

**EMPLOYEE-MANAGEMENT
COOPERATION**

Negotiated Agreement

Between

**U.S. DEPARTMENT OF COMMERCE
NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY**

and

**INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS
LOCAL F-161**

OCTOBER 3, 1994

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PREAMBLE

Pursuant to the policy set forth in Title VII of Public Law 95-454, including policies set forth in the Federal Personnel Manual, published agency policies, and regulations for which a compelling need exists, the following Articles constitute an agreement by and between the National Institute of Standards and Technology of the Department of Commerce, hereinafter called the Employer, and the International Association of Fire Fighters, Local F-161, hereinafter called the Union.

ARTICLE I. Definitions

Unless otherwise specified in the text of this agreement, the terms set forth below have the meanings indicated.

Compelling need: As defined by Public Law 95-454, Section 7117.

Unit or Bargaining Unit: As defined by the Department of Labor Certification of Representative dated June 22, 1973.

Negotiation: The process consistent with the intent of the Public Law whereby the parties reach mutual agreement on a labor relations issue(s).

Consultation: The process whereby the Employer consults and/or discusses labor relations issues with the Union prior to taking action.

Agreement: Refers to the negotiated agreement between the National Institute of Standards and Technology and International Association of Fire Fighters, Local F-161.

Contract: Unless otherwise stated, refers to the "Agreement" as defined above.

Agency: As defined by Public Law 95-454.

Employer: Refers to National Institute of Standards and Technology.

Anniversary Date: The date on which this agreement was signed by the Director of Administration of the National Institute of Standards and Technology and the representative of the Union.

Bargaining Unit Employee(s): The individual(s) in the Department of Labor certified unit who are covered by the Certification.

ARTICLE II. Exclusive Recognition and Representation of Agreement

Consistent with the Certification of Representative issued by the United States Department of Labor, Labor-Management Services Administration, and dated June 22, 1973, the International Association of Fire Fighters, Local F-161 (AFL-CIO) is the exclusive representative in the unit which includes all non-supervisory, non-professional general schedule (ZS) Fire Fighters employed at the National Institute of Standards and Technology in the Washington, D.C. metropolitan area but excludes all supervisors.

The Employer agrees to furnish the Union copies of this Agreement and any amendments thereto, for all employees of the unit without. An extra fifteen (15) copies will be furnished to the Union for their own use.

ARTICLE III. Administration of This Agreement

In the administration of all matters covered by the Agreement, officials and employees are governed by existing or future laws and the regulations of appropriate authorities, including policies set forth in the Federal Personnel Manual; by published agency policies and regulations in existence at the time the agreement was approved; and by subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level.

Nothing in the Agreement shall require an employee to become or to remain a member of a labor organization, or to pay money to the organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.

ARTICLE IV. Unfair Labor Practices

Sec 1. The management of the National Institute of Standards and Technology shall not:

- (1) interfere with, restrain, or coerce an employee in the exercise of the rights assured by the Public Law;

(2) encourage or discourage membership in a labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;

(3) sponsor, control, or otherwise assist a labor organization, except that an agency may furnish customary and routine services and facilities when consistent with the best interests of the agency, its employees, and the organization, and when the services and facilities are furnished, if requested, on an impartial basis to organizations having equivalent status;

(4) discipline or otherwise discriminate against an employee because he or she has filed a complaint or given testimony under the Public Law;

(5) refuse to accord appropriate recognition to a labor organization, qualified for such recognition; or

(6) refuse to consult, confer, or negotiate with a labor organization as required by the Public Law.

Sec. 2. The Union shall not:

(1) interfere with, restrain, or coerce an employee in the exercise of his or her rights assured by the Public Law;

(2) attempt to induce agency management to coerce an employee in the exercise of his or her rights under the Public Law;

(3) coerce, attempt to coerce, or discipline, fine, or take other economic sanction against a member of the organization as punishment or reprisal for, or for the purpose of hindering or impeding his or her work performance, productivity, or the discharge of his or her duties owed as an officer or employee of the United States;

(4) call or engage in a strike, work stoppage, or slowdown; picket an agency in a labor-management dispute; or condone any such activity by failing to take affirmative action to prevent or stop it;

(5) discriminate against an employee with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin; or

(6) refuse to consult, confer, or negotiate with an agency as required by the Public Law.

ARTICLE V. Management Rights

Management officials of the National Institute of Standards and Technology retain the right, in accordance with applicable laws and regulations:

- (1) to direct employees of the agency;
- (2) to hire, promote, transfer, assign, and retain employees in positions within the agency and to suspend, demote, discharge, or take other disciplinary action against employees;
- (3) to relieve employees from duties because of lack of work or for other legitimate reasons;
- (4) to maintain the efficiency of the Government operations entrusted to them;
- (5) to determine the methods, means, and personnel by which such operations are to be conducted;
- (6) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency; and
- (7) to exercise all other rights normally and customarily exercised by NIST management, unless explicitly modified by this contract.

ARTICLE VI. Union Representation

Sec. 1. The Employer agrees to recognize the officers of IAFF Local F-161. The Union will supply management with an updated list of officers within two weeks of the annual election and within two weeks of any other change occurring throughout the year.

Sec. 2. The officers of the Union shall be given a reasonable amount of time to deal with problems arising from the administration of this Agreement or to handle employee grievances. However, Union officers are required to obtain approval from their supervisor prior to leaving their assigned duties to engage in activities as a union representative. The supervisor will be advised

when the union representative returns to duty. The supervisor will have the authority to have union representatives called back to duty.

ARTICLE VII. Employee Rights

The unit employee shall have the right to be represented by a union representative whenever matters involving disciplinary or adverse actions are to be discussed or when submitting a grievance.

ARTICLE VIII. Equal Employment Opportunity

Sec. 1. The parties agree that they will work cooperatively to assure that all employees have equal employment opportunities and that no one is discriminated against because of race, color, creed, sex, age, or national origin.

Sec. 2. The Union agrees to become a positive force in promoting the equal employment opportunity program and to become a partner with the Employer in the explanation and implementation of ideas and programs whereby equal employment opportunities will be achieved.

ARTICLE IX. Position Classification

Employees in the unit may consult with their supervisors, on an informal basis, when employees allege inequities in the classification of their positions. The employee may be represented by or seek assistance from the Union in preparing formal grievances or appeals in connection with position classification matters. The right to appeal any position classification without fear or restraint, prejudice or reprisal is retained by all employees. The Union agrees that in pursuing any classification appeal, such appeal will be filed in accordance with Demonstration Project classification appeals procedures.

ARTICLE X. Hours of Duty

Sec. 1. Duty hours for 72 hours workweek personnel will be from 07:30 a.m. to 07:30 a.m. with platoons alternating on 24 hours days.

Sec. 2. When not assigned to scheduled duty (performing actual work) the employee will be on standby status, that is, the employee is free to eat, sleep, read, listen to the radio, watch TV, or engage

in other similar pursuits. It is to be understood that employees on standby status are to be immediately available for response to emergency calls and other Fire Protection Group related duties.

Sec. 3. The Employer will attempt to confine the work schedule on Saturday and Sunday to the monthly schedule, that is, those functions necessary to insure the continuance of the Fire Protection Group's operation and availability of fire protection and all other Fire Protection Group related duties. Training is considered monthly scheduled duty. The Employer will attempt to confine duties on National holidays to apparatus check, normal daily cleaning of the fire station, and immediate response to emergency calls. In either case, the Employer reserves the right to determine what particular duties will be assigned, when work assignments will occur, and to whom and to what positions duties will be assigned.

Sec. 4.a. TRADE TIME - It is understood and mutually agreed that bargaining unit employees may voluntarily substitute for one another on regularly scheduled tours of duty (or for some part thereof) in order to permit the fire fighter to absent himself or herself from work to attend to purely personal pursuits if: (1) the initial trade and pay back are scheduled and accomplished within the same pay period, and (2) the traded time is for at least 8 hours. It is understood that the official Time and Attendance records will reflect the adjusted schedules for the trading employees.

Sec. 4.b. For the first year of the contract, there will be no prerequisite minimum staffing level before trade time can be invoked. At the end of the first year of the contract union/management committee will review this trade time provision, including the absence of a minimum staffing level requirement, in light of any problems which may arise during the year (such as scheduling problems resulting from too many employees with use or lose leave). The committee will renegotiate the trade time provision to address any problems; this may include reinstating a minimum staffing prerequisite.

Sec. 4.c. A written request signed by the two firefighters desiring to trade time must be submitted first to the Fire Captain and then to the Fire Chief for final approval at least 24 hours before any time is traded.

Sec. 5. Before any changes to work schedules are finalized, the Fire Chief will give a copy of the changes to the Union which will have an opportunity to ask to negotiate the impact and implementation of such changes.

ARTICLE XI. Overtime

Sec. 1. The Employer will schedule and distribute overtime in such a way as to conform with the mission of the Fire Protection Group and the following guidelines:

- (1) A rotating list will be use for selection of offering overtime.
- (2) When possible, the person working overtime should have at least an eight (8) hour break between duty schedules. The intent is to eliminate a person from working 48 or more hours continuously. It is understood that during unusual circumstances, this may not be possible.
- (3) When the Employer knows that it needs someone to reach minimum staffing levels, it will use the overtime roster. The supervisor will work sequentially from the top to the bottom of the roster, offering overtime to all qualified persons on the roster, except those on sick leave. This includes offering work to those already on or scheduled to be on annual leave, 3-5 day breaks, or regular break days. If no one accepts the offer to work, the first person(s) on the list not already on or scheduled to be on annual leave, sick leave, or a 3-5 day break will be required to work. Only the person(s) working will be placed at the bottom of the roster. An employee that cancels leave to work will be paid straight time but will go to the bottom of the overtime roster.
- (4) As much advance notice as possible by the OIC will be granted to the person being offered the overtime. In turn, the OIC must have a positive answer within a reasonable time period. This is to accomplish some level of convenience and assurance to both the OIC and those being selected.
- (5) Should the selected person not be available for contact (by telephone), he or she will not lose their place on the list. The OIC will call the home phone number and one other provided by the employee in an attempt to make contact.
- (6) It must be understood that this is a guideline, unpredicted circumstances will require the best judgement of the OIC in selecting someone for immediate overtime requirements.

(7) Holding over for short periods of time (three (3) hours or less) shall not cause the person to be placed on the bottom of the list. This type of selection will follow the basic ideas of being as equal as possible to all concerned. Employees must be properly relieved or management may require overtime.

Sec. 2. Irregular or call-back overtime work performed by an employee on a day when work was not scheduled for him or her or for which he or she is required to return to his or her place of employment is deemed at least two hours in duration for the purpose of premium pay.

Sec. 3. Overtime will be paid in accordance with applicable laws and regulations.

ARTICLE XII. Annual Leave

Sec. 1. Employees shall earn annual leave in accordance with applicable laws and regulations.

Sec. 2. The Employer agrees to give approval to an employee's request to take annual leave for personal reasons, subject to the work load and manpower requirements. Emergency annual leave must be requested at least one hour prior to the start of the shift on the day scheduled for duty.

Sec. 3. The Employer agrees to schedule approved annual leave for vacation purposes (three (3) work days or more) on requests received prior to February 1 of each calendar year. The Fire Chief shall post such scheduled leave by February 15. Requests for vacation leave shall be placed on a list supplied by the Fire Chief to include the requestor's name and dates desired on leave. Longevity, date of request, or rank shall not be used as the sole determining factor in scheduling conflicting vacation dates. In case of a conflict, the final decision will be made by the Fire Chief. Any vacation requests received after February 1 will be scheduled on a first-come first-served basis.

Sec. 4. Employees will be notified promptly of approval or disapproval of their leave requests. All annual leave schedules and changes thereto shall be subject to the approval of the Fire Chief.

ARTICLE XIII. Sick Leave

Sec. 1. Sick leave shall be earned and administered in accordance with applicable law and regulations.

Sec. 2. Sick leave shall be requested in advance for pre-arranged medical, dental, or optical examinations. Sick leave must be requested one hour prior to the start of the shift on the day scheduled for duty. Unless the Employer has been given advance notice that sick leave will be for a specified extended period, an employee on sick leave will call in one hour prior to the start of the shift for each additional scheduled work shift during which he or she will be on sick leave.

ARTICLE XIV. Voting and Military Leave

Sec. 1. Excused absence may be given to employees to vote in national, state, and local municipal elections or referendums.

Sec. 2. Excused time for voting will be scheduled at the beginning of the duty schedule and approved by the Fire Chief, or his designee, at least one week prior to the election date. It is expected that employees will use the least amount of time necessary to vote. In most cases, this should not exceed two (2) hours.

Sec. 3. Requests for military leave will be granted in accordance with applicable rules and regulations.

ARTICLE XV. Parking

Within the policy stated below, management agrees to provide adequate and free parking. To the extent possible, the parking lot(s) designated for employee use will be the one or ones that offer the least distance to walk outside to the fire station.

ARTICLE XVI. Training

Sec. 1. As determined by the Fire Chief, employees may be required to participate in training courses directly related to their duties. When the employee is required to take training, the Employer will pay all fees, tuition, and related expenses as authorized by applicable laws and regulations. It should be understood that time spent in required training is to be considered as hours worked.

Sec. 2. Work schedule and manpower requirements permitting, the Employer agrees to assist unit employees in increasing their skills and furthering their education by allowing voluntary participation in job related training programs. Assistance rendered by the Employer may include the payment of fees, tuition, official time, and other related expenses as authorized by applicable laws and regulations.

ARTICLE XVII. Promotions

All promotions in the unit will be made in conformance with the NIST Merit Assignment Plan.

ARTICLE XVIII. Uniforms

Sec. 1. Employees shall receive a uniform allowance to help defray the cost of their uniforms. Employees will receive a prorated allowance of \$325 for FY95, \$350 for FY96, and \$375 for FY97. Employees on board during the first quarter of the fiscal year will receive the full amount; those entering on duty during the second quarter on the fiscal year will receive 3/4 of the allowance; those entering on duty during the third quarter of the fiscal year will receive 1/2 of the allowance; and those entering on duty during the fourth quarter of the fiscal year will receive 1/4 of the allowance.

Sec. 2. The daily dress uniform for this department shall be dark blue pants, dark blue shirt, plain black safety shoes (Models STX 5002 or 5003 or the equivalent - pictures available from the union president), blue or black or white socks, and plain black belt. Undershirt can be either blue or white. The employee will have the option of wearing a long or short sleeve shirt.

Sec. 3. The Employer will supply the following: collar pins, shirt patches, winter coats, lightweight jacket with zip in/out lining, and all protective equipment, excluding shoes, all to be returned to the Employer upon departure of the employee from the NIST Fire Protection Group. All gear shall be of proper size to fit said employee; it will also be safe and up-to-date with OSHA and NFPA standards. The Employer shall investigate any complaints brought to the attention of management about any discrepancies found in an employee's protective equipment.

Sec. 4. The Employer agrees that there will be no change in the Fire Protection Group uniform without prior contact with the Union.

ARTICLE XIX. Deduction of Union Dues

Sec 1. Union members may take action through a payroll allotment to deduct union dues from their pay check.

Sec. 2. Union dues (the regular, periodic amount required to maintain an employee in good standing in the Union) shall be deducted by the Employer from an employee's pay each pay period when the following conditions have been met:

(a) The employee is a member in good standing of the Union, or has signed up for membership in the Union subject to the payment of his or her first month's dues through voluntary allotment as provided herein.

(b) The employee's earnings are sufficient to cover the amount of the allotment within each pay period.

(c) The employee has voluntarily authorized such a deduction on Standard Form 1187.

(d) A union officer has completed and signed Section A of Standard Form 1187. For the purpose of the Agreement, the authorized certifying official for the Union shall be the elected President or Secretary.

Sec. 3. The Union shall be responsible for educating members concerning the program for allotment of dues, its voluntary nature, and for supplying the employees involved with Standard Form 1187's.

ARTICLE XX. Reduction-In-Force

The Employer agrees to notify the Union, in writing, of any proposed reduction-in-force affecting employees in the unit. All reductions-in-force will be carried out in accordance with applicable laws, regulations, and the Demonstration Project requirements. The Union will be afforded an opportunity to submit its views and recommendations concerning the proposed reduction-in-force.

ARTICLE XXI. Health, Morale, and Welfare

Sec. 1. The Employer will provide and maintain living spaces for employees of the unit while on duty, to include a cooking stove, refrigerator, TV, and beds equipped with mattresses and linen.

Sec. 2. The Employer agrees that since fire fighters are assigned twenty-four (24) hour tours of duty, space allocated in the fire station living quarters is only for the use and benefit of fire department personnel. These areas will normally not be used as public facilities, except in emergency situations.

Sec. 3. The Employer agrees that, in accordance with applicable rules, laws, and regulations, the policy of the facility is to continue utilizing to the extent practicable those unit employees who are medically restricted as long as their services can be used effectively and will not cause further harm to themselves or others. The Employer shall make every reasonable effort to utilize bargaining unit employees with physical limitations within the Fire Protection Group in accordance with agency needs and requirements. The procedures set forth in applicable rules, laws and regulations shall be applied to both on-the-job and non-job related illnesses or injuries which require medical restrictions. The employee is required to provide complete medical information detailing the employee's physical limitations and what duties the employee can and cannot perform.

ARTICLE XXII. Travel

Sec. 1. Employees will be transported or reimbursed by the Employer in accordance with applicable regulations for all work related travel.

Sec. 2. The Employer will provide unit employees with transportation from the Fire Station and NIST fixed posts while on duty.

Sec. 3. The Employer agrees that for any training approved by management, a Fire Department utility vehicle will be provided, if one is available, and if the employee is on duty.

**ARTICLE XXIII. Awards for Ideas,
Efficiency and Service**

The Employer supports the letter, spirit, and intent of the Government Employees Incentive Awards Act which authorizes the granting of awards to employees who contribute to improving Government operations or who perform special acts of services in the public interest. The use of incentive awards in an integral part of the NIST Personnel Management program.

ARTICLE XXIV. Snow Emergency

Sec. 1. All employees of the bargaining unit are designated "essential personnel". When administrative leave is granted to non-essential employees because of hazardous weather conditions or for other emergency situations, employees of the unit must report for work unless they have been individually notified by their supervisor that they are excused for the day.

Sec. 2. An employee who is scheduled for duty (and is not notified otherwise) will not be excused if he or she fails to report. The employee will be granted approved leave (annual leave, LWOP) if he or she has made a reasonable effort to report as determined by the supervisor; otherwise the supervisor will place the employee on AWOL.

Sec. 3. Any employee that reports late will be excused by his or her supervisor without charge to leave when late arrival is deemed unavoidable and the employee has made a reasonable effort to arrive on time.

ARTICLE XXV. Bulletin Board

The Employer agrees to provide adequate bulletin board space for posting of appropriate union literature. The Union agrees to regularly review materials which the Union has posted on the board to keep information current and pertinent.

ARTICLE XXVI. Union-Management Committee

Sec. 1. The parties agree to establish a Union-Management Committee which will meet from time to time to discuss labor relations and other appropriate work related problems which are of mutual interest and concern. This does not in any way alter

management's responsibility to consult with the Union on proposed personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

Sec. 2. It shall be the purpose of this Committee to facilitate communications between the Union and management and to assure a cooperative and sound working relationship between the parties. The Committee shall not discuss individual grievances or cases and it shall not engage in negotiations in any form.

Sec. 3. The membership of the Committee shall consist of the Chief of Fire Protection; the Labor Management Relations Specialist; the Personnel Generalist; the President of the Local; and one other employee appointed by the Local President. Time spent by union personnel in the meetings shall be treated as hours worked.

Sec. 4. Either party may request a meeting. The request shall be in writing and shall include an agenda of the items that the requesting party wishes to discuss. The request shall be submitted ten (10) days in advance of the proposed meeting.

ARTICLE XXVII. Negotiated Grievance Procedure

Sec. 1. The purpose of this Article is to provide a procedure for the processing and settlement of grievances over the interpretation and application of this Agreement and for the settlement of those employee grievances for which no separate appeals procedure is provided. Unless otherwise provided, this procedure is the sole procedure available to employees, the Union, or the Employer.

Sec. 2. Excluded from coverage under this Negotiated Grievance Procedure are:

- (a) Any claimed violation of subchapter III of Chapter 73 of Title 5 U.S.C. (relating to prohibited political activities);
- (b) Retirement, life insurance, or health insurance;
- (c) A suspension or removal under section 7532 of Title 5 U.S.C.;
- (d) Any examination, certification, or appointment;
- (e) The classification of any position which does not result in a reduction in grade or pay of an employee;

(f) Non-selection for promotion from a group of properly ranked and certified candidates;

(g) An action terminating a temporary promotion within a maximum period of two (2) years and returning the employee to the former position or comparable position from which he/she was temporarily promoted or reassigned;

(h) Non-adoption of a suggestion or disapproval of a quality salary increase, performance award, or other kind of honorary or discretionary award;

(i) A preliminary warning or notice of a specific action which, if effected, would be covered under the grievance procedure (e.g., a notice of a proposed suspension) or would be excluded from coverage under this section;

(j) Separation of an employee serving a trial or probationary period.

Sec. 3. Questions as to whether or not a grievance is on a matter subject to the grievance or arbitration procedure may be referred by the Union or management as a threshold matter in accordance with the arbitration procedures.

Sec. 4. Only the Union may represent employees who file grievances under this Agreement except that any employee of the unit may present grievances without the intervention of the Union.

Sec. 5. The steps of the negotiated grievance procedure are as follows:

Step 1: The grievance shall be taken up by the employee(s) with the Fire Captain orally and informally within fifteen (15) days of the occurrence of the incident. When the occurrence is an on-going situation, the grievance may be filed within fifteen (15) days of the date that the employee became aware of it. It should be understood that the employee(s) reserves the right to request the presence of a shop steward. The Fire Captain will inform the grievant in writing of the decision within ten (10) days after being notified of the grievance.

Step 2: If the grievant is not satisfied with the Step 1 decision, the grievance must be submitted to the Chief, Fire Protection Groups, orally within ten (10) days of receipt of

the Step 1 decision. It should be understood that the employee(s) reserves the right to request the presence of a shop steward. The Fire Chief (or designee) will inform the grievant in writing of the decision within five (5) days after hearing the grievance.

Step 3: If the grievant is not satisfied with the Step 2 decision, the grievance must be submitted to the Division Chief through the Personnel Officer within ten (10) days of receipt of the Step 2 decision. The grievance must be in writing and in the following format: (1) a statement of the Article(s) alleged to be violated and the nature of the grievance, (2) a specific statement as to the requested solution or remedy, (3) the name of the steward, if desired, and (4) the grievance must be signed and dated by the grievant. Within five (5) days of receipt of the written grievance by the Division Chief, the Division Chief (or designee) will hold a meeting with the grievant and steward and within five (5) days following the meeting will issue a written decision to the grievant.

Step 4: If the grievant is not satisfied with the Step 3 decision, the written grievance must be submitted to the Director of Administration of the National Institute of Standards and Technology through the Personnel Officer within ten (10) days of receipt of the Step 3 decision. The grievance must be in writing and must give the reason(s) why the grievant is not satisfied with the Step 3 decision. Within fifteen (15) days of receipt of the grievance by the Director, the Director or his designee will issue a written decision to the grievant.

Step 5: If the grievant is not satisfied with the Step 4 decision, the Union will submit a written notification, within ten (10) days of receipt of the decision, to the NIST Director through the Personnel Officer for the unresolved grievance to be submitted to arbitration in accordance with this Agreement. The notification must contain the Union's written commitment to share equally the cost of arbitration and cite the reason(s) why the Step 4 decision did not satisfy the grievant. Management will also agree in writing to share the cost.

Sec. 6. The Employer may also submit an unresolved grievance to arbitration after appropriate notification to the Union.

Sec. 7. If a decision is not rendered by the Employer within the specified number of days, the grievant may refer the grievance to the next step. In any case where the steward is designated by the employee as the representative, the steward must have the concurrence of the employee.

Sec. 8. If the employee and/or the Union fail to act within the time limits specified, such failure shall constitute acceptance of the Employer's decision and/or withdrawal of the grievance.

Sec. 9. "Days" means calendar days. Time limits may be extended by mutual agreement.

Sec. 10. The grievant, his or her representative and witnesses (if NIST employees) will be in a duty status while serving in that capacity.

Sec. 11. At each step of the procedure, the Union shall be permitted to call employee witnesses.

Sec. 12. The Employer and the Union agree:

(a) that the only representation permitted under the negotiated procedure is the exclusively recognized union or a representative approved by the Union.

(b) that an employee may present an interpretation and an application grievance to the Employer without the intervention of the Union, as long as the adjustment is not inconsistent with the terms of the Agreement and the exclusive representative has been given the opportunity to be present at the adjustment. When an employee presents a grievance, it must conform with this Article.

ARTICLE XXVIII. Arbitration

Sec. 1. In the event grievances are not resolved in accordance with the provisions of Article XXVII, binding arbitration may be resorted to only in accordance with the following conditions:

(a) The grievance must involve the interpretation and application of terms of this Agreement and cannot involve change thereof.

(b) Arbitration may be invoked only by the Employer or the Union.

(c) There should be mutual agreement of the Union and the Employer as to the issue to be submitted to arbitration. If agreement cannot be reached, the arbitrator will be empowered to frame the issue as he or she perceives it.

(d) Grievances involving NIST or DoC regulations and policies are subject to arbitration whether or not the regulations and policies are contained in the Agreement, provided the grievances are not over matters otherwise excluded from negotiations by Article V, Management Rights, or subject to statutory appeals procedures and provided that the arbitrator will be given the interpretation of the rule or regulation by the issuing authority and the arbitrator shall use this interpretation as a basis in deciding the grievance.

Sec. 2. After approvals specified in Sec. 1. are obtained, and within seven (7) days from the date of receipt of the arbitration request, the parties shall meet for the purpose of endeavoring to agree on the selection of the arbitrator. Either party may request the Federal Mediation and Conciliation Service to submit a list of five (5) impartial persons qualified to act as arbitrators. The parties shall meet within three (3) days after receipt of such list. If they cannot mutually agree upon one of the listed arbitrators, then management and the Union will each strike one arbitrator's name from the list of five and shall repeat this process until one name remains. The remaining name shall be the duly selected arbitrator.

Sec. 3. The fee and expenses of the arbitrator shall be borne equally by management and the Union. The arbitration hearing shall be held during the regular day shift work hours of the basic work week of Monday through Friday, and all employee representatives, employee appellants, and employee witnesses shall be in a pay status without charge to annual leave while participating in the arbitration proceedings. In cases involving removal or EEO, a transcript will be required, the cost of which will be shared equally by management and the Union.

Sec. 4. The arbitrator is requested by the parties to render his binding decision as quickly as possible but in any event no later than thirty (30) days after the conclusion of the hearing unless the parties otherwise agree. The arbitrator shall serve the award on management, the Union, the Director of Personnel, Department of Commerce, Washington, D.C. 20230, and the Assistant Director, Office of Labor Management Relations, Office of Personnel Management, Washington, D.C. 20415.

Sec. 5. The arbitrator's award shall be binding on the parties. However, either party may file exceptions to an award with the Federal Labor Relations Authority, under regulations prescribed by the Authority.

**ARTICLE XXIX.
Smoking**

The members of the bargaining unit will vote on a yearly basis to decide whether the work bay area adjacent to the extinguisher recharge room will be a designated smoking area. A majority of hose voting will prevail. If a majority votes "yes", smoking inside the building will be limited to the designated smoking area. No smoking will be allowed in the building if a majority votes "no".

**ARTICLE XXX. Effective Date and Duration
of the Agreement**

Sec. 1. This Agreement shall be effective on the date it is signed by the Director of Administration of the National Institute of Standards and Technology and the representative of the Union. The Agreement shall remain in full force for a period of three (3) years and thereafter is automatically renewed for two (2) years unless either party gives notice that it wishes to renegotiate a new Agreement. The contract will continue to renew automatically in two-year increments until either party gives written notice as specified in Section 2 of this Article.

Sec. 2. If either party wishes to renegotiate the Agreement, as provided in Sec. 1., it shall do so in writing. The Union will send written notice to the Director of Administration through the Personnel Officer. NIST will send written notice to the Union Resident. The written notice shall be given between 30 and 60 calendar days prior to an anniversary date. When written notice is given as specified above, the Agreement shall terminate on the date a new agreement is negotiated and signed by NIST management and the Union.

In witness whereof the parties hereto by their authorized representative have executed this Agreement on this 3rd day of October, 1994.

For the NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY:

by: [Signature]
Jorge Urrutia
Director of Administration

by: [Signature]
Ellen M. Dowd
Personnel Officer

by: [Signature]
Walter J. Rabbitt
Negotiator

by: [Signature]
Chief James H. Ridgley
Negotiator

For the INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS:

by: [Signature]
John Sherwood
Local President

by: [Signature]
Millard W. Smith
Negotiator

by: [Signature]
Thomas P. Rhodes
Negotiator