#### STATE OF WISCONSIN

#### BEFORE THE MEDIATOR/ARBITRATOR

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In the Matter of Mediation/Arbitration Between CLARK COUNTY and CLARK COUNTY DEPARTMENT OF SOCIAL SERVICES 

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Case XVI, No. 26852 MED/ARB-896 Decision No. 18#97-A

#### **APPEAR ANCES**:

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Mulcahy & Wherry, S.C., by Stephen L. Weld, appearing on behalf of Clark County.

Daniel J. Barrington, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, appearing on behalf of Clark County Department of Social Services, Local 546-A.

#### ARBITRATION HEARING BACKGROUND:

On March 19, 1981, the undersigned was notified by the Wisconsin Employment Relations Commission of appointment as Mediator/Arbitrator pursuant to Section 111.70(4)(cm)6 of the Municipal Employment Relations Act in the matter of impasse between Clark County, hereinafter referred to as the County and the Clark County Department of Social Services, represented by Local 546-A, referred to herein as the Union. Pursuant to statutory requirements, mediation proceedings were conducted between the parties on May 1, 1981. No public hearing was held as no members of the public either requested or were present for a hearing. Mediation failed to resolve the impasse and the matter proceeded to arbitration that same day. At that time the parties were given full opportunity to present relevant evidence and make oral argu-ment. The proceedings were not transcribed. Post hearing briefs were filed with and exchanged through the arbitrator, the last of which was received October 24, 1981.

#### THE FINAL OFFERS:

Two issues remain at impasse between the parties, salary schedule and longevity. The final offers are attached as Appendix "A" and "B".

#### STATUTORY CRITERIA:

Since no voluntary impasse procedure was agreed to between the parties regarding the above impasse, the under-signed, under the Municipal Employment Relations Act, is required to choose the entire final offer of one of the parties on all unresolved issues.

Section 111.70(4)(cm)7 requires the Mediator/Arbitrator

to consider the following criteria in the decision process:

- A. The lawful authority of the municipal employer.
- B. Stipulations of the parties.
- C. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- D. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employes performing similar services and with other employes generally in public employment in the same community and in comparable communities and in private employment in the same community and comparable communities.
- E. The average consumer prices for goods and services, commonly known as the cost-of-living.
- F. The overall compensation presently received by the municipal employes, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- G. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- H. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

#### THE POSITION OF THE PARTIES:

## The Position of the County:

The County contends its offer is the more reasonable one since it corresponds with recommendations prepared by a disinterested third party in which comparability was one of the criteria employed. Arguing that the Department of Local Affairs and Development's Community Management Services recommendation amounts to having hired a fact-finder prior to submitting the final offer to an arbitrator, the County declares the arbitrator is compelled to give considerable weight to the recommendations. Further, the County notes that the Social Services Union is the only group of employees so evaluated and rated who has refused to implement the recommendations, a fact which should also be considered.

Noting that the parties differ in their costing of the 'final offers, the County asserts that the differences can be explained through the method of costing employed by the parties. The County posits that the differences occur since it annualized the cost of the split increase in wages in 1980, while the Union did not. The County continues

that since its method of costing is one consistent with arbitral precedence, it should be the method used by this arbitrator.

As to costing, the County argues that when the split increase is annualized and experience increments are considered, the Union's offer of \$90 per month amounts to a 20% increase in salary over the 1980 salary for over onefourth of the bargaining unit and an overall unit increase in wages of 14.4%. It continues that even if the experience increments are not considered, the Union's offer still amounts to a 12.1% increase in wages which is higher than national settlement patterns and settlements among the internal and external comparables. Further, it is higher than the cost of living increases in the last year.

Arguing that its offer is based on an evaluation of responsibilities of the position and a wage survey of comparable positions in comparable communities and does not reflect the political factors that generally affect wage increases, the County contends its wage offer of 10.3% not only is a comparable offer based upon an objective evaluation, but it fares well with the Personal Consumption Expenditures Deflator, a more accurate measurement of cost of living than the Consumer Price Index. The County notes the annual increase in the PCE ranged from 10.12% to 10.6% in the past year.

As to the comparables, the County states that while 1978 comparisons indicate the County's Social Services Department was among the lower paid employees, it has since caught up and is now competitive. Thus, the County argues its offer is more reasonable since both offers maintain the same ranking among the comparable counties.

The County rejects the Union's argument that the County's offer does not conform' to the internal settlement pattern of the County. It avows all employees covered by the Community Management Services' plan, including represented employees in the Law Enforcement Department, received wages consistent with the recommendations of the plan. Further, it declares that, contrary to its proposal for Social Service employees, those employees, represented and nonrepresented, who were given wage increases in accord with the plan, were placed at levels that would not result in their reaching maximum salary compensation. Finally, noting the Health Care Center and the Highway Department bargaining units were not included in the Community Management Services' wage plan study, the County argues there were special reasons for their salary increases. It states the Highway Department was in the second year of its two-year settlement and neither this nor the relative fringe benefits received by them were analyzed by the Union when it advanced its argument. It also notes the maximum \$.52 per hour awarded the employees in the Health Care Center is less than the figure the County is offering its Social Service employees. Thus, it concludes the Union's position is without merit.

Noting the Union seeks, via arbitration, to secure the first longevity clause within the County, the County declares the Union failed to show why longevity should be awarded. Citing criteria used by this arbitrator and others in awarding such clauses, the County contends the Union demonstrated no compelling need for the clause, gave no proof of a quid pro quo for the implementation of the clause, and was unable to show other employees in Clark County enjoyed the benefits of such a clause. Thus, in addition to arguing that the Community Management Services' plan should be implemented, the County contends the Union's longevity plan is fatal to its final offer.

#### The Position of the Union:

The Union contends its final offer is more reasonable and more consistent with internal and external settlements. It argues its offer provides a reasonable progression in wage compensation while the County's offer is regressive. It continues the County is seeking tototally restructure wage compensation that has been voluntarily agreed to by the parties in previous contracts. It contends the starting and six month levels of all employees would be reduced and the eighteenth month level would be the first level where any wage increase would occur under the County's offer. It argues that under the County's offer approximately one-third of the employees can expect no increase over the term of the agreement and only 20% of the employees would receive any increase of significance. It continues that about 80% of the employees would receive 33.5¢ per hour or less under the County's offer. On the other hand, the Union contends its offer is consistent with the settlement reached in the County's Highway Department and that even with its longevity proposal, its offer would not exceed the overall compensation gained by the Highway Department.

In regard to the Community Management Services' plan, the Union states the plan was intended to be a guideline, not a "gospel". In opposing this plan, the Union argues the County's acceptance of the plan as a "method", instead of a guideline, significantly shifts from the elected officials to a non-elected component, the responsibility for determining wages. It continues that if this plan were to be accepted, collective bargaining in Clark County would be a sham.

As to the cost of living, the Union argues its offer recognizes increased prices affect everyone, while the County's offer implies certain employees are at a level of earnings where they can afford to experience no increase in wages and still be able to adjust to cost of living increases in 1981. It argues the direct compensation cost under the Union's offer is 9.68%, while the County's offer is 4.17%. It suggests these percentages remove any doubt as to which offer is more reasonable and more in accord with the recent cost of living increases.

The Union argues its request for a longevity clause is not unreasonable since many of those counties used for comparison purposes by the Community Management Services' enjoy this benefit. Thus, concludes the Union, not only should the wages paid to employees of Clark County compare to similar employees in other counties, but the benefits should be similar.

Finally, the Union argues incorporation of the County's final offer would result in new employees being paid ata lower compensation level than employees who previously performed the same services within the bargaining unit. It continues the offer would deny employees of the bargaining unit that which they had previously gained through voluntary settlements thus disrupting the entire collective bargaining process and, in effect, tells the members of the collective bargaining unit previous agreements reached between the parties as fair and equitable compensation would no longer be the case.

#### DISCUSSION:

At issue in this question is whether or not the County may implement a classification and wage plan recommended by an independent third body hired by the County for that purpose. The County contends the recommendations of Community Management Services, an agency of the Department of Local Affairs and Development, amount to fact-finding and thus, the undersigned should give considerable weight to them when considering which offer is the more reasonable onc. While conceivably, the recommendations c ould be considered fact-finding in nature, the criteria used by Community Management Services in formulating its recommendations are not the same criteria employed by arbitrators under 111.70 <u>Wis. Stats</u>. Further, the undersigned finds the intent of the Community Management Services Plan different than the intent of the Municipal Employment Relations Act.

The writers of the Reclassification Plan, in addition to making recommendations on classification of positions, did attempt to develop a compensation plan which compared both internal relationships within the bargaining unit and external relationships with other employees doing similar work. However, it is clear that the final recommendations regarding wage compensation were based upon internal comparisons of positions based on responsibility and difficulty of job duties rather than on any real effort to compare wages among employees performing similar work in similar counties. It should be noted the study did indicate that it had compared the Employer's wage rates with the prevailing rate of surrounding jurisdictions, but it must be added that the prevailing rate did not take into consideration any fringe benefits other than wage rate.<sup>1</sup>

In analyzing the wage rate comparisons made by Community Management Services, it is found that Community Management Services used different criteria in determining which counties were comparable than the criteria normally used by arbitrators. The seven counties used as surrounding jurisdictions by Community Management Services are not contiguous counties to Clark County, do not have similar population, nor do

<sup>&</sup>lt;sup>1</sup>Page three of the wage plan indicates "survey findings revealed that existing salaries of County employees are, for the most part, competitive with those offered by other public employers in the area. However, there are several instances where substantial adjustment should be made in order to establish the proper internal relationships between classes." It continues "... we are recommending ... salary plans which will formalize the proper relationship between classes. ..." Further, testimony of James Malueg, one of the co-authors of the recommendation, indicated that while salary rates were considered, fringe benefits were not considered as cash compensation.

they have similar equalized valuations. There may be reason for not using contiguous counties, however, the recommendation does not indicate what criteria it did use to determine the seven counties were comparable. Further, the Union proposed four of the seven counties cited by the County as those it considered comparable. Of those four counties proposed, none are any more comparable than the seven cited by the County. Thus, the undersigned will use the seven counties, Chippewa, Lincoln, Monroe, Pierce, Polk, Taylor and Wood, as the appropriate pool of comparables. Of these seven counties, although they are not contiguous, the undersigned finds Lincoln, Monroe, Pierce and Polk more similar in population, equalized valuations and bargaining unit size and thus will accord them more weight in making the comparisons.

The recommendation states it finds Clark County salaries competitive with those in surrounding jurisdictions. It gave no evidence supporting this assertion. An analysis of the data supplied by the study, which the undersigned assumes was used by the study to make the recommendations, is inaccurate and therefore cannot be relied upon exclusively. In the wage compensation comparisons, the undersigned finds the study used 1979 data instead of 1980 data in both Lincoln and Pierce Counties and the information provided for Taylor County was incomplete. In order to determine whether or not wages are competitive with surrounding jurisdictions, it is essential to use current data so that comparisons are made on the basis of apples and apples rather than apples and oranges. Further, the recommendation failed to consider fringe benefits and the number of hours worked each week when it determined the salaries were competitive, both data essential to determine whether wage rates are competitive or not.

The undersigned has prepared a chart, provided as Appendix C, which compares the wage rates paid in the eight identified counties both in 1980 and 1981. The data was arrived at by using both the exhibits and the contracts provided during the hearing. When the data was updated, the undersigned finds a comparison of eleven specific classifications indicates six of the classifications were compensated at the lowest rate among the seven comparable counties and three more were second from the lowest rate in 1980. This conclusion is based upon not only considering the actual rate paid, but also comparing the number of hours worked per week in each county. It is noted this finding is significantly different than the blanket statement made by the recommendation.

Based on the fact that the undersigned finds the salaries were not as competitive in 1980 as the recommendation would have one believe, the question becomes whether or not a study should be implemented which results in a reduction in the starting rates for all classifications while it increases the maximum rates for those classifications. The maximum rate for the classifications recommended by the study and consequently offered by the County, would result in the County compensating its employees at the lowest rate of all the comparable counties in 1981 if the number of hours worked each week is also considered. The Union's offer results in seven of the classifications remaining in the lowest paid rank among the comparable counties and one classification falling second from the lowest. Under the Union's offer three classifications improve in rank but remain in the middle of those compared. Overall, the Union's offer results in the County maintaining a position in 1981 similar to its 1980 position among the seven other counties. Thus, on the basis of comparing wage rates among comparable counties, the undersigned finds the Union's offer is more reasonable.

The study contends there are positions within the bargaining unit which are not being compensated according to the responsibility or difficulty of the position and that internal adjustments need to be made to correct this problem. Without considering each individual position and conducting an evaluation similar to the one done by the study, the undersigned cannot determine whether the difference in compensation for responsibility and difficulty of job is of such a magnitude that it demands the study be implemented. An analysis of the majority of the classifications identified in the bargaining unit with similar classifications in the counties considered comparable does not support the contention that any one classification is compensated at a significantly different rate than those classifications in the surrounding counties. Thus, the undersigned finds that without such a showing from the study or the County, the County's argument is not persuasive.

The County argues the Union's offer is extremely costly to implement. It contends the total cost of implementing the Union's package would be a 14% increase. In support of this statement, the County states the annualized rate of the split increase in 1980 must be compared to the 1981 rate increase, including the step increments the employees will experience. The County contends a 14% increase in compensation is totally unsupported by settlements in the area and is higher than the cost of living increases which have prevailed in the past year.

Without discussing the merits of the Consumer Price Index or the Public Consumption Expenditure Survey as the appropriate index for measuring the cost of living increases in the past year, the undersigned will consider the cost of living argument as it relates to wage settlements in the area, also an indication of what individuals within a geographical area consider the cost of living. While the County has argued that the total cost of implementing the package must be compared to the past year's cost of living increases, it is incumbent upon the arbitrator to not only consider the cost of implementing a package but to consider the actual improvement in the wage rate structure. Increases in basic wage rates, as much as wage increases to any given individual, reflects whether or not wages of employees in general are keeping pace with the cost of living increases.

The County presented in detail the wage increases each employee would receive under both the Union's and the County's offer and argues the increases the employees would receive under the Union's offer far exceeds any increase in the cost of living. The undersigned notes, however, the County's offer results in over a third of the employees within the bargaining unit receiving no wage increase until they receive an experience level increase and another third receiving a less than 4% increase in basic wages. On this basis, the undersigned finds the County is not justified in asking its employees to absorb increases in the cost of living in order to implement a classification study, particularly when other employees in the area and in comparable counties are receiving wage adjustments for cost of living. Further, while the Union's offer may be costly to implement, the rate increases do not differ significantly from the rate increases in those counties considered comparable by the County, thus the cost of implementation should not be significantly different when comparing counties with similar sized or larger bargaining units.

The County continues its offer is more reasonable when it is compared with those increases given other employees within the County. It argues studies similar to the one it proposes for the Social Services unit were voluntarily implemented by the Law Enforcement unit and by the nonrepresented employees. It states that in each of these instances, the wage increases were similar to that offered the Social Services unit. It continues the Social Services unit fares better than the other two groups however since, unlike employees in the other two groups, several of the employees in the unit will be placed at the maximum level of their classification if the study is implemented. Further, positing there are significant reasons for the 9% and 12% wage increases in the Health Care unit and the Highway Department, the County argues these increases cannot be considered as support for the Union's position. The undersigned finds it sufficient to note the wage settlements within the County, despite the fact two units voluntarily implemented a reclassification plan, do not set a wage rate increase pattern sufficient to decide which of the offers is more reasonable.

In addition to a wage increase, the Union seeks a longevity benefit. Arguing that no other bargaining unit within the County has longevity and that the Union has not met the criteria normally considered by the arbitrators in such an event, the County contends this aspect of the Union's offer so flaws it that the arbitrator should award in favor of the County. While the undersigned finds the longevity data for the comparable counties supplied by the County inaccurate, that information which was available does not support the Union's position. Additionally, considerable weight is given to the fact that no other bargaining unit with the County has longevity which indicates this benefit should be secured through the bargaining process. Thus, as to longevity, the undersigned finds the County's position more reasonable.

The undersigned considers the Union's request for a wage increase which equates to those given comparable counties plus a request for a longevity benefit difficult to justify. However, this is offset by the County's wish to implement a reclassification plan which would result not only in overall wage rates being reduced, but in over two-thirds of the bargaining unit receiving little or no increase in wages other than experience level increases, also an unjustifiable position. Thus, the undersigned must select that final offer which is more reasonable between two offers which are unreasonable in some aspects since the issues cannot be divided and a total final offer must be selected. While the undersigned would not normally award longevity when neither the comparables support a longevity benefit nor any bargaining unit within the County has longevity, implementation of the County's offer would not only result in reclassifying employees but would force a majority of the unit to absorb the cost of such implementation during an economic time when cost of living demands some increase in wages and the comparables indicate others are receiving substantially more.

Thus, having reviewed the evidence and arguments and after applying the statutory criteria and having concluded that the Union's offer is more reasonable as pertains to the wage rate issue and that the wage rate issue is the determinative issue, the undersigned makes the following

#### AWARD

The final offer of the Union, along with the stipulations of the parties which reflect prior agreements in bargaining, as well as those provisions of the predecessor collective bargaining agreement which remained unchanged during the course of bargaining, are to be incorporated into the collective bargaining agreement as required by statute.

Dated this 7th day of December, 1981, at La Crosse, Wisconsin.

Sharon K. Imes Mediator/Arbitrator

SKI/mls

APPE	NDIX	Ř "A		
Mulcahy a	& W	HER	RY, S.C.	
ATTORNEYS AND	o cou	NSEL	DRS AT LAW	
CHARLES C MULTAIY MICHAEL & WHERAY PERRY H TRIFSLER DENNIS I MC NALLY JAMES L EVERSON INGET 1977: JAMES A WILKE		P: P		MARK L DISON PAUL R SCHILLING STEPHEN L WELD ROBERT W MULCAHT EDWARD J WILLIAMS MICHAEL F PERINO PATRICK K BAINT DEAN R DIETRICH DAVID E SHAW JONATHAN A MULLIGAN DIANA L WATERMAN MICHAEL ; RURKE THOMAS E GRIGGS GART M RUESCH DENNIS M WEESCH
Investigator Douglas Knudson Wisconsin Employment Relations Commission 14 West Mifflin, Suite 200 Madıson, Wisconsin 53703	REL		915 AC 1997 1991	Services

Dear Investigator Knudson:

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The Board's final offer as submitted at the November 19, 1980, investigation session is as follows:

### SALARY SCHEDULE

I.				
	CLASSIFICATION	START	6 Mos.	<u>18 Mos.</u>
Α.	Social Worker III	\$1151/mo	\$1208/mo	\$1451/mo
В.	Social Worker II Volunteer Coordinat	1043 .or	1096	1316
с.	Social Worker I	946	993	1193
D.	Income Maintenance Worker-Lead	816	858	1028
	Homemaker III			
Е.	Income Maintenance Worker	778	816	972
	Homemaker II			
	Social Services Aides II			
ŀ.	Typist III	707	742	884
	Clerk III			

TORMINAL OP. II MILWAUREE OFFICE 815 EAST MASON STREET SUITE 1600 MILWAUREE WISCONSIN 53202 • 414 278 7110 • CABLE ADDRESS MULAW EAU CLAIRE OFFICE 409 SOUTH BARSTOW STREET EAU CLAIRE WISCONSIN 54701 • 715 839 7786 GREEN BAY OFFICE 414 EAST WALNUT STREET GREEN BAY WISCONSIN 54301 • 414 435 4471 MADISON OFFICE 110 EAST MAIN STREET MADISON WISCONSIN 53703 • 608 251 4670 WAUSAU OFFICE 408 THIRD STREET WAUSAU WISCONSIN 54401 • 715 842 0502

Investigator Knudson

January 2, 1980

G.	Terminal Op. I	\$ 674/mo	\$ 707/mo	\$ 842/mo
Н.	Soc. Services Aide	641	674	802
	Homemaker I			
	Clerk II			
	Typist II			
	Income Main. Asst.			
I.	Typist I	581	610	726
	Clerk I		•	

2.

Any employee, who would receive a pay reduction in any month as a result of implementation of the salary schedule incorporated herein, shall instead receive his/her existing salary (i.e. be red circled) for that month and for each following month until the salary schedule rate exceeds the existing salary.

3.

All other items shall be as in the existing contract except those tentatively agreed to items which amend the Preamble, Section 1.4 (first paragraph), Section 1.4 (fifth paragraph), Section 4.1, Section 4.4 (C), Section 5.3, Section 5.4, Section 8.2, Section 9.1, Section 10.9, Section 10.11, Section 12.4, Section 13.1, Section 13.2, Section 14, Section 20, Appendix A-2, and Appendix A-3. A draft contract which incorporates the agreed to changes is enclosed.

If you have any questions, please so advise.

Very truly yours,

MULCAHY &/WHERRY,/S.C. Shi hi Stephen L. Weld 1

SLW:bb Enclosure cc: Brian Bushnell Jake Hoesly H.H. Quicker Daniel Barrington

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# COMPARISON OF WAGE RATES Starting/Maximum

# <u>1980</u>

	Chippewa 40 hrs.	Lincoln 36 hrs.	Monroe 40 hrs.	Pierce 35 hrs.	Polk 37.5 hrs.	Taylor 35 hrs.	Wood 38.7 hrs.	Clark 40 hrs.	
Lerk I Slerk II Cierk III	683/743 723/792 801/875	559/653 619/718 675/788	655/721 705/778 754/830	700/785 766/838 777/919	701/810 754/810	/09/824 -	662/779 723/850 783/921	584/652 674/747 781/871	
Typist I Typist II Lypist III	683/743 723/792 801/875	559/653 619/718 675/788	655/721 705/778 754/830	700/785 766/838	701/810 754/810 -	Ē	662/779 723/850 783/921	584/652 674/747 781/871	
S.S. Aide I	723/792	619/718	705/778	766/838	754/810	-	723/850	674/747	
IN Worker	801/875	676/789	768/848	783/927	1197/1327	770/895	813/957	809/938	
Docial Worker I Bocial Worker II Social Worker III	1246/1354 1319/1442 1413/1546	999/1162 1106/1285 1205/1398	1069/1177 1183/1301 1267/1395	1111/1251 1215/1394 1360/1500	1127/1127 1197/1327 1267/1402	862/1103 999/1163 -	960/1497 1035/1612 1119/1743	961/1056 1090/1197 1275/1410	

## 1981

	<u>1981</u>						Clark		
	Chippewa	Lincoln	Monroe	Pierce	Polk	Taylor	Wood	Employer	Union
Clerk I Glerk II Glerk III	750/818 795/872 880/964	625/727 690/797 751/873	717/790 773/853 826/909		771/826 829/892 855/1046	- -	725/853 792/931 857/1008	581/726 641/802 707/884	674/741 764/837 871/961
Typist I Lypist II Typist III	750/818 795/872 880/964	625/727 690/797 751/873	717/790 773/853 826/909		771/826 829/892 855/1046	- - -	725/853 792/931 857/1008	581/726 641/802 707/884	674/741 764/837 871/961
S.S. Aide I	795/872	690/797	773/853	-	829/892	-	792/931	641/802	764/837
Il Worker	880/964	752/874	842/929	-	868/1059	853/975	792/931	778/972	899/1028
Social Worker I Locial Worker II Social Worker III	1371/1490 1456/1586 1555/1700	1079/1255 1194/1388 1301/1510	1170/1288 1297/1425 1388/1527	1248/1388 _ _	1240/1378 1317/1460 1394/1543	922/1063 1059/1223 -	1051/1639 1133/1765 1225/1909	946/1193 1043/1316 1151/1451	1051/1146 1180/1287 1365/1500

inese figures were arrived at by use of exhibits and contracts.