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In the Matter of Factfinding between)

**INTERNATIONAL ASSOCIATION
OF FIREFIGHTERS, LOCAL 613,**

and

CITY OF BOZEMAN, MONTANA.

FACTFINDER'S REPORT

Montana Board of
Personnel Appeals

Factfinding 2-2003

Before:

Robert W. Landau, Factfinder
2525 Blueberry Road, Suite 103
Anchorage, Alaska 99503

Representing the Union:

Karl J. Englund, Esq.
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Representing the City:

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Date and Location of Hearing:

June 5-6, 2003
Bozeman, Montana

Posthearing Briefs Received:

July 16, 2003

Date of Award:

August 19, 2003

FINDINGS OF FACT

1. This is a factfinding between the City of Bozeman, Montana (City) and its firefighters bargaining unit represented by Local 613 of the International Association of Firefighters (Union).

2. The City and the Union have been parties to a series of collective bargaining agreements, the latest of which expired on June 30, 2002. Under the terms of the agreement, the agreement continues in force unless one of the parties serves written notice that it desires a modification of the contract. Since May 2002 the parties have engaged in negotiations for a new contract, including mediation, but have not been able to reach agreement on a completed contract. The major remaining area of disagreement concerns wages.

3. In early 2003, the Union made a request for assistance to the Montana Board of Personnel Appeals for factfinding on the single issue of "net hourly wage compensation." The parties subsequently selected the undersigned to act as factfinder in this matter.

4. There are presently 27 employees in the bargaining unit, including 7 captains; 9 first class firefighters (5 or more years of service); 3 fourth-year firefighters; 1 third-year firefighter; 3 second-year firefighters; 2 confirmed firefighters (7-12 months of service); 1 building/life safety specialist; and 1 training officer.

5. Combat firefighters in the Bozeman Fire Department work 144 hours in a 21-day work cycle. They work 24 hours on duty, followed by 48 hours off duty, with an unpaid Kelly day every seventh workday (i.e., one Kelly day per 21-day work cycle). Under this schedule, firefighters work an average of 2,502 hours a year, or approximately 48 hours per week.

6. Under the CBA, Bozeman firefighters are paid a monthly salary as their base wages. For FY 2002 (July 1, 2001-June 30, 2002), the monthly salary ranged from a low of \$1,635/month for a probationary firefighter to a high of \$3,433/month for a captain. In addition to their base monthly wages, firefighters also receive longevity pay, sick leave, health insurance, vacation time, holidays, and retirement benefits.

7. The Union's most recent wage proposal was an 8% increase in monthly salary for FY 2003, and an additional 8% increase in monthly salary plus the annual increase in the Consumer Price Index (CPI) for FY 2004.

8. The City's most recent wage proposal was a 5% increase in salary for first-class firefighters and above and a 3% increase for lower ranks for FY 2003. For FY 2004, the City proposed another increase of 5% for first-class and above, and a 4% increase for ranks below.

9. The two major issues in dispute at the factfinding hearing were (1) the selection of other jurisdictions comparable to Bozeman for the purpose of determining the appropriate compensation of firefighters, and (2) the appropriate method of calculating the compensation of Bozeman firefighters.

10. One of the most important elements of the analysis of the parties' wage proposals is the selection of comparable jurisdictions. It is important to use an objective method to select comparable communities to avoid a "result driven" approach. Typically, the selection of comparable jurisdictions involves an analysis of demographic and economic factors. Population is the most frequently used factor because communities of comparable population usually have comparable employment opportunities and require similar fire protection services. Apart from population, other factors used in the selection of comparable jurisdictions include: physical proximity to the target jurisdiction,

proximity to a major metropolitan area, assessed valuation of property, number of employees, retail sales, per capita and family income, relative costs of living, turnover rates, and historically comparable jurisdictions. See Will Aitchison, *Interest Arbitration (Second Edition)*, at 37-55.

11. ~~The parties agree that Montana cities and towns should be used for comparative purposes, but disagree as to which Montana communities are comparable.~~ The Union's economic analysis compares Bozeman to Missoula, Great Falls, Helena and Billings. The City's analysis compares Bozeman to the average of the ten largest communities in Montana.

12. According to the 2000 census, the ten most populated cities in Montana are as follows:

<u>City</u>	<u>Population</u>
Billings	89,847
Missoula	57,053
Great Falls	56,690
Butte	34,606
Bozeman	27,509
Helena	25,780
Kalispell	14,223
Havre	9,621
Anaconda/Deer Lodge	9,417
Miles City	8,487
Average	33,323

The average of the ten largest communities in Montana is 21% higher than Bozeman's population. The cities of Bozeman and Helena are the median cities in terms of population.

13. The most common comparability range in interest arbitration is to vary the target jurisdiction's population by a factor of 50%. See Aitchison, *Interest Arbitration (Second Edition)*, at 66. In this case, using a 50% comparability range would limit the comparable jurisdictions to Butte, Bozeman, Helena and Kalispell. While this approach would be rational and objective, there are good reasons to expand the list of comparable jurisdictions to the ten largest communities in Montana. First, the relevant labor market for firefighters in Montana includes the ten largest cities and towns. Bozeman participates in the Montana Firefighter Testing Consortium which recruits and qualifies firefighters for all of the ten most populated communities. Thus, Bozeman competes with these communities in terms of attracting and retaining firefighters. Second, a review of the assessed taxable property valuations of the ten largest communities in Montana establishes that Bozeman is very close to the average. The average taxable value of the ten largest communities is \$43,634,515, which is 2% higher than Bozeman's taxable value of \$42,767,799. Bozeman is a median city in terms of taxable value. ~~Third, the Union's reasons for excluding certain of the top ten communities in Montana are not as persuasive as the reasons for including them as comparable jurisdictions for firefighters.~~ According to the Union, four of the ten most populated communities in Montana are in decline or stagnant (Butte, Havre, Anaconda/Deer Lodge, and Miles City), and a fifth (Kalispell) has a unique overtime situation that makes wage comparisons difficult. Even if the Union's characterizations are correct, however, this is not sufficient reason to exclude these communities from the relevant labor market for firefighters. ~~Excluding the communities suggested by the Union would result in a less objective and more skewed analysis than using the ten most populated communities in Montana.~~

14. To support its wage proposal, the Union presented a compensation analysis prepared by Earl Hall, a former assistant fire chief in Missoula, who is now a consultant and has extensive experience in analyzing firefighter pay for both employees and management. Hall analyzed the compensation of Bozeman firefighters compared to firefighters in four other Montana cities – Missoula, Billings, Great Falls and Helena. The selection of comparable jurisdictions was made by the Union and was given to Hall.

15. Because the hours, wages and benefits paid to firefighters vary from jurisdiction to jurisdiction, Hall attempted to compare the value of an hour of work in each of the selected jurisdictions. He relied upon salary and benefit information for FY 2002 for each of the five selected cities except for Billings, which did not yet have a contract covering FY 2002, so instead he used FY 2001 data. To account for the fact that firefighters move up in rank, Hall analyzed eight different firefighter classifications: firefighters with two years of experience; firefighters with three years of experience; firefighters with five years of experience; firefighters with ten years of experience; firefighters with fifteen years of experience; captains with fifteen years of experience; inspectors with fifteen years of experience; and battalion chiefs with twenty years of experience.

16. Hall's analysis attempted to convert every payment made to, or on behalf of, a firefighter into an annual dollar value to arrive at a number that represents total annual compensation. Total compensation equals annual salary, plus longevity, plus the employer's cost of health insurance, plus the employer's contribution to retirement, plus holiday pay. Hall then calculated the adjusted annual hours of work, consisting of the gross annual hours of work, minus vacation and sick leave. Finally, Hall divided the total annual

compensation by the adjusted annual hours of work to arrive at a "net hourly wage" – the value of an hour of a firefighter's work.

17. The Union's analysis prepared by Hall yielded a net hourly wage (also referred to as an "adjusted hourly salary") of five-year and ten-year firefighters as follows:

<u>City</u>	<u>Five-Year Firefighter</u>	<u>Ten-Year Firefighter</u>
Missoula (FY 2002)	\$25.51	\$26.92
Billings (FY 2001)	\$25.05	\$27.10
Great Falls (FY 2002)	\$23.93	\$25.80
Bozeman (FY 2002)	\$20.30	\$20.98
Helena (FY 2002)	\$19.54	\$21.02
Average	\$23.51	\$25.21

According to the Union's analysis, the net hourly wage of a Bozeman firefighter is 13.66% lower than the average for the five selected jurisdictions and the net hourly wage of a ten-year firefighter in Bozeman is 16.79% lower than the average for the comparable jurisdictions.

18. The City used a "total monthly compensation" analysis to determine the value of wages and benefits received by firefighters. According to the City, the total monthly compensation approach considers the entire package of all economic benefits received by firefighters and is more consistent with the monthly salary structure of the present CBA as well as the prior agreements between the parties. The total compensation approach normally includes an analysis of wages, incentive pay, retirement costs, insurance premiums, vacation costs, holiday costs, accrued sick leave, and any other benefits paid to employees. See Aitchison, *Interest Arbitration (Second Edition)*, at 110.

19. To calculate the total monthly compensation paid to firefighters in Bozeman and comparable jurisdictions, the City took the base monthly wage and added longevity pay, EMT basic pay or deferred compensation not in the base wage amount. The City then added in the amount of the monthly health insurance premium paid by the City as well as the retirement contributions paid by both the City and the State of Montana. Under Montana law, cities pay 14.36% of firefighter's compensation to the State retirement system, while the State pays 32.61% of firefighter's compensation to the retirement system.

20. A unique feature of Bozeman's compensation system is that since July 1, 1996, the City's contribution toward an employee's health insurance has been added to the employee's gross pay for the purpose of augmenting the employee's retirement benefits. By including the cost of the City's health insurance contribution in the base pay of firefighters, firefighters receive substantially greater retirement benefits over their lifetime. For example, the City calculated that the lifetime benefit to an individual firefighter of including the City's health insurance premium in base pay, assuming retirement at age 45 in FY 2004 and living to age 75, would be \$165,009. No other government employer in Montana provides such an augmented retirement benefit by including health insurance premium costs in an employee's base pay.

21. In calculating the total compensation of firefighters in Bozeman and other Montana communities, the City used FY 2003 data from cities with settled contracts and, in cities where FY 2003 wages were not yet settled, management's most recent wage proposal. As comparable jurisdictions, the City selected the ten largest communities in Montana: Billings, Missoula, Great Falls, Butte, Bozeman, Helena, Kalispell, Havre, Anaconda and Miles City.

After calculating the total monthly compensation of firefighters in each jurisdiction, the City calculated the net monthly hours worked by firefighters in each location. By dividing the total monthly compensation by the net hours worked, the City calculated a "total compensation hourly rate" for each of the selected communities. The City's calculations are summarized as follows:

<u>City</u>	<u>5-Year FF Total Monthly Compensation</u>	<u>5-Year FF Total Compensation Hourly Rate</u>	<u>10-Year FF Total Monthly Compensation</u>	<u>10-Year FF Total Compensation Hourly Rate</u>
Helena	\$5,019	\$26.04	\$5,090	\$26.69
Havre	\$4,109	\$23.82	\$4,197	\$24.62
Anaconda	\$3,965	\$24.28	\$4,083	\$25.31
Butte	\$4,761	\$27.68	\$4,857	\$28.57
Kalispell	\$4,864	\$28.28	\$5,124	\$30.14
Miles City	\$4,184	\$24.32	\$4,364	\$25.67
Great Falls	\$5,024	\$29.21	\$5,216	\$30.68
Missoula	\$5,394	\$31.36	\$5,688	\$33.46
Billings	\$4,831	\$27.06	\$4,904	\$27.79
Bozeman	\$5,538	\$27.90	\$5,655	\$28.78
Average	\$4,684	\$26.90	\$4,836	\$28.10

22. According to the City's analysis, the net hours worked by both 5-year and 10-year firefighters in Bozeman is approximately 14% more than the average for the ten largest communities in Montana. Under the City's pay proposal, a 5-year Bozeman firefighter would receive approximately 18% more than the average in total monthly compensation. When net hours worked are taken into account, a 5-year Bozeman firefighter would receive an hourly rate approximately 3% higher than the average for the comparable jurisdictions. Similarly, a 10-year Bozeman firefighter

would receive approximately 17% more than average in total monthly compensation and would have an hourly rate approximately 2% higher than the average.

23. Under Montana law, an interest arbitrator must adopt the final offer of either party on each issue in dispute. In arriving at a determination, an interest arbitrator shall consider any relevant circumstances, including (1) a comparison of hours, wages and conditions of employment of the employees involved with employees performing similar services and with other services generally; (2) the interests and welfare of the public and the financial ability of the public employer to pay; (3) appropriate cost of living indices; and (4) any other factors traditionally considered in the determination of hours, wages, and conditions of employment. Section 39-34-103, MCA. Although this is a factfinding proceeding and not a final offer interest arbitration, the factfinder believes it is appropriate and relevant to consider the statutory criteria that would apply if this matter were to proceed to interest arbitration.

24. The statutory requirement to compare "hours, wages and conditions of employment" suggests that a total compensation approach is more appropriate than an analysis limited to wages. The "net hourly wage" cannot be viewed in isolation but must be considered in the context of the total compensation package of the employee. See Aitchison, *Interest Arbitration (Second Edition)*, at 107. In any event, the Union's calculation of a "net hourly wage" appears to be a misnomer. The established formula for calculating an employee's net hourly wage is:

$$\text{Net Hourly Wage} = \frac{(\text{Base Wage} + \text{Longevity} + \text{Education/Certification})}{\text{Net Hours of Work}}$$

Id. at 85. The Union's analysis clearly goes beyond the established formula since it takes into account benefits such as health insurance, longevity, retirement, holidays, vacation and sick leave. Thus, it appears that both the City and the Union have

performed similar analyses, namely calculating total compensation and then dividing by the net hours worked to determine an hourly rate for comparison purposes. The different results reached by the City and the Union can be explained by three primary factors: (1) the difference in comparable cities selected, which affects the average compensation and hourly rate; (2) the City's reliance on FY 2003 data whereas the Union relied primarily on FY 2002 data; and (3) the City's consideration of the increased retirement benefits received by Bozeman firefighters as a result of the inclusion of the City's payment of health insurance costs into base pay.

25. Although both parties have analyzed the total compensation and the hourly rate paid to firefighters, the factfinder concludes that the economic analysis presented by the City is more comprehensive and likely to be accurate than the analysis presented by the Union. First, the Union's selection of comparable cities is too narrow and does not reflect an adequate cross-section of communities in Montana that compete for firefighters. Second, the City's use of FY 2003 data is more current than the FY 2002 and FY 2001 data used by the Union. The fact that the City relied on the latest management offers in those locations where FY 2003 wages have not been settled does not render that information speculative or inaccurate. Third, the Union neglected to include the substantial increased retirement benefits received by Bozeman firefighters as a result of the City's inclusion of its health insurance costs in base pay. In this regard, the State of Montana's increased contribution towards retirement is a relevant consideration since it augments the actual benefits received by firefighters upon retirement. Fourth, the Union's analysis fails to take into account other significant factors, such as (1) the rate of cost of living increases; (2) the low rate of turnover among Bozeman firefighters; (3) the relative workload of Bozeman firefighters; and (4) the wage increases paid to firefighters compared to other City employees.

26. An important consideration in assessing the parties' wage proposals are changes in the cost of living. According to the U.S. Consumer Price Index (CPI), the national cost of living increased by 1.5% in FY 2002 and 2.8% in FY 2001. The average annual increase in the CPI over the past 10 years (FY 1993-2002) has been 2.5%, while the monthly salary paid to a 5-year firefighter in Bozeman has increased by an average annual percentage rate of 3.2%. The annual salary increases paid to Bozeman firefighters have exceeded the CPI in 9 of the last 10 years.

27. The Union presented cost-of-living information compiled by the American Chamber of Commerce Researchers Association (ACCRA) to show that the cost of living in Bozeman has been higher than the national average for the past several years. However, the ACCRA index is not widely accepted as a reliable reference in factfinding and interest arbitration. See Aitchison, *Interest Arbitration (Second Edition)*, at 142-43.

28. The rate of turnover in the Bozeman Fire Department is very low compared to the City's overall turnover rate and national averages. The Fire Department employee turnover rate is 0.8% per year compared to the City of Bozeman turnover rate of 1.51% per year and the national average of 1% per year. Since 1993, the Bozeman Fire Department has not lost a firefighter to another Montana fire department. Since 1999, only two Bozeman firefighters have left to work for a fire department in another state (their state of origin). The low turnover rate among Bozeman firefighters supports the conclusion that the wages and benefits paid to firefighters by the City have been sufficient to attract and retain its firefighting work force.

29. Workload is an element traditionally taken into account in comparing the compensation of public employees. For calendar year 2002, the

Bozeman Fire Department was called out to approximately 1,650 incidents. These incidents included traffic accidents and other emergencies where the caller requested fire department assistance. By comparison, the Bozeman Police Department was called to 34,083 events and the private ambulance service was called out 2,640 times in calendar year 2002. Of the approximately 1,650 incident calls to the Bozeman Fire Department in calendar year 2002, emergency medical service/rescue accounted for 1,147 calls and fire accounted for only 122 calls. From this information, it is fair to conclude that the bulk of the Fire Department's workload involves emergency medical services rather than fire suppression.

30. A comparison of the workload of the Bozeman Fire Department with other jurisdictions reveals that the number of calls for service in Bozeman was significantly less than Billings, Great Falls, Missoula and Helena. Calls for service in Billings were 8,873; Great Falls 5,012; Missoula 4,166; Helena 2,660 (average of 9 months extrapolated to 12 months); and Bozeman 1,650.

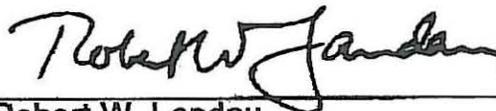
31. Finally, the internal comparability of wages between different bargaining units within the City is also an important factor in evaluating the compensation of firefighters. Over the last two years (FY 2001 and FY 2002), the percentage of increase in the salaries of firefighters (6.4%) exceeded that of Teamsters (6.0%), Police (6.1%), and Grade 20 Public Employees (4.4%). The 6.4% salary increases paid to firefighters over the past two years also exceeded the average percentage increase of 5.5% paid to all City bargaining units (excluding fire).

CONCLUSIONS AND RECOMMENDATIONS

Based on the presentations of the parties and the foregoing findings of fact, the factfinder respectfully submits the following conclusions and recommendations:

1. To analyze the compensation of Bozeman firefighters, the most appropriate comparable jurisdictions are the ten most populated cities and towns in Montana which form the relevant labor market for firefighters.
2. The City of Bozeman's method of calculating the total compensation of firefighters takes into account a broader range of relevant factors and is likely to be more accurate, current and reliable than the methodology used by the Union.
3. Using the City's methodology, the total compensation of Bozeman firefighters under the City's wage proposal, either on a monthly or hourly basis, would be greater than the average compensation of firefighters in the ten most populated communities in Montana.
4. The City of Bozeman's wage proposal for FY 2003 and FY 2004, and its supporting economic analysis, more closely conforms to the relevant statutory criteria in Section 39-34-103, MCA. Therefore, the factfinder concludes that it is probable that an interest arbitrator would adopt the City's wage proposal rather than the Union's wage proposal for the next collective bargaining agreement between the parties.

Dated: August 19, 2003



Robert W. Landau
Factfinder

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August 19, 2003

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BILLING STATEMENT

Re: City of Bozeman and Bozeman Firefighters Local 613
Factfinding - Net Hourly Wage Compensation Parity

<u>Arbitrator's Fees</u>	<u>Amount</u>
Study/Writing Time (4 days @ \$ 840/day)	\$3,360.00
TOTAL AMOUNT DUE	\$3,360.00
PAYABLE BY UNION	<u>\$1,680.00</u>
PAYABLE BY EMPLOYER	<u>\$1,680.00</u>

Payment is due upon receipt. Thank you.

N.B. The parties previously paid the arbitrator's hearing time and travel expenses, so these are not included in this billing.