

BEFORE FACTFINDER LeROY H. SCHRAMM

IN RE the FACTFINDING BETWEEN

LOCAL 601, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS and

the CITY OF HAVRE, MONTANA

FEBRUARY, 2015

FINDINGS AND RECOMMENDATIONS

Procedural Background

Local 601 of the International Association of Firefighters (IAFF) and the City of Havre, Montana are parties to a collective bargaining contract. Their most recent contract had an expiration date of June 30, 2014. Since then the parties have continued to operate under the terms of that contract, with one exception: the City agreed to pay the full amount of the increase in health insurance rates. The parties negotiated in an attempt to reach agreement on a new contract but they have thus far been unsuccessful. They petitioned the Montana Board of Personnel Appeals for mediation and on September 23, 2014 a mediator was appointed. Mediation was unsuccessful. Thereupon the Union suggested that the parties go directly to arbitration. The City demurred and the parties proceeded to petition the Board of Personnel Appeals for a list of potential factfinders.

On November 18, 2014 the parties notified this factfinder that he had been selected to conduct the requested factfinding. A hearing was scheduled for January 6, 2015 in Havre. That hearing had to be cancelled because of severe wintry weather. The hearing was rescheduled for February 12, 2015 in Havre. A hearing was held that day. The City was represented by its Mayor, Tim Solomon and Andrew Brekke, a City Councilman. The Union was represented by

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Ricky Walsh, IAFF Seventh District Vice President. The Union presented two witnesses as did the City. The Union presented several exhibits, bound together in a single large binder, while the City presented a single written exhibit.

The Factfinding and Arbitration Statutes

Montana law prohibits firefighters from striking (MCA 39-34-105). In the place of a strike the legislature has provided, in successive stages, mediation, factfinding and binding arbitration to settle contract negotiation differences involving public employers and firefighters. The purpose of factfinding is to assist the parties in reaching voluntary agreement, thus avoiding arbitration. But because the parties are not legally bound to accept a factfinder's recommendations the possibility of arbitration always looms over a factfinding procedure. Therefore, it is reasonable for a factfinder to use the standards laid out in the firefighter arbitration statute to derive his recommendations. Those standards, found at MCA 39-34-103(5), are as follows:

- In arriving at a determination the arbitrator shall consider any relevant circumstances, including:
- (a) comparison of hours, wages, and conditions of employment of the employees involved with employees performing similar services and with other services generally;
 - (b) the interests and welfare of the public and the financial ability of the public employer to pay;
 - (c) appropriate cost-of-living indices;
 - (d) any other factors traditionally considered in the determination of hours, wages, and conditions of employment.

The firefighter arbitration statute also specifies that the parties are to submit to the arbitrator their final positions on each unsettled issue and the arbitrator is then to pick the position of one side or the other. The statute is not clear on whether the arbitrator must pick the

entire package of one side or the other or whether he can pick one side's final position on one issue and the other side's final position on another. Although this "issue by issue final offer arbitration" is not clearly mandated by statute it has been commonly agreed among labor relations practitioners that this is what was intended by the statute.¹ Therefore, with the concurrence of the parties, as voiced at the February 12 hearing, this factfinder will examine the parties' final offers on an issue by issue basis.

Unsettled Issues and the Position of the Parties

Issue # 1 - Article 11, Section A of the current contract says: "The salary schedule is set out and attached as Appendix A which shall form part of, and be subject to all provisions of this contract." Appendix A contains a pay matrix that has 41 steps and 6 grades from probationary firefighter to firefighter to 1st class firefighter to driver/operator to engineer to captain. Thus the matrix has 246 cells with each step in any grade being one half of a percent (.005) higher than the preceding step.

The Union position is that every cell in the matrix should be increased by 1.5% (.015) the first year (July 1, 2014 to June 30, 2015); increased by an additional 4% (.04) the second year (July 1, 2015 to June 30, 2016); and increased by an additional 4.5% (.045) the third year (July 1, 2016 to June 30, 2017).

The City position is that every cell in the matrix should be increased by 1.5% the first year and increased by an additional 1.5% the second year.

¹This is in contrast to the police officer's arbitration statute which quite clearly mandates that the arbitrator pick one side or the other's complete final offer package. "The arbitrator shall decide the unresolved mandatory subjects contained in the *last best offer package*." MCA 39-31-504(3), emphasis added.

Issue # 2 - Article 11 of the current contract also provides for monthly stipends for firefighters who obtain emergency medical technician (EMT) status. It provides for a stipend of \$82.40/month for Certified Basic EMTs; a stipend of \$133.90/month for Intermediate/85 EMTs; a stipend of \$150.00/month for Intermediate/99 EMTs; and a stipend of \$175.00/month for EMT/Paramedics.

The Union position, because of changes in the certification requirements, reduces these four classes to three. It requests that in year one there be no stipend increases. For year two the Union requests that the monthly stipend for basic EMTs be raised to \$116.20 (from \$82.40); the monthly stipend for Advanced EMTs ((AEMTs) be raised to \$216.95 (from \$133.90); and the monthly stipend for EMT Paramedics be raised to \$287.50 (from \$175.00). For year three the Union requests that the monthly stipend for basic EMTs be raised to \$150.00 (from \$116.20); the monthly stipend for Advanced EMTs ((AEMTs) be raised to \$300.00 (from \$216.95); and the monthly stipend for EMT Paramedics be raised to \$400.00 (from \$287.50).

The City apparently does not take issue with the reduction in medical specialist classes from 4 to 3. For the remaining 3 classes the city proposes raising the stipends by 1.5% in the first year. This would result in monthly stipends of \$83.64 for basic EMTs, \$135.91 for AEMTs, and \$177.63 for EMT Paramedics. For the second year the City proposes to raise the stipends by an additional 1.5% which would result in stipends of \$84.84 for basic EMTs, \$137.95 for AEMTs and \$180.29 for EMT Paramedics.

Two additional factors to note are these. First, both the City and the Union agree that any increases in matrix wages and stipends will be made retroactive to July 1, 2014. Second, almost all the 15 members of the bargaining unit are AEMTs. When bargaining started several months

ago all were AEMTs. Since then a couple of new hires have replaced some that were AEMTs so now only the great majority can be said to be AEMTs, with apparently one of the new hires being an EMT Paramedic. The status of the other was not disclosed at hearing.

Issue # 3 - As the parties have framed their positions a third issue is implicit. The City wishes for a two year contract only and the Union wishes for a three year contract.

Information Presented at the Hearing

Comparability of Wages - The Union presented a significant amount of evidence demonstrating that the City of Havre pays its firefighters significantly below all other Class 1 cities and below a majority of Class 2 cities.² For example the Union presented information showing the base rate paid probationary firefighters in 17 Class 1 and Class 2 cities as well as some special fire districts with full time professional firefighters.³ Havre was at the bottom of the list. Similarly, the Union presented a list of the beginning and 15th year pay for a captain in the same 17 jurisdictions: In both cases Havre was 16th out of 17, Miles City only being lower.

During the hearing it was mentioned that the Montana State University Local Government Center in Bozeman periodically does surveys of wages and salaries paid to most

²Montana statute divides cities into different classes based on population. Cities with a population of more than 10,000 are Class 1 cities, while cities between 5,000 and 10,000 are Class 2 cities (MCA 7-1-4111). However cities with population between 9,000 and 10,000, such as Havre, can by vote of the city council choose to exercise the powers of a city of the 1st class (MCA 7-1-4112). Havre has chosen to do so. That means while it is officially a Class 1 city it has the population of a Class 2 city. This raises the question as to what are the proper comparators for Havre when it comes to salaries and wages. Therefore, the Union presented data from both classes of cities.

³The 16 comparator jurisdictions were Butte, Great Falls, Anaconda, Lockwood, Whitefish, Big Sky, Bozeman, Great Falls Airport, Lewistown, Livingston, Missoula Rural Fire District, Kalispell, Miles City, Helena, Missoula and Billings.

classes of employees, including firefighters, employed by Montana cities. The most recent survey was not presented at hearing but it is available on line. It was conducted in 2011 and includes probationary firemen, engineers, driver/operators, firefighters, first class firefighters and captains.⁴ The survey covers fewer jurisdictions than did the Union's comparisons but the results were consistent: Havre firefighters appear to be paid less than any firefighters in Class 1 cities and are paid less than many, if not most, firefighters in Class 2 cities.

The City did not contest or question the accuracy of the Union figures, nor did they present any comparative wage data of their own. The City did assert however that the proper basis of comparison may not be population but total assessed valuation of the property within a jurisdiction. However, no numbers on total assessed valuations were presented at hearing.

Because Havre uses a 41 step pay matrix the spread from a beginning salary to the top salary of any grade may be greater in Havre than in other jurisdictions with a more compressed salary schedule. If so, a comparison only of beginning base salaries would understate Havre's place in the spectrum of Montana fire department salaries. But that is only speculation since no complete salary schedules from other jurisdictions were introduced at hearing. Also, the MSU survey, which lists not only actual salaries paid at the time, but also maximums does not seem to support this supposition, although admittedly the data is scant.

One might also note that the firefighter's arbitration statute says with regard to wage comparability that the relevant factor is "with employees performing similar services" (MCA 39-34-103(5)(a)). The focus of the statute is on similar work or duties and not on the size of the

⁴"FY 2011 Municipal Salary and Benefits Survey," MSU Local Government Center, pp. 66-71.

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city, except, of course, as the size of the city may affect the type of work performed. Along those lines the Union presented information showing that in 2013 Havre firefighters responded to around 1300 calls which came out to an average of 85 per firefighter. Class 1 departments averaged slightly more with a range from 86 to 116 calls per firefighter. Class two cities averaged less than did Havre with a range from 8 to 95 per firefighter. The problem with this comparison is that about two-thirds of the Havre responses are ambulance calls. Testimony indicated that most of the Class 1 cities do not use the fire department for ambulance service but instead rely on private companies for that service. This might suggest a qualitative difference in the nature of the work regardless of a similarity in the number of responses per employee. This too, is speculative, because no testimony was elicited on the subject and it plays no role in my conclusions and recommendations.

Comparability of Medical Specialist Stipends - The Union presented information on AEMT pay from 16 of the 17 jurisdictions noted above.⁵ The City did not question the numbers nor did the City present any other information on AEMT stipends. Therefore, I am relying on the information presented by the Union. The stipends listed were as follows, in descending order:

⁵Information was unavailable from the Great Falls Airport where the AEMT pay was included in the standard hourly rate. It was also not presented for Kalispell where the stipend was 3.5% of the Firefighter 1 base wage. However, the Kalispell collective bargaining contract was available on line so the AEMT stipend could be derived from that and has been included in the listing discussed herein.

AEMT Stipend

Lockwood	\$250.00
Whitefish	\$227.09
Big Sky	\$208.33
Missoula Rural Fire Dist.	\$200.00
Livingston	\$195.00
Butte	\$175
Kalispell	\$142.00
Havre	\$133.90
Anaconda	\$125.00
Missoula	\$124.83
Miles City	\$117.99
Great Falls	\$71.26
Helena	\$64.07
Billings	\$60.00
Bozeman	\$60.00
Lewistown	0

As can be seen, Havre is in the middle of the pack when it comes to AEMT monthly stipends.

Ability to Pay - On this issue the Union presented Municipal Fiscal Analysis letters developed by the IAFF national office. These letters were based on financial data from the City's budget for recent fiscal years. The letters focused on the City's general fund revenues, expenditures and reserves. This limited their usefulness somewhat because Havre finances its

fire department from a mix of enterprise fund monies (derived from ambulance fees) and general fund monies, with almost two-thirds of the fire department funding coming from the former. The letters showed that general fund revenue had exceeded general fund expenditures in fiscal years 2010 and 2012 (i.e., the City ran a surplus) and that general fund revenue had been less than general fund expenditures in fiscal year 2011 (i.e., the City ran a deficit). Nevertheless, the letter showed unreserved or discretionary general fund balances at the end of each year remained substantial and healthy.

The City did not contest the numbers contained in the Union’s Fiscal Analysis but it did point out that its reserves were below the level allowed by statute. It also noted that because of the uneven way tax revenues come in over the course of a year that substantial reserves are necessary to meet cash flow needs and for that reason the presence of reserves should not be taken to mean that the City has extra discretionary funds to spend any way it may choose.

Neither the City nor the Union presented any actual budget documents at hearing nor was any written analysis of the City’s fiscal position entered into evidence except the two Union letters noted above, leaving this Factfinder without much hard budget information on which to judge the City’s actual ability to pay. The City did suggest, as noted earlier, that total assessed valuation of property within a jurisdiction might be an important factor to consider in evaluating a jurisdiction’s ability to pay but no such figure’s for any jurisdiction, including Havre, were introduced at hearing. It was verbally noted that Havre’s assessed valuation had risen in recent years, but that this rise was due primarily to annexation and was unlikely to continue.

On balance, neither side brought forward convincing evidence on the issue of ability to pay. In essence the City’s argument for low or modest increases in compensation was that

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caution is necessary in taking on increased pay obligations because of millage limitations and because of the uncertainties in municipal finance in Montana caused by unknown possible legislative changes and also by the pending statewide reappraisal of taxable real property. For similar reasons the City asserts that any contract term in excess of two years subjects it to unreasonable risk.

Cost of Living - This factor encompasses two different types of statistics. First, what is the level of the cost of living in Havre as compared to other cities in Montana? Second, what has been the rate of inflation (or possibly deflation) over recent years as measured by changes in prices?

With regard to the comparative cost of living among various cities the City of Havre introduced a document listing the cost of living in eight Montana cities (Bozeman, Kalispell, Missoula, Butte, Livingston, Great Falls, Whitefish and Havre). This showed that Havre had a lower cost of living than all of the compared cities except Butte. The data appeared to have come from a web site entitled Sperling's Best Places. The Union did not take issue with the data presented and presented none of its own on this issue. If one goes to that web site one can also find the cost of living for several other Montana cities, both Class 1 and Class 2, that have professional fire departments. Combining this information with that presented by the City at hearing yields a spectrum of cost of living numbers as follows:

City	Cost of Living Index (100 = U.S. avg)
Bozeman	117
Whitefish	116
Missoula	110
Billings	106.5
Kalispell	106
Helena	103.5
Livingston	101
Great Falls	99
Havre	94
Butte	93
Anaconda	91
Lewistown	89.4
Miles City	87

With these additional jurisdictions added Havre still remains well below most of the cities with professional fire departments and one can reasonably assume if the jurisdictions missing from this list to which the Union also compared its wage level (Lockwood, Missoula Rural, and Big Sky) that they too would have a higher cost of living than Havre.

With regard to the inflation rate neither side presented any information. This is probably because such information is readily available and they may well have expected the factfinder to locate the information on his own. According to the U.S. Bureau of Labor Statistics the overall national inflation rate for 2010 was 1.5%; for 2011 it was 3.0%; for 2012 it was 1.7%; for 2013 it was 1.5%; and for 2014 it was 0.8%.

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Cost of the Various Proposals

Costing out compensation proposals requires one to make certain assumptions. One of the more important assumptions has to do with how matrix steps are handled. The current Havre firefighters' matrix has 41 steps and an employee moves up one step each year.⁶ Each step is .005 (one half of a percent) larger than the preceding step. Thus if there is no turnover among employees and no increase in the matrix numbers labor costs will still rise by .005 from year one to year two. But testimony indicated that all new hires start at step one. Therefore if a 15 year employee leaves and is replaced by a new employee the employer will save the equivalent of 15 steps over the next year. Since the collective bargaining unit has 15 members that would mean that what 14 employees gain by their step is more or less offset by the 15 step increments that the City is saving on the new employee. It is "more or less" offset because if it is a short term lower graded employee that leaves the savings will not equal the cost of the steps for remaining employees. On the other hand, if it is a long term higher graded employee that leaves the savings will more than equal the cost of the steps for remaining employees. Thus, even though for any continuing employee his matrix wage will go up by .005 even without a matrix change, overall the cost to the employer of steps will be less than .005 for all employees, and may even be negative depending on the rate and location of turnover. For that reason the following cost calculations do not take into consideration any costs or savings that might result from the steps.⁷

⁶Testimony indicated that firefighters serve a 6 month probationary period. It was not clear if a firefighter clearing probation moves to step 2 at that point or only at the end of a year. For purposes of this costing exercise it makes very little difference.

⁷Testimony indicated that the Fire Department had recently acquired two new employees, I assume, to replace employees who left.

Second, the cost calculations take the composition of the Fire Department work force as it was detailed in the Union document that listed all 15 members of the bargaining unit and their salaries and level of medical specialist certification. Testimony indicated that composition has now changed somewhat. If the new employees were hired at a lower salary than the departing employees, as seems likely, the costs derived herein would be somewhat overstated.⁸ But while the turnover of employees might impact the absolute level of costs shown below it should have very little affect on the relative costs between the Union and City offers.

The Current Matrix - The benchmark for determining the cost of various offers is what it would cost the City in wages and stipends to operate under the current matrix unchanged for a year. The Union, using the 15 unit employees on the payroll at the time the calculation was made, calculated that it would cost \$51,710/month in wages. Add to that a monthly cost of \$2009 in medical specialist stipends for a total cost of \$53,719/month which works out to \$644,628 a year.

The City Offer - The City offered a 1.5% increase in year one (2014/15) and a 1.5% increase in year two (2015/16) on both the matrix and on medical specialist stipends, retroactive to July 1, 2014. Using a base monthly matrix wage cost of \$51,710 and multiplying that by 1.015 yields a new monthly cost of \$52,486. Increasing the \$133.90 AEMT stipend by 1.015 yields a stipend of \$136.91 and a cost for 15 employees of \$2039/month. This yields a total monthly cost of \$54,525 and a cost for year one of \$653,940. For year two, using a base monthly matrix wage cost of \$52,486 and multiplying that by 1.015 yields a new monthly cost of \$53,273.

⁸Comments made by the Fire Chief seemed to indicate that one employee hired had paramedic certification, which would increase that hire's stipend over the prior employee's AEMT stipend.

Multiplying the \$136.91 AEMT stipend by 1.015 yields a stipend of \$137.95 and a cost for 15 employees of \$2069/month. This yields a total monthly cost of \$55,342 and a cost for year two of \$664,104.

The Union Offer - For year one the Union offered a 1.5% increase in the matrix and no change in specialist stipends. This yields a monthly cost of \$52,486 (matrix) plus \$2009 (stipends) for a total of \$54,495/month and \$653,980 for the year. For year two the Union offer is 4% on the matrix for a cost of \$54,585 monthly and a raise in the AEMT stipend to \$216.95 for a cost of \$3254/month. These changes add up to a total monthly cost of \$57,839 and a year two cost of \$694,068. In year three the Union requested a 4.5% matrix increase and a AEMT raise to \$300.00/month. This results in a monthly cost of \$57,042 (matrix) plus \$4500 (stipend) for a total of \$61,542 a month or \$738,504 for year three.

In summary the total costs look like this:

	Current Matrix	City Offer	Union Offer
Year One	\$644,628	\$654,300	\$653,940
Year Two		\$664,104	\$694,068
Year Three			\$738,504

The City offer increases total costs for wages and stipends by 1.5% (\$9,672) in year one and by another 1.5% (\$9,804) in year two. The Union offer increases costs by 1.44% (\$9,312) in year one, by 6.1% (\$40,128) in year two and by another 6.4% (\$44,463) in year three.

Other Firefighter/City Settlements

Neither party introduced information about how firefighter union settlements have looked in recent years in other cities. This is somewhat disappointing because it is relevant to the issue

of comparability and such information is easily available to the parties (especially the Union) but difficult for a factfinder to discover on his own. However, some Montana cities do put their firefighter contracts on the city web site. From those available contracts it appears that Kalispell firefighters received a 2% matrix increase on July 1, 2014 and are slated to receive a 2% increase again on July 1, 2015. Billings firefighters received a 2.9% increase on July 1, 2013 and a 2.9% increase again on July 1, 2014. Great Falls firefighters received no increase on July 1, 2013. It was not totally clear from on line information but it appears that at least some Missoula firefighters have received 4% increases in each of the last several Julys. Livingston firefighters appear to have received a 0 increase on July 1, 2013, a 2% increase on July 1, 2014, and are slated to get a 3 % increase on July 1, 2015.

Factual Conclusions

It appears that the base wages of Havre firefighters are below average for the state of Montana, regardless of whether Class 1 cities or Class 2 cities are used as comparators.

On the other hand, the medical specialist stipends for Havre firefighters are more or less around the median level of such stipend payments in Montana.

The cost of living in Havre is less than in all but one Class 1 city, but is higher than at least 3 Class 2 cities.

Inflation over the past three years has been low, registering only .8% last year and 1.5%, 1.7%, and 3.0% in the previous three years.

Firefighter wage settlements in Montana in recent years have ranged from 0% to 4%

Recommendations

To repeat what was stated earlier, there are three distinct matters at issue. First, the length

of the contract: 2 years or 3 years? Second, specialist stipends. Third, matrix increases. The firefighter's arbitration statute requires an arbitrator to pick the position of one side or the other on each issue. If factfinding is to be a vehicle for avoiding arbitration and not just a prelude to arbitration, which I believe was the intent of the statute, I think it is most helpful if a factfinder also bases his recommendations on the final positions of the parties on each issue. That is what I have done.

I believe that the City's uneasiness about a three year contract is reasonable. Therefore I recommend that the City's proposal that the contract cover the two year period July 1, 2014 to June 30, 2016 be adopted.

The annual cost increases generated by the Union proposal (1.44%, 6.1% and 6.4%) are significantly higher than the rate of inflation or the level of increases being given to other Montana firefighters. However, the lesser increases offered by the City would do nothing to move the Havre firefighters from their low place in the Montana firefighter wage spectrum. Given the firefighter's low place in the Montana firefighter base wage spectrum but their relatively higher placement on the specialist stipend spectrum I believe that it is more reasonable to place the bulk of the money going to any increase toward matrix enhancement rather than stipend increases. Therefore, I recommend that the parties adopt a two year contract that contains the City offer with regard to specialist stipends (1.5% + 1.5%) and the Union offer with regard to wages (1.5% + 4%). This generates the following costs:

Year 1: \$52,486/month (matrix) + \$2039 (stipend) = \$54,525/month x 12 = \$654,300/year

Year 2: \$54,585/month (matrix) + \$2069 (stipend) = \$56,654/month x 12 = \$679,848/year

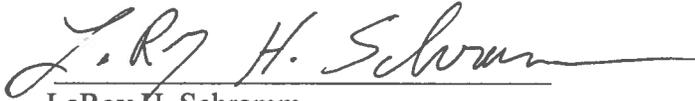
This results in an overall cost increases of 1.5% (\$9,672) in year one and 3.9% (\$24,548)

in year two. I believe that would be a settlement that accommodates the City's need to keep costs at a moderate level and accommodates the Union's desire to enhance matrix wages. I think it highly unlikely that an arbitrator would grant the Union increases of over 6% in each of the last two years of a three year contract. At the same time, I think it unlikely that an arbitrator would select the City offer of 1.5% for each of two years. That offer may be pretty much in line with inflation but it is less than many other Montana firefighters have been receiving and leaves the Havre fire fighters below what most other Montana professional firefighters are receiving for comparable work. The several thousand dollars it would cost to go to binding arbitration could better be spent on applying that money to other uses.

Impact of the Recommended Settlement on An Individual Employee

Because of the step system within the salary matrix any firefighter who stays throughout the entire two years of the contract will receive enhancements to his income slightly larger in percentage than those noted in the previous paragraph. For example, take an engineer/AEMT who is currently at step 10. He is now earning \$3420.34/month on the matrix with a 133.90 stipend for a total annual income of \$42,650.88. One year from now he will be at step 11 and earning \$3489.00/month on the new matrix plus a \$135.91 stipend for an annual income of \$43,498.92. Two years from now he will be at step 12 earning \$3646.71 on the second new matrix plus a stipend of \$137.95 for a total annual income of \$45,415.92. This individual firefighter will have had an increase of 1.99% in year one and 4.4% in year two. These percentages are higher than the cost increase percentages for the City because presumably the City will garner some wage savings from any employee turnover, as was discussed earlier.

Dated this 23rd day of February, 2015



LeRoy H. Schramm
Factfinder

CERTIFICATE OF MAILING

On the 23rd day of February, 2015 a copy of the foregoing Findings and Recommendations was sent by the undersigned, postage paid, through the U.S. mails to:

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