and Fire Supervisors, and has settled the compensation package for its non-represented employees for the period 2007 through 2009. The employees in those four groups total 188 out of the City's 593 total number of employees, or about 32%. Including this unit, there are five bargaining units in interest arbitration comprised of approximately 405 employees in total. Of the 54 employees in the library unit, 22 (7 full-time and 15 part-time) take the City's health insurance.

SUMMARY OF FINAL OFFERS AND STIPULATIONS

Final Offers:

1. Employee Contributions to Health Insurance

Union:

PPO Plan without Health Risk Assessment (HRA)

Effective 1/1/07 – 7% up to a maximum of \$35/month - single
\$50/month - dual
\$65/month - family

Effective 1/1/08 – Add \$5 to each of the maximum dollar amounts.

Effective 1/1/09 – Add \$5 to each of the maximum dollar amounts.

PPO Plan with HRA

Effective 1/1/07 through 12/31/09 –
5% up to a maximum of \$30/month - single
\$45/month - dual
\$60/month – family

EPO Plan without HRA

Effective 1/1/07 –

7% up to a maximum of \$25/month – single
\$45/month – dual
\$55/month – family

Effective 1/1/08 – Add \$5 to each of the maximum dollar amounts.

Effective 1/1/09 – Add \$5 to each of the maximum dollar amounts.

EPO Plan with HRA

Effective 1/1/07 through 12/31/09 –

4% up to a maximum of \$20/month – single
\$40/month – dual
\$50/month – family

Library:

PPO Plan without HRA

2007 – Effective as soon as administratively feasible after date of Award –

8% to a maximum of \$48/month – single
\$86/month – dual
\$119/month – family

Effective 1/1/08 –

9% up to a maximum of \$59/month – single
\$107/month – dual
\$148/month – family

Effective 1/1/09 –

10% up to a maximum of \$72/month – single
\$130/month – dual
\$181/month – family

PPO Plan with HRA

2007 – Effective as soon as administratively feasible after date of Award –

5% up to a maximum of \$30/month – single
\$54/month – dual
\$75/month – family

Effective 1/1/08 --

6% up to a maximum of \$39/month -- single
\$71/month -- dual
\$98/month -- family

Effective 1/1/09 --

7% up to a maximum of \$51/month -- single
\$91/month -- dual
\$126/month -- family

EPO Plan without HRA

2007 - Effective as soon as administratively feasible after date of Award --

8% up to a maximum of \$30/month -- single
\$65/month -- dual
\$90/month -- family

Effective 1/1/08 --

9% up to a maximum of \$44/month -- single
\$80/month -- dual
\$111/month -- family

Effective 1/1/09 --

10% up to a maximum of \$54/month -- single
\$98/month -- dual
\$135/month -- family

EPO Plan with HRA

2007 - Effective as soon as administratively feasible after date of Award --

4% up to a maximum of \$18/month -- single
\$32/month -- dual
\$45/month -- family

Effective 1/1/08 --

5% up to a maximum of \$25/month -- single
\$44/month -- dual
\$62/month -- family

Effective 1/1/09 --

6% up to a maximum of \$33/month -- single
\$59/month -- dual
\$81/month -- family

Employees hired after January 1, 2009:

All employees hired after January 1, 2009, may select either the PPO or EPO health plan with or without HRA. However, the Library's contribution to the selected health plan shall be limited to the appropriate single, dual or family premium equivalent of the EPO plan with HRA as indicated above in paragraph J.2. An employee selecting the PPO plan shall pay the difference between the Library's contribution to the single, dual or family EPO plan with HRA and the corresponding PPO plan.

2. Wages

<u>Union:</u>	Effective Pay Period 1, 2007	- 2%
	Effective Pay Period 14, 2007	- 1%
	Effective Pay Period 1, 2008	- 2%
	Effective Pay Period 14, 2008	- 1%
	Effective Pay Period 1, 2009	- 2%
	Effective Pay Period 14, 2009	- 1%
<u>Library:</u>	Effective first pay period 2007	2.25%
	Effective first pay period 2008	2.75%
	Effective first pay period 2009	2.75%

3. Salary Schedule Matrix

Union: Status quo

Library:

For all employees hired after January 1, 2009, one step is to be added to the beginning salary and wage rates that will be 5% less than the current step on the 2009 wage schedule. All steps will be renumbered accordingly. Current employees' movement on the pay schedule shall not be affected by the insertion of the new step.

4. Vacation

Union: Status quo

Library: Effective 1/1/07 – Revise 5 weeks vacation from 20 years of service to 18 years of service.

5. Emergency Leave

Union: Status quo

Library: Add "grandparents of employee's spouse" to those family members for which an employee is allowed to take up to four work days off in case of their death.

Add "and the employee's spouse's" aunts, uncles, nieces and/or nephews for which an employee is allowed to take leave without pay to attend their funerals.

Stipulations:

The parties agreed to make a number of changes in the health insurance plan designs in order to realize greater discounts from the plan providers which are estimated to save the City approximately 5 to 6% of the premium when fully implemented. The changes cannot be implemented until there is a settlement or an award issued in this unit. The changes are summarized as follows:

1. Modify PPO out-of-network co-insurance from 70/30 to 60/40, but retain same out-of-pocket maximum.
2. Apply the PPO in-network and out-of-network deductibles and co-insurance separately and independently.
3. Increase the prescription drug co-pay from \$5/\$10/\$25 in the EPO plan to \$5/\$25/\$35 and from \$5/\$20/\$25 to \$10/\$25/\$40 in the PPO plan.
4. Increase the life time maximum from \$1 million to \$2 million for both the EPO and PPO In-Network plans.
5. Change the definition of "dependent."
6. Increase the PPO mail order prescription drug co-pay from 1 ½ times the co-pay to 2 times the co-pay for a 90-day supply.

Discussion of Issues and Criteria:

The parties submitted lengthy and comprehensive briefs in support of their respective final offers. Rather than attempt to summarize all of the parties' arguments, the Arbitrator will deal with those arguments deemed relevant in addressing the issues and the statutory criteria the Arbitrator is required to consider, and to which weight must be given, pursuant to Sec. 111.70(4)(cm)7, 7g, and 7r, a-j, Stats.

The Library asserts that given the rise in the cost of health insurance, the primary issue in this case is the employee contribution toward the health insurance premiums, and that while the issue of wages is more important than the remaining other issues, the parties' offers on wages are relatively close and neither will change the Library's ranking among the external comparables. The Library also notes that in 2008 and 2009, under both offers, the increase in the cost of fringe benefits will exceed the increase in salaries. (Library Chart 1.)

The Union disagrees that wages is a lesser issue than health insurance in this case, arguing instead that it is the leading issue and noting that the wage issue affects all 54 members of the bargaining unit, while only 22 employees are covered by the City's health insurance plans. The Library's, and obviously the City's, concern with the rising cost of health care benefits is understandable, and the issue of who is to bear the burden of those increasing costs drives many a bargain these days; however, as the Union points out, less than half of this bargaining unit participates in the City's health insurance, but all of them are affected by the

wage offers. Due to the considerable financial impact on the Library of the cost of providing health insurance to its employees and the significant economic impact the issue of the wage increase has on the employees, the two issues are considered to be equally important in deciding which offer is the more reasonable when the statutory criteria are applied.

Greatest Weight

Section 111.70(4)(cm)7, Stats., requires that in making his decision the Arbitrator must consider and give greatest weight “to any state law or directive lawfully issued by a state legislative or administrative officer, body or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer. . . .”

This Arbitrator agrees that application of this criterion requires consideration of the City’s ability to raise revenues and live within the revenue caps the State legislature has imposed, in comparison with the other cities in the comparables. It is not an “ability to pay” factor in the sense of either the lawful authority or the financial ability to fund the offer, as those factors are specifically addressed in 111.70(4)(cm)7r, a. and c., Stats., respectively. Rather, it is a comparison of the impact of the levy limit cap on this City and on the cities in the comparables that must be made, as well as consideration of whether one offer has a disproportionately negative impact on the City’s ability to live within the levy limit cap.

Under the levy limit cap, the ability of municipalities to raise their levy limits is capped at 2% or the percentage of growth in “net new construction” in the municipality the preceding year, whichever is greater. There is an apparent one time exception in 2008 which permits municipalities to raise their levy limits up to 3.86% or the percentage of growth in net new construction. Union Exhibit 9-1 shows that compared to the six comparables, Oshkosh went from being second to the last in the percentage of growth in net new construction in 2004-2005 (1.873%) to second from the top in 2005-2006 (2.873%) and to the top in 2006-2007 (2.572%). Union Exhibit 10-2 shows that for the period 2002-2006, Oshkosh experienced the largest percentage increase in full value among the comparables.

In sum, the evidence demonstrates that the City has fared better than its comparables as far as its ability to raise revenues under the levy limits.

As to the impact of the parties’ respective offers on the City’s ability to live within its revenue limits, using the City’s own total package costing¹ of the two offers shows that the two offers are a total of \$26,990 apart over the three years of the agreement:

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The Union disputes the Library’s use of the cast forward method of costing the offers; however, absent the Library’s making a true inability to pay argument, the cast-forward method using the prior year’s staff is the traditional means of costing the total packages. It is not, however, relevant in comparing the wage offers with the settlements among the comparables, nor does it accurately reflect the actual cost of the offer in terms of the Library’s having to cut back in other areas to fund the offer.

	<u>2007</u>	<u>2008</u>	<u>2009</u>
Union offer:	\$1,069,473	\$1,130,075	\$1,181,977
Library offer:	\$1,066,959	\$1,121,051	\$1,166,525
Difference:	\$2,514	\$9,024	\$15,452
Total Difference: \$26,990			

The difference in the offers each year, as a percentage of the Library's total annual revenues of approximately \$3.6 million each year, is measured in thousandths of a percent. While the Library correctly notes that the Union's higher cost offer would require it to use more of its limited financial resources to pay for wages and benefits, at the expense of something else, it is the degree of that impact on the Library's ability to provide its services to the public that must be weighed. In that regard, the Library has presented evidence that it has had to reduce staff in both 2006 and 2007 and has reduced services in order to live within the budget required by dint of the levy limits. The Library argues that therefore the greatest weight factor should favor its less costly offer. However, given that the difference in terms of the impact of the two offers is relatively small, the Arbitrator concludes that the greatest weight factor does not favor either party's offer.

Greater Weight

Section 111.70(4)(cm)7g, Stats., requires that the Arbitrator "shall give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in subd. 7r." The Library notes the slowdown in the national, state and local economies, rising unemployment, rising foreclosure rates nationally and in Wisconsin, and points out that the median household income of its residents ranks last among the comparables, while its property tax levy per capita was above the average among the comparables for 2001-2002.

The Union's exhibits show that for the period 2002-2006, Oshkosh was above the average among the comparables in population growth (Union Exhibit 10-1), and led the comparables in percentage of growth in "full value" and "per capita value." Oshkosh also led the comparables in the percentage of growth in "adjusted gross income" for the period of 2002-2005. Although the adjusted gross income of its residents was still almost \$3,600 below the average among the comparables, it has slowly been making up ground.

From 2002-2006 Oshkosh had the second lowest levy rate among the comparables² and the second highest equalized value among the comparables for the period 2002-2005. Its equalized value growing 6.7% over that period, for the highest percentage change among the

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Union Exhibit 10-5 covers 2002-2006 and includes Green Bay, in addition to the historic comparables of Appleton, Fond du Lac, Menasha, Neenah and Sheboygan, while Library Exhibit 41 covers 2002-2005 and includes only the historic comparables, but both parties utilize Green Bay for health insurance comparisons.

comparables. Library Exhibit 41. It appears then that the City's local economy is faring better than that of its neighbors. Therefore, it is concluded that the greater weight factor does not favor either offer, again noting the relatively small difference in the cost of the two offers over the three years.

Other Factors

This brings us to the "other factors" under Sec. 111.70(4)(cm)7r, Stats. As there is no dispute that the Library has the "lawful authority" to implement the Union's final offer, that factor has no application in this case.

Stipulations

There is disagreement as to the application of subsec. 7r, b, stipulations of the parties. The Union notes its agreement to the cost saving plan design changes in the City's health insurance plans that are estimated to save approximately 5.4% or \$600,000 per year. Thus, the Union argues that it has demonstrated a readiness to agree to solutions that will effectively reduce healthcare costs. The Library counters that those changes were designed to have minimal impact on the employees, while extracting the maximum discounts from the health care providers. More importantly, according to the Library, those changes cannot be implemented until all of the employees are covered by the plan, and that will not be until the interest arbitration award is received, and then it will take approximately forty-five days to implement the changes. Therefore, there was no savings in 2007 and there will only be approximately half a year's savings, or 2.7% in 2008. Further, these savings are one-time only. The Union responds that the Library did not request that the changes be implemented prior to arbitration and that the Library's wage offer would still be 2.25% for 2007, even if the plan design changes had been implemented January 1, 2007. The Union disagrees that the savings are one-time only.

The Arbitrator also disagrees that the savings due to these changes are one-time only. Presumably these changes will continue to produce savings each year, in that premiums would be higher, if not for these changes. However, although the Union should be credited for agreeing to these changes, they will not be implemented until half-way through the life of this agreement. While there is no evidence in the record that the date of the implementation of the plan design changes was an issue in this bargain, the fact that the changes will not be implemented until this award is issued, reduces the impact of these changes. The changes will, however, take affect at some point. Therefore this factor slightly favors the Union.

Interests and Welfare of the Public

Subsection 7r, c, requires that the Arbitrator give weight to "the interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement."

The Library asserts that its offer promotes the interests and welfare of the public because it promotes equity among the City's employees, as its offer matches the settlements reached with four of the employee groups. According to the Library, with only one exception,

since 2001 all of the internal bargaining units have settled for exactly the same wage increase. Selecting the Union's offer would promote whipsawing among the groups in the future, while selecting the Library's offer would promote accountability between the parties and confirm the value of reaching settlements early.

The Library also argues that the interests and welfare of the public are promoted by restoring the integrity of the percentages as to the employees' contributions toward health insurance, and by ensuring that the Library's employees pay their fair share of expensive benefits and that their contributions are more in line with what employees in the comparables and employees in the private sector are contributing toward their health insurance.

The Union asserts that its offer is not excessive or unreasonable, that the difference in the cost of the two offers is small, and there is no evidence that the Library is unable to fund the Union's offer. As to the Library's assertion that its offer promotes equity among its employees, the Union counters the argument is wanting, as only one of the six bargaining units that have the ability to go to interest arbitration has settled, and one settlement does not make a pattern. Regarding the health insurance issue, the Union notes that only 22 of the Library's 54 employees in the unit are enrolled in the City's health insurance plans.

The Arbitrator agrees with the Library's premise that maintaining the integrity of earlier settlements, as well as maintaining some uniformity among the bargaining units as to health insurance, are goals appropriately sought. In this case, however, as will be discussed more fully below, the settlements among the four employee groups cited only involve one bargaining unit that has the ability to go to interest arbitration if the group does not find the Library's proposal acceptable. Of the City's six bargaining units that have that ability, only the Police unit has settled, the other five units having proceeded to arbitration. For the reasons discussed below, the Arbitrator does not find it appropriate to rely on the settlements with the Police supervisors group, the Fire supervisors group or with the unrepresented employees. Given this conclusion, the Arbitrator finds no basis for the Library's argument that selecting its offer would promote equity among its employees or promote uniformity as to their benefits. As the Arbitrator has previously found that the difference in the cost of the two offers is relatively small, especially with regard to their wage proposals, and there is no inability to pay issue present, he concludes that this factor has no weight in deciding which offer is more reasonable.

The Arbitrator will now address the application of the comparability statutory criteria to the specific issues.

Health Insurance.³

The employees have a choice of two plans, an EPO (exclusive provider organization) plan and a PPO (preferred provider organization) plan. Under the EPO option, services must be provided by the exclusive provider (Aurora Health Systems and its affiliates) in order to be

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The issue of health insurance for employees hired after January 1, 2009, is treated in a separate subsequent section.

covered. There are no deductibles or co-insurance under the EPO option. Under the PPO plan, services provided both in-network and out-of-network are covered and there are deductibles and co-insurance, with higher out-of-pocket costs, if services are provided out-of-network. Employees have the option of taking single, dual or family coverage.

In 2007, the 22 employees in the Library unit that were covered under the City's plans took the following coverages:⁴

	<u>EPO</u>	<u>PPO</u>
Single	8	6
dual	2	5
family	0	1

The parties have made numerous arguments regarding both how their respective offers compare with the comparables and as regards the reasonableness of the offers.

(External Comparables)

With regard to the health insurance issues, the parties utilize the same basic set of comparables that have been used in the past: Appleton, Fond du Lac, Green Bay, Menasha, Neenah and Sheboygan. Although both parties offer a secondary set of comparables, they primarily rely on the historic set of comparables, and the Arbitrator will do so, as well.

The Library uses the PPO single and family plan to make comparisons with the comparables with regard to premiums and plan design, as its data for 2006 shows that a majority of the employees covered by the City's plans (60%) were in the PPO plan. The Union uses 2007 figures that show an even split among the City's employees and notes that there is only one employee in the PPO family plan of the 22 employees in this unit taking the City's insurance coverage, and also notes that the City's employees have the "dual" option available, which has a lesser premium than the family plan and saves the City money. The Union has a valid point, especially in this bargaining unit with only the one employee taking the PPO family plan. On the other hand, as Arbitrator Dichter points out in his award involving another of the City's bargaining units,⁵ only Oshkosh among the comparables has the "dual" option and for the sake of comparison it is appropriate to use the PPO single and family plan premiums.

The Library notes that the premium for the PPO plan has been among the highest among the comparables in the past and the highest in 2007 for both the single and family coverages. When compared with the average full monthly premium, using all of the plans offered in the comparables, the premiums for the City's single PPO plan exceeded the average by \$173 and the premium for the family PPO plan exceeded the average by \$349, in 2007.

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The Library used the 2006 figures where 16 of the 22 employees who were covered, or 73%, were in the PPO plan, compared to 60% city-wide. Of those 16, 3 took family, 5 took dual, and 8 took single coverage.

⁵ City of Oshkosh (Professional Employees), Dec. No. 32148, March, 2008.

The Library asserts that the PPO plan is the most expensive, because it is "extremely rich", but that the City's employees have been contributing 1 – 2% less than the average employee contribution among the comparables, and that even under the Library's offer this gap will continue, and will widen under the Union's offer. The Union counters that in making a comparison, the total cost exposure of an employee in the PPO plan must be considered, not just what the employee contributes toward the premium. Further, if the Library is going to include the fully employer paid-high deductible plans in comparing out-of-pocket expenses, it must also include those plans in calculating the average employee contribution toward the premium, which it has not done. The Arbitrator agrees the Library cannot have it both ways in that regard, the City's PPO plan must be compared with similar plans in the comparables. Such a comparison shows that in 2007 the maximum out-of-pocket expenses for employees was lower in Green Bay, Menasha and Sheboygan, and higher in Appleton, Fond du Lac and Neenah, and the prescription drugs co-pay was comparable under the PPO family plan.

A comparison of the dollar amounts employees contributed toward the monthly premiums for such plans in 2007 shows that the employees in the City's PPO plan were \$3.00 above the average in the comparables for the single plan and approximately \$13.00 below the average for the family plan. (Library Chart 6)⁶ Using the Library's Chart 6 figures, the percentage of the employee contribution averaged 4% in 2007, comparing all plans offered in the comparables, compared to the 5% and 4% contributed by the City's employees under the PPO single and PPO family plans, respectively, and the 4% contributed under the EPO single and family plans. This was also the case in 2006. According to the Library's figures among the four comparables settled in 2008, 6.4% for the average percentage employee contribution rises to approximately 6.5% for single and family coverage when comparing all plans offered in the comparables requiring an employee contribution and would be approximately an average of 5%, if only the employee contributions in PPO plans are compared. Due to the dollar caps in the parties' offers, employees would contribute 5.4% under the Library's offer and 4.2% under the Union's offer toward the PPO single plan (w/HRA), and 5.5% under the Library's offer and 3.4% under the Union's offer toward the PPO family plan (w/HRA). Therefore, in comparing the employee contribution to the premiums for the PPO and similar plans, the Library's offer is closer to the average among the comparables.

Though there is not sufficient information in the record to reach any conclusions regarding 2009, the Library is correct that the overall trend among the comparables has been an increase in the amount contributed by employees toward the premium. In that regard, the Union's offer freezing the employee contribution rates at the 2006 level for the three years of the agreement is contrary to the trend and will tend to widen the gap with the comparables.

The Arbitrator concludes that, overall, the Library's offer is slightly more reasonable when making a comparison with the external comparables.

6 The Arbitrator notes that Chart 6 differs from Library Exhibit 51 in that Green Bay was added.

(Internal Comparables)

The Library cites the voluntary agreements reached with the Police, Police supervisors, and Fire supervisor units and the City's non-represented employees, and asserts that an internal settlement pattern has been set. As already noted above, the Arbitrator disagrees with that assertion. Of the six bargaining units in the City with the ability to proceed to interest arbitration, only the Police unit has reached a voluntary settlement. The voluntary settlements reached with the supervisory units and the treatment of the non-represented employees do not carry the same weight as a settlement reached with an employee group that has a practical option as to whether or not to accept the employer's offer. More importantly, the City has approximately 593 employees, with 188 employees in the settled groups. There are 479 employees in represented bargaining units with the ability to go to interest arbitration. Of those 479 employees, 74, or 15%, are in the Police bargaining unit. Regardless of whether all four groups are used, or only the Police unit, better than two-thirds of the City's employees have not voluntarily accepted the City's offer and are not settled. Given that only one of the six units have settled, there is no basis for finding that an internal settlement pattern has been established among the City's bargaining units. That being the case, this factor is not relevant.

Reasonableness

Although "reasonableness" is not a specific statutory criterion, the parties make a number of arguments in support of the reasonableness of their respective offers on health insurance. This is appropriate under subsection 7r, j, and because the reasonableness of the two offers is what the Arbitrator must ultimately decide.

The Library argues that its offer restores the integrity of the parties' original agreement in 2003, which specified a percentage contribution, whereas the Union's offer undermines that agreement. Moreover, because the increase in the premium was greater than anticipated in 2008 (19%), the dollar caps take effect and employees will still be paying less than the percentage. It is the Union that is changing the status quo. The Library also asserts that given the superior benefits in the City's plan and the tremendous increase in the cost of providing those benefits, its modest proposal to increase the employees' contribution by one percent in 2008 and 2009 is the more reasonable offer, especially in light of the Union's proposal to freeze employee contributions at the 2006 level. The Union's offer runs contrary to the trend in both the public and private sector, both among the comparables and nation-wide, to have employees pay a larger portion of the premiums for health care. If employees utilize the 125 plan, they will be paying less than 3% in 2008 and 2009. According to the Library, it has established a compelling need to control health costs and that given the overwhelming support in the comparables, no *quid pro quo* is needed, but if one is needed, the Library has met that requirement. While the Library appreciates the Union's agreement to the plan design changes, it argues that is a one-time savings and that the Union has not done enough to address the tremendous increase in the cost of health insurance, and that the employees are not paying their fair share of that increased cost.

The Library also asserts the Union's offer is inconsistent and flawed, in that while it freezes the employee contribution for employees who participate in the HRA, it raises the dollar caps each year for non-participants.

The Union counters that it has not ignored the need to address health insurance costs, as demonstrated by its agreement to the plan design changes that will save the City an estimated \$600,000, as well as, to implementation of the HRA. The Union asserts that the Library's offer is excessive, and that the Library has not established that there is a compelling need to change the level of the employees' contribution. The premiums have only increased minimally in the last four years, except for 2005, when the premium for the PPO plan increased 20%. The Union notes that the City self-funds its health insurance plans, and asserts that the increase in 2005 was not an increase in the cost of health insurance, rather, it was an attempt to pad the City's insurance reserve fund, which increased almost 40% that year. The external comparables also do not support a finding of need. The insurance costs bourn by the City's employees are similar to that paid by employees in comparable communities. In comparing the total employee out of pocket costs (premium contribution, deductibles and co-insurance) for PPO type single plans, the total out-of-pocket exposure for Oshkosh employees under the Union's offer is \$808.20, or over \$100 more than the average and the median in the comparables in 2007, and employees in the PPO family plan would pay about the same as the average in the comparables. The City also cannot rely on the state of health insurance fund balance to show a need for change. That fund balance has shown tremendous growth and was so high in 2007 that the City did not increase premiums by the amount suggested by its consultants. The Union reiterates that it has already agreed to plan design changes that will drastically reduce health insurance costs for the City, and that other drastic changes are not needed. The Library's offer does not address the rising costs of health care, it simply shifts more of the premium cost to the employees.

The Union asserts the Library has not offered a *quid pro quo* for its proposed changes to health insurance. Under the Library's offer, the amount an employee will pay toward the health insurance premium will increase 62% (EPO family w/HRA) to 110% (PPO family w/HRA) and 125% (EPO family w/out HRA) to 201% (PPO family without HRA) over the life of the agreement. At the same time, the Library offers a below average wage increase and a minor vacation increase that will only benefit a very limited number of people in this unit.

Last, the Union disagrees that its proposal to treat non-HRA participants differently from those who do participate in the HRA is flawed, it is simply an incentive to participate in the HRA.

Discussion

First addressed is whether a change in the status quo of the health insurance language is being proposed by either party. A review of the parties' 2004-2006 agreement discloses that this question must be answered in the affirmative. In the parties' last agreement the percentage amounts of the employee contribution to the health insurance premiums were increased the first two years of the agreement and the dollar cap amounts were increased each year. The Library's offer maintains the pattern of increasing those amounts, but significantly changes the

amounts themselves. The Union's offer of freezing the percentage amounts and dollar caps at the 2006 level for HRA participants (which will presumably be the majority of those employees taking the City's health insurance) maintains the amount of the employees' contributions, but alters the pattern of increasing those amounts over the life of the agreement and creates a greater disparity between the percentage figures in the contract and the amounts employees actually pay. Thus, it can be said that both offers present significant changes to the status quo.

The Library argues that it has presented a compelling need for the changes it proposes in the health insurance, given the tremendous increases in costs the City has seen in this regard and the overwhelming trend in the comparables and nation-wide to increase the portion employees pay toward the cost of health care. The evidence shows that premiums for the PPO plans went up 20% in 2005 and 19% in 2008. Those are, without question, significant increases. The Arbitrator finds no merit in the Union's assertion that the City was just trying to pad its health insurance reserve fund balance. Union Exhibits 14-1 and 14-2 show that the fund's balance and revenues to expenditure ratio have fluctuated over the years. The Library's Charts 5 and 6 show that from 2006 to 2007, among the six comparables, four increased the dollar amounts employees contributed towards the premiums, while Chart 8 shows that only two of the six comparables increased the percentage figure that employees contribute. The latter is also the case in 2008 among the four comparables that have settled. (Library Chart 9). So while one can say there is a trend of having employees contribute a greater amount toward their health insurance costs, one does not want to get too carried away with what that means. Further, the Library's offer more than doubles the employee monthly contribution for the PPO dual and family plans's premiums over the life of the agreement.

The Library's argument that its offer restores the integrity of the parties' 2003 agreement to specify percentages for the employee contributions, while maintaining the protection to the employee of the dollar caps, has some merit, but again, one cannot get carried away. In placing the dollar caps in the contract while at the same time agreeing to the percentages, the parties recognized that there could at some point be a disparity between the two figures. Due to the dollar caps and the extent of the premium increase in 2008, under the Library's own offer employees will pay less than the percent the offer specifies for the PPO plan w/HRA. What favors the Library's offer in this regard is that the Union's offer will increase that disparity by freezing the amount of the dollar caps at the 2006 level.

The Arbitrator finds no merit to the Library's argument that the Union's offer is flawed and inconsistent because it freezes the percentage and dollar caps for those employees who do participate in the HRA, but raises the percentage to 7% and increases the dollar caps each year of the agreement for those employees who do not participate in the HRA. The Arbitrator would point out that both offers attempt to steer employees into participating in the HRA and that the difference in the treatment of the two groups is even greater under the Library's offer.

The Arbitrator finds that both offers are flawed. However, given that the comparables slightly favor the Library's offer, the significantly increased cost of providing the plans and the trend of having employees contribute more toward that cost, when juxtaposed against the Union's proposal to freeze employee contributions at the 2006 levels, the Arbitrator concludes that the Library's offer is favored.⁷

Wages

(Internal Comparables)

Though the parties acknowledge on one hand that their wage offers are not that far apart, both claim that their offer is the more reasonable. The Library notes that its wage offer matches the offer accepted by the four settled internal groups, and asserts that the internal settlement pattern should outweigh the external comparables. As might be expected, the Union argues the opposite, and the Arbitrator agrees. For the same reasons discussed previously, one-third of the employees do not set a pattern for the remaining two-thirds of the City's employees. Absent an internal pattern, the external comparables provide more guidance.

(External Comparables)

Both parties cite the historical comparables for this unit, while the Union would also offer two sets of secondary comparables: represented paraprofessional unit in the historic comparables and represented library units outside the historic comparables, noting that the Oshkosh Library is the only organized library among the historically used comparables. The Library adamantly opposes utilizing these secondary comparables, arguing that the fact they are organized is not a valid basis for selecting comparables, and that size, geographical proximity, labor market and socio-economic characteristics must be considered. There is merit to both sides of the argument in this case. Most arbitrators prefer to compare employees who are similarly situated, which would mean comparing represented employees to represented employees performing similar services. However, the criteria offered by the Library are valid indicia of comparability. More importantly, in this case the parties have an established set of comparables that have not been disturbed in past arbitrations involving this unit, and the Arbitrator has therefore not seen fit to alter that historical set of comparables in this case, as well.

The following chart utilizes both parties' information to arrive at a more complete set of settlements among the comparables:⁸

⁷ The need for a quid pro quo will be discussed in a subsequent section of the Award.

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The Library did not have a figure for Neenah and the Union did not have a 2009 figure for Sheboygan. Green Bay does not have a city library.

	<u>2007</u>	<u>2008</u>	<u>2009</u>
Appleton	3.0%	2% 1/1 1% 10/1	-----
Fond du Lac	2.75%	2.5%	-----
Menasha	1.5% 1/1 1.5% 9/1	2% 1/1 2% 9/1	-----
Neenah	2.5%	-----	-----
Sheboygan	3.0%	3.25%	2% 1/1 1.5% 7/1
Oshkosh (Library)	2.25%	2.75%	2.75%
Oshkosh (Union)	2% 1/1 1% 7/1	2% 1/1 1% 7/1	2% 1/1 1% 7/1

As can be seen, the Library's wage offer for 2007 is the lowest among the external comparables. The Library asserts this is justified. According to the Library, wages cannot be viewed in a vacuum, as wage increases and health insurance are inextricably linked. It asserts Menasha and Sheboygan were able to obtain concessions on health insurance from their employees that would justify higher wage increases. The Library argues that as the Union did not agree to implement the plan changes in 2007 and proposes no increase in the employee contributions to the health insurance premiums, the Library's wage offer that is "slightly lower" than the pattern among the external comparables is justified. The Union responds that the Library did not ask that the plan changes be implemented immediately in 2007. Moreover, the Library's final offer proposes health insurance concessions in 2007, along with its "lowball" wage offer, and it cannot use the fact that the process has dragged out, causing its proposed concessions to have no actual impact, to now argue that its low wage offer was the *quid pro quo* for no concessions on insurance from the Union.

The Arbitrator agrees this does present a pretty puzzle, however, he notes that the parties' final offers were certified in June of 2007 and that the Library proposed concessions to be effective in 2007. The Library cannot persuasively now argue its lower wage offer was predicated on lack of concessions on health insurance in 2007. Further, there is no evidence that the date of the plan design changes was an issue linked to the Library's 2007 wage offer.

As to its overall wage offer, the Library asserts that its wage rates are above average among the comparables and as the difference in the parties' wage offers is relatively small, neither offer is preferred based on the external comparables. The Union counters that the Library's offer actually causes the Library Assistant I rate to slip below Sheboygan's for the first time. However, the Library is essentially correct that its rates are above average and will not really lose ground under either offer. Looking at the parties' wage offers over the life of the agreement discloses that rates will go up 7.75% under the Library's offer and 9% under the Union's offer, though the cost difference will not be that great due to the Union's

proposing splits. Of the five external comparables, three have a greater lift than what the Library proposes in both 2007 and 2008. It must also be remembered that the Library is proposing concessions on employee contributions to health insurance in both 2008 and 2009, that will have an impact, as well as the plan design changes becoming effective at some point in 2008. Even if a *quid pro quo* is not required for those changes, a less than comparable wage offer is not justified, especially when, as the Library notes, Menasha and Sheboygan had higher wage settlements in return for such concessions. The Arbitrator finds that based primarily on the external comparables, the Union's offer is favored on the issue of wages.

The remaining statutory criteria will be applied to the offers as a whole.

Cost of Living

The Library asserts its offer is preferred when this factor is considered. It notes that wage increases since 1998 for the Library Assistant I and II positions have exceeded the rate of inflation. Using the CPI inflation calculator, the LA I rate of \$11.52 in 1998 would be \$14.77 in 2007. Under the Library's offer it will be \$15.38, while it would be \$15.49 under the Union's offer. The Library also cites its total package costing of the offers to demonstrate that its 7.4% total package offer for 2007 exceeds the combined rate of 5.5% CPI increase over 2006 and 2007. The Library argues that the total package figure, which combines both wages and benefits, is the most relevant when considering this fact. The Union asserts that arbitrators have considered settlement patterns to better reflect the cost of living, rather than the CPI itself. Further, the base wage increase is more relevant to this factor than is the total package cost. The Library responds that the CPI is listed as a factor in the statutes and must be independently applied.

The Arbitrator agrees that the cost of living is a separate statutory factor that is to be applied independent of the other factors, however, the manner in which it is to be applied is anything but clear. This Arbitrator is not comfortable ignoring fringe benefits, especially health insurance, in calculating whether employees' purchasing power is positively or negatively affected by an offer. Certainly, to the extent an employer provides a necessity, such as health insurance, that an employee would otherwise have to provide for him/herself, the employee can instead use that money to purchase other goods or necessities.

The problem comes in this case in calculating what the real cost of living will be over the life of the agreement. The Library looks back at 2006 and 2007, which would normally be appropriate, but in the face of rapidly escalating food and energy prices, who knows what it will be by the end of 2008 or in 2009. Given the relatively small difference in the parties' total package costs over the three years of the agreement (using the Library's figures) the Arbitrator finds that neither offer is more preferred under this factor.

Overall Compensation

The Library offers its total package costing and an "hourly compensation analysis" using 2006 figures and comparing a ten year Library Assistant II to similar positions among the comparables, to support its argument that its offer is preferred. The Union argues that the Library's methodology is flawed. It points out that the Library used the monthly premium of the PPO family plan to compute the health insurance benefit, when only one employee in the unit was taking it in 2007. The Arbitrator notes that in using the PPO family premium for Oshkosh, the Library also used the highest monthly premium for each of the comparables in its analysis. However, the Arbitrator does note that the Library lists twelve paid holidays for Oshkosh employees in 2006, when the parties' 2004-2006 agreement specifies seven days plus 32 hours as floating holidays, for a total of eleven days. The Library's analysis also ignores the fact that the majority of the unit are part-time and only 14 of the 54 are in the LA II classification. Even under the Library's analysis, Oshkosh, while at the top, is only \$2.89 over the average and \$2.02 over the median. Therefore, it is concluded that this factor does not favor either offer in determining the outcome in this case.

Other Issues

The Library has argued that the remaining issues are minor and should not carry the same weight as the health insurance issue. Conversely, the Union considers the health insurance contribution and the salary schedule change for new hires to be important issues. The Union does agree that vacation and funeral leave are minor issues, due to the number of employees that would be impacted by those issues.

Health Insurance Contribution for New Hires

The Library proposes that for employees hired after January 1, 2009, the Library's contribution to the health plan the employee selects will be limited to the appropriate single, dual or family premium equivalent of the EPO plan w/HRA, with the employee paying the difference if she/he selects the PPO plan.

The Union estimates, it appears correctly, that even using a lesser percent increase for 2009 (7%) than the Library projects (10 - 12%), the difference between what an existing employee and an employee hired after January 1, 2009 would have to pay to be in the PPO plan would vary from over \$200 per month for single coverage to over \$500 per month for family coverage. The Union finds that punitive and reminds the Arbitrator that the Library is also proposing to lower the starting rate for new hires. The Library points out that existing employees are "grandfathered" under its proposal and thus, not affected by it. The Library cites arbitral approval of the use of "grandfathering" existing employees to remedy long-standing problems. According to the Library, giving new employees the option of "paying the difference" is certainly preferable to eliminating the PPO option altogether for them.

The Arbitrator finds a number of problems with the Library's proposal. Despite the Library's claim that its proposal still gives new hires the option of taking the PPO plan, as a practical matter, that is not likely the case, given what a new employee would have to pay per month to be in that plan. While the City's PPO plan is the most expensive among the comparables, and the City is justified in taking steps to control its costs in the future, the PPO plan is not unique among the comparables. No other employer among the comparables that provides more than one plan option, requires employees to pay that large of a portion of the premium to be in any of the plans offered. "Grandfathering" existing employees, while eliminating or decreasing a benefits for new employees, is an accepted method of curtailing a benefit that is unique or that has gotten out of hand, but the Library's proposal simply goes too far and is not supported by the external comparables.

Salary Schedule Matrix

The Library proposes to add a step to the start of the salary schedule that will be 5% less than the existing base step on the 2009 salary schedule for employees hired after January 1, 2009. According to the Library, this is necessary because the starting rates have drifted above the comparables by a significant margin and adding a step to the schedule is a fair and reasonable way to bring the rates in line with the comparables without impacting existing employees. The Library offers comparisons of the minimum rates of the Library Assistant I and II positions with the minimum rates for what it believes are similar positions among the comparables (Charts 13 and 14, Initial Brief) to support its claim that this change is necessary. The Union disputes the claim that this issue is minor and disputes the claim that the revision of the salary schedule is necessary. The Union objects to the Library's Charts 13 and 14 on the basis that the Library did not place any evidence into the record to establish the wage figures in those charts and there is no way of knowing if the Library is comparing like positions. The Union characterizes the Library's proposal as a "major reconstruction" of the salary schedule, and asserts the Library has not established a compelling need for that change, that there is no support in the comparables for the Library's proposal and there is no *quid pro quo*. The Union cites awards in which arbitrators have noted reluctance to make significant changes to wage schedules through arbitration, reasoning that such changes are best arrived at through bargaining.

The Arbitrator does not consider the Library's proposal to create a new starting rate for new hires to be a significant change to the existing salary schedule structure, as it only adds 1 step to the schedule and only for employees hired after January 1, 2009, and does not affect any existing employees. The Arbitrator also notes that the Union is using a secondary set of comparables (libraries with represented staff), as opposed to the parties' historical comparables, in making its comparisons of number of steps and number of months to reach the maximum. If this were the parties' first arbitration, the Arbitrator would be more inclined to look at some of those comparables the Union offers, e.g., Brown County and Manitowoc, but

the parties have established a historical set of comparables that have been relied upon both by them and by arbitrators in past arbitrations. Therefore, this Arbitrator will again restrict comparisons on this issue to the parties' historical set of comparables.

In reviewing the Library's comparisons of starting rates, the Arbitrator finds some merit to the Union's complaint that it is difficult to discern whether the positions being compared are in fact similar in their duties and responsibilities. However, the Union's objection that there is no evidence in the record regarding minimum wage rates is without merit. Library Exhibit Book 2, Tab 4, contains the salary/wage schedules for Appleton, Fond du Lac, Menasha, Neenah and Sheboygan, as does Union Exhibit 23. Certainly, the starting rates can be gleaned from those schedules, as can schedule structures. A comparison of those schedules as to the number of steps and years to the maximum shows that as far as the positions compared, Oshkosh has fewer steps (LA 1 has 7 steps, LA II has 9 steps) than Fond du Lac (11) and Menasha (10 + 3 "performance recognition" steps) and more steps than Appleton (6), Neenah (one rate, 3) and Sheboygan (4). The years to get to the maximum for the position among the comparables ranges from 1 to 20 years. Adding one step to the current schedule will not change where Oshkosh ranks in either comparison among the comparables. A comparison of the starting wage rates for those positions shows that Oshkosh was \$2.09 above the average in 2006 in the Library Assistant I comparison and would still continue to have the highest starting rate for that position under the Library's offer. Oshkosh ranks second behind Neenah in a comparison of starting rates for the Library Assistant II comparison and would continue that ranking under the Library's offer. However, an obvious problem with the Library's proposal is that it applies to all of the classifications, not just the LA I and LA II classifications. As noted previously, employees in the part-time Page position constitute a majority (31) of the 55 employees. The Library offers no comparison of the starting rates for similar positions to justify reducing the starting rate for new hires in the Page classification, nor for the Maintenance Engineer classification.

While the Library has offered some justification for its proposal to add a lower start rate step for new hires, its proposal is too broad. Though the Arbitrator does not find adding a new start rate step to be a "major restructuring," he does agree that salary schedule structure changes are best left to bargaining, rather than arbitration, to accomplish. It is there that the "tinkering" with a proposal can occur that would make the proposal more appropriate to the end sought and more palatable to both parties.

The Arbitrator concludes that the Library has not established that there is a compelling need for the extent of the change it proposes. Thus, the Union's proposal to maintain the status quo of the salary schedule structure is preferred on this issue.

Reasonableness of the Offers as a Whole

Until now, the Arbitrator has put off a discussion of the need for a *quid pro quo*. The Library has proposed concessions in health insurance premium payments in the form of increased percentages and dollar amounts for employee contributions, which the Arbitrator

found was slightly more reasonable than the Union's proposal to freeze employee contributions at the 2006 levels for employees opting to participate in the HRA.⁹ The Library has also proposed a concession in health insurance in the form of the "pay the difference" requirement for new hires who would opt to take the more expensive PPO plan, as well as a concession on starting wage rates for new hires. The Arbitrator concluded that both the Library's proposed concessions for new hires are not reasonable, as they stand by themselves.

The Library's wage offer has been found to be wanting based upon the external comparables. The Library argues that health insurance is the primary issue in this case and that the reasonableness of the parties' offer should be based primarily, if not entirely, on this issue. In support of its position, the Library notes that the increase in the cost of health insurance outstrips the cost of the increase in salary in 2008 and 2009, and points out that the difference in the parties' wage offers is relatively small. The Arbitrator has rejected the Library's argument that health insurance is the overriding issue in this case, due to the fact that only 22 employees of the 54 employees in the Library unit take the City's health insurance, while all of those employees are impacted by the wage offer. The fact that the majority of the employees are part-time, and many do not meet the minimum hours threshold for participation in the City's health insurance, does not alter the difference in the impact of the two issues on the employees in this unit. Therefore, health insurance and wages have been accorded equal weight.

The Library has relied on both internal comparables and external comparables to argue that no quid pro quo is needed in return for the health insurance concessions it proposes, and also relies upon the grandfathering of existing employees to argue that no quid pro quo is needed for the concessions it proposes on health insurance and starting rates for new hires. The Library argues that even if a quid pro quo is needed, its more or less comparable wage offer and its proposed improvements in vacation and funeral leave¹⁰ provides that quid pro quo, as evidenced by the acceptance of its offer by the four groups that settled. The Library's reliance on the four groups that settled had been rejected for the reasons previously stated. As to the external comparables, the Arbitrator has found that they slightly favor the Library on the issue of health insurance, do not favor the Library on the issues of wages and new hires health insurance. The Arbitrator would agree that no quid pro quo is necessary where the external comparables strongly favor the proposed change or where there is such a compelling need to address a mutual problem, especially where the other party refuses to address that need. In this case, it is more a combination of those two circumstances that would nullify the need for a quid pro quo for the Library's health insurance proposal. The trend in the comparables has

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Given the premium contribution penalty under either offer for not participating in the HRA, it is assumed the majority of employees taking the City's health insurance will choose to participate.

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A review of the unit's seniority roster reveals that, at most, three employees would be affected by the Library's vacation improvement over the life of the agreement and no one knows, of course, how many, if any, would be affected by funeral leave.

been to have employees contribute more toward the health insurance premiums. The Union's proposal to freeze contribution levels at the 2006 level for the life of the agreement is not only contrary to that trend, it is contrary to the status quo in the parties' last agreement, which is to increase the employee contribution each year of the agreement. When these trends are coupled with the 20% increase in the PPO premium in 2005 and the 19% increase in premiums in 2008, there is no need for a quid pro quo for the Library's health insurance proposal, as it stands by itself.

The problem with the Library's offer arises when it is viewed as a whole. The Library proposes concessions in the areas of health insurance, health insurance for new hires and the starting wage rate for new hires, in addition to the concessions the Union has made in the health insurance plan design changes and prescription drug co-pay. In return for those concessions, the Library offers a wage increase that is below the level of the external comparables (using the average "lift") and minor improvements in vacation and funeral leave benefits that have little impact on this bargaining unit. One could say the Library's offer is heavy on concessions and light on improvements. As has been said by others, it is one thing to find that no quid pro quo is needed, but another to say those concessions justify a wage offer that is substandard among the comparables. Further, the Library not having established there is a compelling need for its proposals regarding new hires, some quid pro quo would be required for such proposals.

Now, we come to the Union's offer. The Union proposes a wage offer that is more or less in line with the external comparables, and would be in good shape, if it stopped there. The problem with the Union's offer is that it also proposes a significant concession, a freeze on employee contributions toward health insurance premiums at the 2006 level for those employees who participate in the HRA. As noted previously, this is a significant change in the status quo and is not supported by the comparables, nor has the Union shown there is a compelling need for that change. While the Union has made concessions in health insurance in the form of plan design changes and increases in prescription drug co-pays, employees in the City's health insurance plans will not otherwise share in the increased cost of those plans for the three year life of the agreement. While the plan design changes will eventually help to hold down costs, the Union's concessions are simply put, not enough. While the plan design changes will help to keep the City health insurance costs lower, the direct impact of those changes on employees is minimal, since the out-of-pocket maximums were not changed. The changes are not sufficient to meet the need for a quid pro quo for the change the Union proposes.

The Arbitrator must choose between the Library's offer with an inadequate wage offer and the Union's offer with an inadequate quid pro quo for its health insurance offer. The Arbitrator previously concluded that the wage issue and the health insurance issue are to be given equal weight in deciding this case. The wage issue affects more (all) employees in this unit, but the difference in the two wage offers is relatively small over the life of the agreement. The health insurance issue affects only 40% of the employees, but the difference in the two offers is greater, in terms of cost to the Library.

Thus, it may be said that both final offers are substantially flawed and that in selecting the more reasonable offer, the Arbitrator is really deciding which offer is more unreasonable. The Arbitrator concludes that in this case the Library's offer is the more unreasonable when viewed as a whole. With three concessions, two of which would impose significantly greater costs on affected employees and two of which the Library failed to establish the need for the extent of the proposed changes, in return for a less than comparable wage offer,¹¹ the Library's final offer simply sinks under its own weight. Therefore, the Arbitrator concludes that, when viewed in their entirety, the final offer of the Union is the more reasonable of the two offers. The Arbitrator would also note that when both parties submit unreasonable offers, the result will, of necessity, be unreasonable.

AWARD

Having considered the statutory criteria under Sec. 111.70(4)(cm)7, Stats., the evidence, and the arguments of the parties, the Arbitrator concludes that the final offer of the Union is more reasonable than the Library's final offer. Therefore, the parties are directed to incorporate the final offer of the Union, along with the tentative agreements, into their 2007-2009 Agreement.

Dated this 26th day of April, 2008.



David E. Shaw
Arbitrator

¹¹

The Arbitrator again notes in this regard the Library has pointed out that the wage settlements in Menasha and Sheboygan were higher among the comparables due to concessions on employee contributions to health insurance premiums obtained in the bargains.