

# BEFORE THE ARBITRATOR

In the Matter of the Petition of  
BROWN COUNTY (HIGHWAY  
DEPARTMENT)

To Initiate Arbitration Between  
Said Petitioner and

TEAMSTERS LOCAL NO. 75

Case 613 No. 55214  
INT/ARB-8168  
Decision No. 29242-A

Heard: 2/17/98  
Briefs Filed: 4/22/98  
Award Issued: 5/26 /98

Sherwood Malamud  
Arbitrator

## APPEARANCES:

James M. Kalny, Human Resources Director, and Debra M. Keckeisen, Principal Analyst Brown County, 305 E. Walnut St., Room 620, Green Bay, Wisconsin 54301, appearing on behalf of the Employer.

Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., Attorneys at Law, by Andrea F. Hoeschen, 1555 N. RiverCenter Drive, Suite 202, P.O. Box 12993, Milwaukee, Wisconsin 53212, appearing on behalf of the Union.

## ARBITRATION AWARD

### Jurisdiction of Arbitrator

On December 16, 1997, the Wisconsin Employment Relations Commission appointed Sherwood Malamud to serve as the Arbitrator to issue a final and binding Award pursuant to Sec. 111.70(4)(cm)6.c., Wis. Stats., to determine the single unresolved issue in a three year agreement for calendar years 1996, 1997, and 1998, the wage rates of the accreted position of Highway Engineering Technician. Hearing in the matter was held on February 17, 1998, at the offices of the Brown County Highway Department, 2198 Glendale Avenue, Green Bay, Wisconsin, at which time the parties presented testimony and documentary evidence. Original and reply briefs were received and exchanged through the Arbitrator by April 22, 1998, at which time the record in the matter was closed. Upon reviewing the evidence, testimony and arguments presented by the parties and upon the application of the criteria set forth in Sec. 111.70(4)(cm)7., 7.g., 7.r., a.-j., Wis. Stats., to the issue in dispute herein, the Arbitrator renders the following Award.

## THE ISSUE IN DISPUTE

### Wage Rate for Engineering Technician

	1996	1997	1998
County Offer	\$14.33	1/1/97 \$14.76 9/1/97 \$16.15	\$16.63
Union Offer	\$14.33	1/1/97+ 3%= \$14.76	1/1/98 +3% = \$16.23
		7/1/97 +\$.50 =\$15.26	7/1/98 +\$.75 = \$16.98
		12/1/97 +\$.50 =\$15.76	12/1/98 +\$.75 = \$17.73

## STATUTORY CRITERIA

The criteria to be used to resolve this dispute are found in Section 111.70(4)(cm)7, Wis. Stats. Those criteria are:

7. 'Factor given greatest weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give the 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. The arbitrator or arbitration panel shall give an accounting of the consideration of this factor in the arbitrator's or panel's decision.

7g. 'Factor given greater weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in subd. 7r.

7r. 'Other factors considered.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall also give weight to the following factors:

- 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 employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services.
- e. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.
- f. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees in private employment in the same community and in comparable communities.
- g. The average consumer prices for goods and services, commonly known as the cost-of-living.
- h. The overall compensation presently received by the municipal employees, 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.
- i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- j. 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.

### **BACKGROUND**

The Highway Engineering Technician was an exempt, unrepresented position in the Brown County table of organization. At the request of Teamsters Local No. 75, hereinafter Teamsters or the Union, Brown County, hereinafter the County or the Employer, agreed to the accretion of the

Highway Engineering Technician position to the Highway Department Employees collective bargaining unit.

The parties reached agreement and the Employer implemented all the provisions of the 1996, 1997 and 1998 Collective Bargaining Agreement between Brown County and the Brown County Highway Department Employees, Teamsters Local No. 75. Brown County agreed that it would not cost the wage increases for the Highway Engineering Technician position against the Highway unit. Eventually, the parties agreed to submit the wage rate dispute for the Highway Engineering Technician position to interest arbitration under Section 111.70(4)(cm)6 of the Municipal Employment Relations Act.

Substantively, the parties agreed to provide the accreted Highway Engineering Technician with the benefits enjoyed by other Highway Department employees. The Highway Engineering Technicians retained a vacation schedule more favorable than the one enjoyed by other Highway Department employees.

The determination of the wage rate for the Highway Engineering Technicians presents a difficult problem for the parties and the Arbitrator. Not all counties that have been identified in the past as comparable to Brown in interest arbitration proceedings in units other than Highway employ Highway Engineering Technicians. Although many of the comparables suggested by both the County and the Union maintain a position title similar to the Brown County Highway Engineering Technician, the proposed comparables perform some but not all the duties performed by the Brown County incumbents. The parties presented substantial testimony concerning the job duties of the incumbents and attempted to reconstruct the duties performed by Engineering Technicians employed by the comparables that each proposed.

One of the three Brown County Highway Engineering Technicians has 22 years of seniority with the County; another 19 years' seniority. The seniority date of the third technician is June 1993. The seniority date of the junior engineering technician, Dale Raisleger, is sufficient to place him at the top of the schedule of any of the comparables suggested by the parties. An employee reaches the top of the schedule in Brown County at six months

employment. Accordingly, all the calculations and comparisons detailed below are based on the top rate.

The presentations of the parties diverge dramatically over the comparability issue. Brown County suggests a core of counties identified by interest arbitrators in other proceedings as comparables. Those counties are Fond du Lac, Manitowoc, Sheboygan, and Winnebago. The Employer suggests Outagamie as a comparable; however, Outagamie County contracts out all its engineering technician work. Consequently, it has no comparable position. The Union proposes as its comparables the City of De Pere, the City of Green Bay, the Village of Allouez, as well as, the following counties: Racine, Sheboygan, Waukesha and Winnebago.

The Technicians were accreted to the Highway unit on September 1, 1997. Both the County and the Union agree that the Highway Engineering Technician positions should receive catchup. The Union attempts to raise the wage level of the Technicians through six raises squeezed in over a short period of two years. There is no agreement to refrain from costing any necessary catchup for the Highway Engineering Technician position against the total package for the Highway unit in future bargains. Consequently, the Union attempts to achieve the full catchup over the last two years of this 3-year 1996-1998 Agreement. The Employer objects to the Technicians achieving catchup in one fell swoop.

The Arbitrator's task, in this case, is to apply the statutory criteria to identify a rate for the Highway Engineering Technician that is competitive in the Brown County labor market; a rate that does not unduly impact the future bargains of these parties. The final offer that most closely approximates this rate shall be the one selected for inclusion in the three year 1996-1998 Agreement.

### **POSITIONS OF THE PARTIES**

#### **The Employer Argument**

The Employer attempts to increase the wage rate of the Highway Engineering Technician to the mean of the comparables. In its offer, the Employer provides the catchup increase on the date of accretion,

September 1, 1997. Thereafter on January 1, 1998, it offers the same across-the-board increase received by other Highway employees, 3%. The Employer notes that over the life of the Agreement, its offer puts \$279.06 more in the Technicians' pockets than the Union's offer. The lift in the Union's offer is unreasonable. The Employer's offer brings the Technician wage rate to the mean of the comparables.

The Employer proposes the five comparables most frequently identified in interest arbitration Awards involving other units. The core five comparables identified by the Employer are: Fond du Lac, Manitowoc, Outagamie, Sheboygan, and Winnebago counties.

In Brown County (Mental Health Center) and its Professional Employees Association, 26957-A (3/92), Arbitrator Kerkman included Marathon County in the comparability grouping. He rejected some of the small rural counties surrounding Brown as comparables. In a nurses unit interest case involving the Brown County (Mental Health Center), INT/ARB-5947 (6/92), Arbitrator Johnson determined that the larger counties in the Fox Valley are appropriate comparables to Brown. He rejected the union's attempt to include Racine, Rock, and Dane counties in the comparability grouping. Arbitrator Baron in Brown County (Mental Health Center) and its unit of employees other than professionals<sup>1</sup> included Calumet, as well as, Washington County.

Arbitrator Chatman in Brown County (Department of Social Services) and the Professional Social Service Association<sup>2</sup> included Marathon County, as well as, those proposed by the Employer, here. In Brown County (Department of Social Services) and the Paraprofessional Employees Association, Arbitrator Gundermann identified the five counties proposed by

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<sup>1</sup>Brown County (Mental Health Center) & Brown County Mental Health Complex Local 1901, AFSCME, AFL-CIO, INT/ARB-5950 (12/91).

<sup>2</sup>Brown County (Department of Social Services) & Brown County Social Services Professional Employees Association, Dec. No. 26180, 2/90.

the Employer in this proceeding as the appropriate comparables in his case.<sup>3</sup>

The Employer argues that the prior awards issued in proceedings involving other units have identified a core of municipal employers comparable to Brown. It is that core that the Employer suggests as the comparability grouping for this case. The Employer recognizes that Outagamie County, although one of the core comparables, does not maintain an Engineering Technician in its employ. Rather, it contracts out that work. The Employer notes that the Highway Engineering Technician in Winnebago County performs many supervisory tasks. The Winnebago County position is not represented.

The Employer argues that the comparables proffered by the Union, such as Racine and Waukesha counties, are not in the same geographic area as Brown County. The Employer argues that it is not entirely clear what counties the Union identifies as comparables for this case.

The Employer argues that the Union's attempt to have municipalities serve as comparables should be rejected by the Arbitrator. The political organization, source of funding, as well as, the duties and responsibilities of the technicians employed by municipalities differ substantially from Brown County. Much of the work time of municipal technicians is spent in preparation of bid specifications and addressing assessment issues. Brown County does not assess property owners for the field projects in which its Techs are involved. There is no assessment process to be performed by the Brown County Techs. The Techs in municipalities must dedicate so much of their work time to preparation of bids because municipalities, for the most part, bid out their road improvement work. Brown County performs most of its own work. There is far less bid preparation and monitoring performed by the Brown County Techs.

The County argues that comparables should be of a similar size to the municipal employer that is the subject of the arbitration proceeding, School

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<sup>3</sup>Brown County (Department of Social Services) & Brown County Department of Social Services Paraprofessional Employees Association, INT/ARB-6302, 9/92.

District of Mishicot, Dec. No. 19849-A (Yaffe, 2/83). The established comparability pool should not be changed absent significant reasons justifying such change, Luxemburg-Casco School District, Dec. No. 27168-A (Briggs, 8/92).

The Employer concedes the need for catchup in this arbitration. Arbitrator Vernon observed in his award in School District of Marion, Dec. No. 19418-A (Vernon, 7/82) that there are three questions that must be answered by an arbitrator addressing a demand for catchup. First, whether there is a need for catchup. Secondly, how much money is necessary to accomplish the catchup; and third, whether the proposal proffered by either party to address the catchup issue relates to the need for the catchup.

The Employer argues that the Union seeks too much. Under the Employer's offer, the total lift in the wage rate over the course of the Agreement is 18.39%. The Union's proposal contains a lift of 24.69% in the wage rate for the Highway Engineering Technician.

The Employer argues that the Arbitrator should reject the Union's attempt to include statewide comparisons as part of the wage rate analysis for Highway Engineering Technician. The Employer quotes Arbitrator Nielsen in Cashton School District, Dec. No. 25863-A (Nielsen, 8/89) who observed that:

. . . Statewide comparisons have no sensitivity to local economic and political conditions which may dramatically affect the outcomes of bargaining in a given year.

The County maintains that its offer is reasonable. It maintains the preferred vacation schedule that the Highway Engineering Technicians enjoyed as exempt employees. In addition, the Technicians enjoy the level of benefits, such as dental insurance, that exceeds the level of benefits of the comparables. The County concludes that its final offer provides catchup to the mean of the comparables and it is more reasonable than that of the Union's.



## **The Union Argument**

The Union argues that the comparables it proposes are either part of the same geographic and market area or include communities of a similar size and composition. The cities of De Pere and Green Bay, and the Village of Allouez are part of the same geographic area. Racine has a similar population and Waukesha County, just as Brown County, is a semi-urban county. The Union, like the Employer in this case, proposes Sheboygan and Winnebago counties as comparables, as well.

The Union argues that the inclusion of both Racine and Waukesha counties in the group of comparables is appropriate because the Highway Department in its own study of its personnel and organizational structure that it completed in May 1996 compared itself to the 12 other most populous counties in the state, other than Milwaukee County. Manitowoc and Fond du Lac counties which the Employer proposes as comparables in this interest arbitration proceeding were not considered by the Brown County Highway Department in its recent organizational study. Brown County did not compare itself to Manitowoc or Fond du Lac counties for purposes of evaluating and measuring its operations, financing, budget or salary levels when it produced its own internal study. The Union argues that the Highway budget for Brown County is similar to Waukesha and Racine counties. The highway levy, whether based on population or lane miles, demonstrates the comparability of Brown to Racine and Waukesha counties.

The Union argues that the comparison it presents of the job duties and responsibilities of the Highway Engineering Technicians employed by the comparables establishes a base of comparison among employers who employ technicians with qualifications that are far less than those required by Brown County for its technicians. The Union notes that Brown County insists on a two-year civil engineering degree and seven years' experience, as well as, licenses as a Wisconsin registered land surveyor, a certification as a bridge inspector or aggregate and asphalt material tester.

The Union argues that it is the intraindustry comparison that is critical here. Generally it is the most important comparison in any interest arbitration, City of Eau Claire, Dec. No. 27322-A (Petrie, 1993). The Union maintains that a comparison of positions called engineering techs that

require different skills or the performance of a narrower range of duties and skills is inappropriate. The Assistant Engineer in Manitowoc County requires only one or two years of schooling beyond high school and has no specific work experience requirement. The Manitowoc position does not require the incumbent to maintain any licensure or certificates in bridge inspection or material testing.

Although the technicians employed in Sheboygan and Winnebago counties, as well as in the Village of Allouez, and in Racine and Waukesha counties are not represented, nonetheless, the Union requests that the comparables that employ nonrepresented technicians be given less weight. City of Shell Lake, Dec. No. 28486- A (Vernon, 1996); Necedah Area Support Personnel, Dec. No. 28259-A (Malamud, 1995).

The Union notes that both it and the County agree that catchup is appropriate. In that situation, it is appropriate for the unit or positions that are to receive catchup to receive increases larger than the comparables whose salary levels do not require the payment of catchup, Richmond Elementary School Jt. District No. 2, Dec. No. 18176-A (Yaffe, 1981); Brown County, Dec. No. 25604-A (Michelstetter, 1989); Unified Board of Grant and Iowa Counties, Dec. No. 24399-A (Johnson, 1989).

The Union argues that its offer provides the necessary catchup. The Employer's offer leaves the employees behind. The Union emphasizes that in the absence of agreement to refrain from costing the catchup provided to the Technicians against the total package for the unit, it is important that catchup be achieved in the course of this Agreement. The Union emphasizes that its offer costs less than the Employer's. The Union offer costs \$6,146; the Employer's \$6,643. The Union proposes six increases over the last two years of the Agreement, calendar years 1997 and 1998. The average hourly rate for Techs among the comparables proposed by the Union is \$19.06 in 1998. The Union offer leaves the Techs \$1.33 below the average at \$17.73 after the final increase in December 1998. The Union asserts that its offer is the more reasonable and closest to the average of the comparables that employ Engineering Technicians.

## **DISCUSSION**

### **Introduction**

The establishment of a wage rate for one classification is the purpose of this Award. The parties arguments focus on the intraindustry comparability criterion, (d) above. The parties and the Arbitrator accord the comparability criterion considerable weight. The Employer presents excellent data on the overall compensation criterion. The Arbitrator considers the evidence on the cost-of-living criterion, as well as, the Such Other Factor criterion, in the determination of this dispute. Although the Arbitrator has considered the other criteria, they do not serve to distinguish between the offers of these parties. The analysis begins with the consideration of the many arguments submitted by the parties on the identification of the comparable employers and the appropriate classification of technician employed by the comparables who are similar and may be compared to the Brown County Highway Engineering Technician.

### **Selection of the Comparables**

The identification of the comparables is the most nettlesome issue, in this case. If this case were focused on the entire Highway unit rather than one accreted position to the Highway unit, the suggestion of comparables such as the Village of Allouez, the City of De Pere, perhaps even the City of Green Bay, would be rejected by the Arbitrator. The Employer correctly notes that arbitrators frequently reject municipalities as comparables for county units. Different functions, organization, and financing serve as the basis for arbitral rejection of municipal street departments as comparables to county highway units. For example, one such difference between this county unit and a municipal street department is that much of the work performed by the Brown County Highway Department is billed out.

However, this is not a case that calls for unit to unit comparisons under statutory factor (d), the intraindustry comparison. The task at hand is to identify a rate for the Brown County Highway Engineering Technician.

Since both the Employer and the Union acknowledge that catchup is appropriate in this case, that means that the base rate, the 1996 rate, for

the Engineering Technician, is sufficiently below the average that it justifies increasing it by an amount that brings it close to the mean of the comparables.

To identify an appropriate rate for a specific classification, it makes no sense to consider employers who ordinarily may serve as comparables to the Brown County Highway unit but who do not employ Engineering Technicians. Outagamie County contracts out its technician work. Outagamie has no Highway Engineering Technician as part of its work force. Accordingly, Outagamie County, normally an appropriate comparable to Brown, is not an appropriate comparable, in this case.

The parties presented extensive evidence, that compared the job descriptions of the Engineering Technicians in Brown County to those of the comparables they each proposed. Brown County Highway Commissioner Roger Kolb, previously worked in the City of Green Bay. He is familiar with the functions performed by the that City's Engineering Aides I through III, as well as, the Engineering Senior Technician and Right of Way Specialist/Surveyor employed by the City. Commissioner Kolb was familiar with the functions performed by the supervisory classification of Senior Technician and the Engineering Technician I in the City of De Pere. In their briefs, the parties highlight the differences in the functions performed by engineering technicians in the various municipalities in Brown County, as well as, the difference in the qualifications and experience required by Brown County as contrasted to that required by the comparables proposed by the Employer.

Upon careful review of the evidence, the Arbitrator finds that the Engineering Technician in the various municipalities or counties proposed as comparables perform field surveys, address right of way issues, and perform title searches and perform construction inspections. This is the bulk of the work performed by the Brown County Engineering Technicians. It is the bulk of the work performed by the comparable position title for a comparable employer.

The Union emphasizes that the Brown County Highway Technician performs material testing of aggregate or bridge inspection. Few of the technicians employed by the comparables performed this work. The Brown County Technician must maintain a surveyor's license. They not only assist

but perform surveys. In part, this serves as a basis for the Union's argument that the wage rate level for the Brown County Highway Engineering Technician is comparable to that of the skilled and/or supervisory titles employed by comparable employers. The Arbitrator concludes from the above that the technicians employed by comparable employers perform one or more duties much more frequently than other duties performed by the Brown County Engineering Technicians. The greater experience and licensure required by Brown County of its Technicians may justify placing the Brown County Technicians at a rate above the mean paid by the comparables. Nonetheless, the Arbitrator concludes that the variety of the functions performed by the technicians in the different employment settings is one of emphasis; the variety of functions does not serve as a basis for the rejection of a proposed comparable.

The Employer argues that the Technicians in the City of Green Bay, De Pere and the Village of Allouez are involved in assessment work. Such work is not performed nor necessary in the Highway unit. It argues that this difference in function should serve as a basis for rejecting these municipalities as comparables in this proceeding. The Technicians in De Pere, Allouez, and Green Bay perform the core responsibilities-- the construction inspection, the field surveys, the involvement with right of way plats and title searches which serve as the basis for concluding that the municipal positions are similar to the Brown County Engineering Technician positions.

During the hearing, in the course of presenting its exhibits, the Arbitrator voiced concern with the Union's attempt to compare the Brown County Highway Engineering Technician to the various engineering classifications of the State of Wisconsin. There are numerous differences between state and county government. State employees are paid under an elaborate classification and compensation plan. In the experience of this Arbitrator, it is rare that comparisons are made between county or municipal employees to state employees in what may superficially appear to be similar classifications. The Union abandoned that comparison in its written argument.

The Union proposes Waukesha and Racine counties as comparables. The collective bargaining representative in each of the cases previously

litigated at the Brown County Mental Health Center or the Department of Social Services attempted to include Racine, or in some cases, Waukesha County as comparables. The Union has failed to demonstrate that any Arbitrator has previously used Waukesha County or Racine County as comparables to any other Brown County unit. There is arbitral concern with the geographic distance between Brown, Racine and Waukesha counties. However, in this case, the use of either Racine or Waukesha would greatly distort the analysis necessary to identify an appropriate rate for the Highway Engineering Technician in Brown County. Simply put, Racine and Waukesha lie within the greater Milwaukee area labor market. The arbitral task here is to identify a competitive rate for the Highway Engineering Technician in the Brown County labor market.

When the statutory criterion, (d) comparability among the classification of employees that are the subject of the arbitration proceeding to employees of comparable employers performing similar services is to be used as a criterion, this Arbitrator requires at least five comparables. Any fewer serves to permit an unusual situation in one employment setting to have undue influence on the outcome of the case. Where a small grouping of comparables, under five in number is used, it may lead to arbitral establishment of artificial bargaining links among municipal employers that are unintended and which may be destructive of future bargaining.

The Employer, here, proposes the counties of Fond du Lac, Manitowoc, Sheboygan, and Winnebago. As noted above, Outagamie, ordinarily a comparable to Brown County, does not employ a Highway Engineering Technician. It subcontracts this work. The technicians in some of the counties are unrepresented. Both the Union and the Employer propose comparables whose technicians are not represented. Although this Arbitrator in several decisions has rejected such comparables, he has done so only where there are sufficient number of comparable employers whose employees are represented to allow the application of a statutory process and criteria that is premised on the representation of the employees in question.

The Union argues that the unrepresented units should be given less weight. The technician in Winnebago County is unrepresented. The Union's proposed comparable in the Village of Allouez is nonrepresented, as well. In

Langlade County, Dec. No. 21806-A (3/95) @ p. 16, this Arbitrator notes that where the nonrepresented comprise or substantially impact the labor market, the nonrepresented units are accorded the same weight as represented employees. The exclusion of this data would make it difficult to determine the wage level of the technician in this labor market. If the nonrepresented units were given less or no weight, there would be no basis for determining this case. This Arbitrator accords less or no weight to the comparability criterion where there is insufficient data to apply that criterion. However, to ignore that criterion or diminish its weight, in this case, would make arbitral determination of this dispute impossible.

In Winnebago County, the technician focuses on the inspection of bridge work. A portion of the wage rate of the Winnebago County technician includes an amount that compensates for the supervisory responsibilities of the one technician employed in Winnebago County. Both the Union and the Employer propose Winnebago County as a comparable to Brown to determine the appropriate wage rate for the Highway Engineering Technician in Brown County. One may argue that Sheboygan County is geographically remote from and significantly smaller than Brown County. However, both the Employer and the Union propose it as a comparable. Accordingly, the Arbitrator includes both in the comparability pool.

Since the task in this proceeding is to identify an appropriate rate for Engineering Technicians, it makes sense to look at what employers in the labor market area pay Engineering Technicians. The Arbitrator determines that the following shall serve as the comparables to determine this dispute: Fond du Lac, Manitowoc, Sheboygan and Winnebago counties, as well as, the City of De Pere, the Village of Allouez and the City of Green Bay Right-of-Way Survey Specialist.

#### **THE HIGHWAY ENGINEERING WAGE RATE**

In the Table below, the Arbitrator computes the rate generated by the comparables. The average rate of the comparables for 1997, \$16.57 is 42¢ above the end rate offered by the County. It is 81¢ above the end rate generated by the Union's December, 1997 end rate. The County's offer is closer to the average generated at the conclusion of calendar year 1997.

The chart demonstrates that the County offer is 28¢ below the \$16.91 average of the comparable. The Union offer would closely approximate the average rate of the comparables in 1998, had the Union not included a December 1998 bump to raise its offer to \$17.73, 81¢ above the average of the comparables. Under the comparability criterion, the Employer's offer is preferred.

County	Position Title	1996	1997	1998
Fond du Lac	Engineering Tech	14.44	14.94	15.39
Manitowoc	Asst. Engineer	15.02	15.58	16.05
Sheboygan	Asst. Highway Engineer	15.57	16.04	16.52
Winnebago	Engineering Technician	17.51	18.04	18.60
City of Green Bay		16.94	17.45	
City of De Pere	Tech. I	16.42	16.87	17.33
Village of Allouez		16.61	17.06	17.57
Average		16.07	16.57	16.91
Brown County Employer offer		14.33	1/1- 14.76 9/1-16.15	1/1- 16.63
Brown County Union offer		14.33	1/1-14.76 7/1-15.26 12/1-15.76	1/1-16.23 7/1-16.98 12/1-17.73



### Overall Compensation

The Employer did not explain the methodology it used to state vacation and holidays in cents per hour. Exhibits 148-150, contains data relative to the Employer's comparables, the four counties listed in the above chart. These Exhibits indicate that the health and dental insurance, when converted to cents per hour and added to the hourly rate, consume substantially more money in Brown County than in the comparables. The impact of the differences in vacation and holidays is negligible, when stated in cents per hour and added to the hourly rate. The absence of this kind of data for the Union's comparables included by the Arbitrator as comparables in this case, prevent the Arbitrator from giving any meaningful weight to this criterion.

### Cost-of Living

Since both parties agree that the Highway Engineering classification is due catchup, this criterion does not serve to distinguish between the final offers of the parties. Both offers exceed the increase in the cost-of-living over the period from 1995 through 1997. The issue here is how much catchup is sufficient. This criterion does little to answer that question.

### Such Other Factors

The Union argues that the Highway Engineering Technician position must receive full catchup in this bargain. The parties have not agreed to refrain from costing the Technician's catchup against the entire Highway unit in bargaining for a successor to the 1996-98 Agreement. The Employer objects to the Union's attempt to achieve the full measure of catchup in "one fell swoop."

The Arbitrator agrees with the Union. The accretion of one position with three incumbents should not be permitted to burden the parties future bargaining.

The Union's misplaced reliance on wage rate figures for the State of Wisconsin and Racine and Waukesha Counties generated a much higher

average rate for its group of comparables. This higher rate may have encouraged the Union to propose three rather than two increases for 1998. It is through the December 1998 bump that the Union substantially overshoots the mark. Otherwise, the July 1, 1998 rate of 16.98, hits the nail on the head. It is 7¢ above the average of the comparables.

The Arbitrator recognizes that this Employer's decision to insist on license requirements not required by the comparables, and greater work experience than the comparables, justify setting the rate of the Brown County Highway Engineering Technician at a level above the average of the comparables. A rate at or slightly above \$17.00/hour is supported by the record evidence, in this case. The Employer's offer falls short by some 37¢. The Union's offer overshoots the mark by almost double that amount, 73¢. The Arbitrator has considered whether the shortfall of 37-40¢ in the rate would be burdensome to the parties' future bargaining. There can be no conclusive answer to this question. It calls on the Arbitrator to predict the future conduct of these parties.<sup>4</sup>

Under the comparability criterion, this Arbitrator determined that the Employer's offer was closer to the average. Based on this record, it would be speculative for the Arbitrator to determine the impact of the shortfall of the Employer's offer on the parties' future bargain(s). Accordingly, the Arbitrator concludes that this criterion does not serve to distinguish between the offers of the parties.

#### **SELECTION OF THE FINAL OFFER**

The identification of the comparables in this case provides the data to establish the wage level for the Highway Engineering Technician position. The Employer offer brings the wage rate of the three incumbents closer to the average paid by the comparables both in 1997 and in 1998. The Employer's offer accomplishes its purpose through a \$1.39 increase on the

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<sup>4</sup> There is insufficient data in the record to calculate the impact of an additional increase of \$2496 (40¢ for the three incumbents) on the entire Highway unit in their next round of negotiations. The parties did not provide the Arbitrator with data for the cost of the settlement (other than the Technician position) for the 1996-1998 Agreement.

effective date of the accretion of the three incumbents to the Highway unit. The Employer's offer ends up approximately 40¢ short of what the Arbitrator finds should be the top (six month) rate for the Technician position, \$17.00 per hour.


The Union's sixth bump in the two years, 1997 and 1998, generates a rate 73¢ above that rate. The Employer offer is closer to the average of the comparables. The Arbitrator selects the Brown County offer for inclusion in the 1996-98 Agreement.

Based on the above discussion, the Arbitrator issues the following:

**AWARD**

Upon the application of the statutory criteria found at Sec. 111.70(4)(cm)7, 7g. and 7r. a-j., Wis. Stats. and upon consideration of the evidence and arguments presented by the parties and for the reasons discussed above, the Arbitrator selects the final offer of Brown County for inclusion in the Agreement between Teamsters Local 75 and Brown County for calendar years 1996, 1997 and 1998 .

Dated at Madison, Wisconsin this 26th day of May, 1998.

  
Sherwood Malamud, Arbitrator