Negotiation Impasse, Grievance, and Arbitration in Federal Agreements

BULLETIN 1661

U.S. DEPARTMENT OF LABOR
BUREAU OF LABOR STATISTICS

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George P. Shultz, Secretary

BUREAU OF LABOR STATISTICS
Geoffrey H. Moore, Commissioner

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Preface

Since the issuance of Executive Order 10988 in 1962, union membership among Federal employees has increased markedly and has been accompanied by a growth in collective bargaining agreements covering a variety of personnel policies and practices. Because of the growing importance of employee-management relations in the Federal Service, the Bureau of Labor Statistics has established a file of Federal agreements as the basis for making collective bargaining provision studies similar to those made as part of its regular program dealing with the private sector.

This bulletin marks the Bureau's second study of Federal agreements, but the first to provide extensive details on negotiated grievance systems, advisory arbitration, and negotiation impasse procedures. These are areas commanding the attention of the negotiating parties, and may perhaps be termed the central issues in employee-management relations in the public service. Indeed Executive Order 11491, with its apparent impact on these issues, necessitates a review, at this time, of existing negotiated systems to establish a factual basis that the parties may want to use in working out further refinements.

The agreement clauses quoted in this study identified by agency and union in an appendix, are not intended as model or recommended clauses. The classification and interpretation of clauses do not necessarily reflect the understanding of the parties who negotiated the clauses. Minor editorial changes were made where necessary to enhance clarity and irrelevant parts were omitted where feasible. Where appropriate, the finding in the 1964 and the present study are compared.

This bulletin was prepared in the Office of Wages and Industrial Relations by Ronald W. Glass under the direction of Leon E. Lunden in the Division of Industrial Relations.

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Chapter I. Introduction

Executive Order 11491, "Labor-Management Relations in the Federal Service," issued on October 29, 1969, introduces major changes for settling negotiation impasses and employee grievances. Briefly, the new Executive order authorizes negotiators, if stalemated, to avail themselves of the services of the Federal Mediation and Conciliation Service (FMCS) and further, should mediation fail, to bring their dispute before a newly established Federal Service Impasses Panel for settlement. The order also permits unions and employers to eliminate the presently existing dual employee grievance system under which the agency's unilaterally established procedure coexists with a negotiated system. The parties may now designate the negotiated as the only one available to employees for processing grievances. Also eliminated was advisory arbitration in favor of binding arbitration, modified somewhat by a limited right of appeal from the arbitrator's decision to a newly established Federal Labor Relations Council.

The present study of contracts in effect in November 1967, the latest year for which a full complement of agreements is presently available in the Bureau, provides statistical data on Federal grievance and negotiation impasse resolution procedures and will serve as a benchmark to measure future changes in negotiated systems. Although Executive Order 11491 is likely to have a considerable effect on the subject discussed in this study, management and unions may want to review their own experience on the basis of arrangements adopted voluntarily by negotiators to meet their own needs.

Appendix A identifies the clauses used as illustrations; appendix B reproduces grievance, arbitration, and impasse resolution procedures in the National Postal Agreement; appendix C presents a selection of grievance arbitration awards; appendix D contains the text of Executive Order 11491; and appendix E compares major provisions of both Executive orders.

Scope of Study

This study is based on 685 agreements covering nearly 1 million employees in 25 Federal departments and agencies (table 1). For an earlier study in 1964,[1] the Bureau included 209 agreements covering about 600,000 employees.

The number of agreements negotiated by independent unions increased from 27 in 1964 to 133 in 1967 and rose from 13 to 20 percent of the agreements studied. Despite the growth in the number of agreements for independent unions, employee coverage of contracts involving AFL-CIO unions increased during the 1964-67 period from 87 to 92 percent. More than 125,000 of the AFL-CIO's increased coverage resulted from (1) gains in the Post Office Department, and (2) the change in status of the National Association of Post Office and General Service Maintenance Employees from an unaffiliated to an AFL-CIO union.

Five agencies (Air Force, Army, Post Office, Navy, and Veterans Administration) had the largest growth in employee coverage since 1964. Exclusive of the Post Office Department, three of these agencies, Army, Navy, and Veterans Administration constituted 58 percent of all agreements studied and two-thirds of all workers covered in 1967.

Except for the Federal Aviation Agency, which was merged with the Department of Transportation, and the Civil Aeronautics Board, which was reported as not having

[1] Collective Bargaining Agreements in the Federal Service, Late Summer 1964, BLS Bulletin 1451 (1965).

a union in 1967, all agencies represented in the 1964 study also are included in the present study. Six agencies appear for the first time—the Civil Service Commission, Department of Justice, Department of Transportation, National Aeronautics and Space Administration, Small Business Administration, and the Tennessee Valley Authority (TVA).[2]

From 1964 to 1967, the number of unions which had negotiated agreements with Federal departments and agencies had increased from 34 to 64 (table 2). AFL-CIO unions constituted approximately the same proportion of unions in 1967 (66 percent) as in 1964 (68 percent). The complexity of labor-management relations is indicated by the Army and Navy; each bargains with 22 different labor organizations. Nine other agencies deal with five unions or more.

Three unions included in the 1964 study do not appear here, and 33 unions not included in 1964 are part of the present study. None of the three unions excluded were listed in the United States Civil Service Commission's 1967 roster of unions holding exclusive recognition rights.

The 33 newly added unions represented 82,669 employees. Most of these workers were found in Post Office Mail Handlers,[3] which alone was responsible for over 42,000 workers, and two unions at the TVA,[4] involving another 18,000 employees. The remaining 22,000 workers were spread among 30 unions.

Among all 64 unions, the American Federation of Government Employees (AFL-CIO) had negotiated almost half of the agreements (332) covering almost half of the workers (178,514), exclusive of the Post Office agreement. Only seven other unions negotiated 10 agreements or more, as shown below. Eight unions negotiated 78 percent of the agreements and represented 84 percent of the employees in the study.

Union	Agreements	Employees
Total	684	375,485
All selected unions	537	315,758
Government Employees (AFGE)	332	178,514
Metal Trades Councils	29	76,333
Government Employees (NAGE)	50	21,755
Machinists	31	18,951
Federal Employees (NFFE)	36	13,827
Electrical Workers (IBEW)	20	3,556
Lithographers	13	1,675
Fire Fighters	26	1,147

The growth of collective bargaining among Classification Act employees affected the distribution of types of bargaining units appearing in Federal agreements (table 3).[5] Exclusive of Post Office employees, Wage Board units in 1964 clearly predominated in the contracts studied, numerically and relative to total employee coverage. By 1967, the relative importance of employee coverage shifted from Wage Board employees to mixed units; the latter, including Wage Board with Classification Act employees, rose markedly:

2 TVA was excluded from the 1964 study because its labor-management relations program antedates Executive Order 10988.

3 Since merged with the Laborers International Union (AFL-CIO).

4 Both unions bargain collectively and consist of several units each. The Tennessee Valley Trades and Labor Council includes 15 AFL-CIO affiliates and 1 independent. The Salary Policy Employees Council involves two AFL-CIO affiliates, one directly affiliated local union and two independent professional associations. For this study, each council is considered a union.

5 The Classification Act covers most professional, administrative, and clerical employees; the Postal Field Service; the Foreign Service; and the medical service of the Veterans Administration. They are paid on an annual basis. Wage Board employees, excluded from the Classification Act for paysetting purposes only, are those in trades, crafts, and manual occupations. They are paid on an hourly basis.

Type of bargaining unit	Percent of total employee coverage[1] 1964	1967
All units	100.0	100.0
Professional or Classification Act employees only	16.6	9.6
Wage Board employees only	48.9	31.9
Mixed units	34.5	58.5

[1] Exclusive of Post Office Department.

The increase in mixed units was made up in large measure by Air Force, Army, Navy, and Veterans Administration agreements. The gains in these four agencies constituted more than three-fourths of the total growth in mixed units from 1964 to 1967.

As in 1964, the national Post Office Department agreement strongly influenced the distribution of employee coverage by size of bargaining unit (table 4). When the Post Office agreement is excluded, the proportion of employees covered in small units remained relatively stable between 1964 and 1967. Medium size bargaining units (101 to 500 and 501 to 1,000) grew, and large units declined slightly:

Size	Percent of employees covered 1964	1967
All bargaining units	100.0	100.0
1-100	2.3	2.9
101-500	12.7	16.4
501-1,000	16.4	18.1
1,001 and over	68.6	62.6

In total, however, large units dominated in both years, and covered over three-fifths of all employees in the study.

The largest concentration of organized Federal employees were in three regions: The Middle Atlantic, the South Atlantic, and the Pacific (table 5). Exclusive of the Post Office agreement which could not be allocated on a geographical basis, these three regions constituted better than 55 percent of the employees represented in the study. For Washington, D.C., Maryland, and Virginia, organized Federal employees totaled 48,299.

For the remainder of this study, the National Postal Agreement will be excluded because of the heavy impact that it has on employee coverage. The Postal agreement, however, is described separately in chapter V and pertinent sections of its agreement provisions are reproduced in appendix B.

Table 1. Federal collective bargaining agreements by agency and union affiliation, 1967 and 1964

Agency	Total studied				AFL-CIO				Unaffiliated			
	Agreements		Workers		Agreements		Workers		Agreements		Workers	
	1967	1964	1967	1964	1967	1964	1967	1964	1967	1964	1967	1964
Total	685	209	984,318	599,542	[1]553	[1]183	904,952	525,274	[1]133	[1]27	79,366	74,268
Agriculture	14	3	6,206	2,983	8	2	4,165	2,558	6	1	2,041	425
Commerce	10	3	2,039	230	7	3	701	230	3	-	1,338	-
Defense	6	1	2,766	264	6	1	2,766	264	-	-	-	-
Air Force	49	9	38,922	7,210	41	7	33,825	4,910	8	2	5,097	2,300
Army	110	34	53,931	14,337	95	30	45,054	10,445	15	4	8,877	3,892
Navy	181	65	140,739	66,696	152	58	127,611	64,568	29	7	13,128	2,128
Health, Education, and Welfare	24	10	19,569	12,259	23	9	19,513	12,207	1	1	56	52
Interior	45	14	4,148	724	39	12	3,845	609	6	2	303	115
Justice	17	-	2,460	-	17	-	2,460	-	-	-	-	-
Labor	2	3	9,035	4,079	2	3	9,035	4,079	-	-	-	-
Post Office	1	1	608,833	471,414	[1]1	[1]1	578,106	408,333	[1]1	[1]1	30,727	63,081
Transportation	34	-	4,387	-	18	-	2,757	-	16	-	1,630	-
Treasury	9	5	3,054	732	7	5	1,556	732	2	-	1,498	-
Atomic Energy Commission	7	1	397	22	7	1	397	22	-	-	-	-
Civil Service Commission	1	-	98	-	1	-	98	-	-	-	-	-
General Services Administration	47	21	5,240	1,772	25	16	2,970	1,221	22	5	2,270	551
Interstate Commerce Commission	1	1	19	20	1	1	19	20	-	-	-	-
National Aeronautics and Space Administration	5	-	5,484	-	5	-	5,484	-	-	-	-	-
National Labor Relations Board	5	1	1,529	42	-	-	-	-	5	1	1,529	42
Railroad Retirement Board	1	1	1,612	1,800	1	1	1,612	1,800	-	-	-	-
Small Business Administration	1	-	28	-	1	-	28	-	-	-	-	-
Smithsonian Institution	3	1	435	30	3	1	435	30	-	-	-	-
Tariff Commission	1	1	8	7	1	1	8	7	-	-	-	-
Tennessee Valley Authority [2]	3	-	17,978	-	[2]3	-	17,978	-	-	-	-	-
Veterans Administration	108	29	55,401	14,071	89	26	44,529	12,389	19	3	10,872	1,682
Civil Aeronautics Board [3]	-	1	-	11	-	1	-	11	-	-	-	-
Federal Aviation Agency [3]	-	4	-	832	-	4	-	839	-	-	-	-

[1] In 1967, the national Post Office agreement covered 6 unions affiliated with the AFL-CIO, and 1 unaffiliated union. In 1964 the agreement covered 4 affiliated unions and 2 unaffiliated unions. Agreement coverage was allocated by affiliation.

[2] Tennessee Valley Authority agreements were outside the scope of the 1964 study, but have been included for 1967. Of the 3 TVA agreements, 2 with the TVA Trades and Labor Council represent hourly employment and annual employment, and 1 with the Salary Policy Employee Panel, represents defined units of salary policy employees. The Trades and Labor Council agreements and the Salary Policy Employee Panel agreement each include 1 independent labor organization. Because worker coverage of the 2 independent organizations was unallocable, all employees are reported under AFL-CIO unions.

[3] The Federal Aviation Agency was absorbed by the Department of Transportation in 1966; the Civil Aeronautics Board was not reported to have a union in 1967.

Table 2. Federal collective bargaining agreements by agency and number of employee organizations, 1967 and 1964

Agency	Total studied				AFL-CIO				Unaffiliated			
	Employee organizations		Workers		Employee organizations		Workers		Employee organizations		Workers	
	1967	1964	1967	1964	1967	1964	1967	1964	1967	1964	1967	1964
Total	[1]64	[1]34	984,318	599,542	[1]42	[1]23	904,952	525,274	[1]22	[1]11	79,366	74,268
Agriculture	5	2	6,206	2,983	1	1	4,165	2,558	4	1	2,041	425
Commerce	7	3	2,039	230	4	3	701	230	3	-	1,338	-
Defense	3	1	2,766	264	3	1	2,766	264	-	-	-	-
Air Force	8	5	38,922	7,210	6	4	33,825	4,910	2	1	5,097	2,300
Army	23	12	53,931	14,337	18	9	45,054	10,445	5	3	8,877	3,892
Navy	22	14	140,739	66,696	16	11	127,611	64,568	6	3	13,128	2,128
Health, Education, and Welfare	3	2	19,569	12,259	2	1	19,513	12,207	1	1	56	52
Interior	13	7	4,148	724	12	6	3,845	609	1	1	303	115
Justice	1	-	2,460	-	1	-	2,460	-	-	-	-	-
Labor	1	1	9,035	4,079	1	1	9,035	4,079	-	-	-	-
Post Office	7	6	608,833	471,414	6	4	578,106	408,333	1	2	30,727	63,081
Transportation	11	-	4,387	-	9	-	2,757	-	2	-	1,630	-
Treasury	5	4	3,054	732	4	4	1,556	732	1	-	1,498	-
Atomic Energy Commission	1	1	397	22	1	1	397	22	-	-	-	-
Civil Service Commission	1	-	98	-	1	-	98	-	-	-	-	-
General Services Administration	8	5	5,240	1,772	4	2	2,970	1,221	4	3	2,270	551
Interstate Commerce Commission	1	1	19	20	1	1	19	20	-	-	-	-
National Aeronautics and Space Administration	4	-	5,484	-	4	-	5,484	-	-	-	-	-
National Labor Relations Board	3	1	1,529	42	-	-	-	-	3	1	1,529	42
Railroad Retirement Board	1	1	1,612	1,800	1	1	1,612	1,800	-	-	-	-
Small Business Administration	1	-	28	-	1	-	28	-	-	-	-	-
Smithsonian Institution	2	1	435	30	2	1	435	30	-	-	-	-
Tariff Commission	1	1	8	7	1	1	8	7	-	-	-	-
Tennessee Valley Authority [2]	2	-	17,978	-	2	-	17,978	-	-	-	-	-
Veterans Administration	9	4	55,401	14,071	6	2	44,529	12,389	3	2	10,872	1,682
Civil Aeronautics Board [3]	-	1	-	11	-	1	-	11	-	-	-	-
Federal Aviation Agency [3]	-	4	-	839	-	4	-	839	-	-	-	-

[1] These columns are nonadditive; many unions bargain with more than 1 Federal agency.

[2] Tennessee Valley Authority agreements were outside the scope of the 1964 study, but have been included for 1967. Of the 3 TVA agreements, 2 with the TVA Trades and Labor Council represent hourly employment and annual employment, and 1 with the Salary Policy Employee Panel, represents defined units of salary policy employees. The Trades and Labor Council agreements and the Salary Policy Employee Panel agreement each include 1 independent labor organization. Because worker coverage of the 2 independent organizations was unallocable, all employees are reported under AFL-CIO unions.

[3] The Federal Aviation Agency was absorbed by the Department of Transportation in 1966; the Civil Aeronautics Board was not reported to have a union in 1967.

Table 3. Federal collective bargaining agreements by agency and broad occupational coverage, 1967 and 1964

Agency	Total studied				Classification Act[1]			
	Agreements		Workers		Agreements		Workers	
	1967	1964	1967	1964	1967	1964	1967	1964
Total	685	209	984,318	599,542	155	34	644,678	492,737
Agriculture	14	3	6,206	2,983	12	3	5,816	2,983
Commerce	10	3	2,039	230	6	-	1,399	-
Defense	6	1	2,766	264	2	-	342	-
Air Force	49	9	38,922	7,210	14	1	985	150
Army	110	34	53,931	14,337	23	4	4,553	744
Navy	181	65	140,739	66,696	30	6	6,520	339
Health, Education, and Welfare	24	10	19,569	12,259	18	9	928	11,059
Interior	45	14	4,148	724	3	1	139	18
Justice	17	-	2,460	-	1	-	57	-
Labor	2	3	9,035	4,079	-	3	-	4,079
Post Office	1	1	608,833	471,414	1	1	608,833	471,414
Transportation	34	-	4,387	-	11	-	1,337	-
Treasury	9	5	3,054	732	3	-	1,648	-
Atomic Energy Commission	7	1	397	22	7	1	397	22
Civil Service Commission	1	-	98	-	1	-	98	-
General Services Administration	47	21	5,240	1,772	1	1	18	11
Interstate Commerce Commission	1	1	19	20	-	-	-	-
National Aeronautics and Space Administration	5	-	5,484	-	-	-	-	-
National Labor Relations Board	5	1	1,529	42	5	1	1,529	42
Railroad Retirement Board	1	1	1,612	1,800	-	1	-	1,800
Small Business Administration	1	-	28	-	-	-	-	-
Smithsonian Institution	3	1	435	30	1	1	30	30
Tariff Commission	1	1	8	7	1	-	8	-
Tennessee Valley Authority	3	-	17,978	-	1	-	5,968	-
Veterans Administration	108	29	55,401	14,071	14	-	4,073	-
Civil Aeronautics Board	-	1	-	11	-	-	-	-
Federal Aviation Agency	-	4	-	839	-	1	-	46
	Wage Board				Mixed			
Total	203	93	119,832	62,635	327	82	219,808	44,170
Agriculture	-	-	-	-	2	-	390	-
Commerce	2	2	442	150	2	1	198	80
Defense	1	-	1,200	-	3	1	1,224	264
Air Force	11	2	4,180	1,930	24	6	33,757	5,130
Army	28	17	10,623	2,914	59	13	38,755	10,679
Navy	74	33	79,138	54,733	77	26	55,081	11,624
Health, Education, and Welfare	1	-	47	-	5	1	18,594	1,200
Interior	41	11	3,654	481	1	2	355	225
Justice	-	-	-	-	16	-	2,403	-
Labor	-	-	-	-	2	-	9,035	-
Post Office	-	-	-	-	-	-	-	-
Transportation	10	-	2,106	-	13	-	944	-
Treasury	4	4	373	582	2	1	1,033	150
Atomic Energy Commission	-	-	-	-	-	-	-	-
Civil Service Commission	-	-	-	-	-	-	-	-
General Services Administration	17	18	1,729	1,376	29	2	3,493	385
Interstate Commerce Commission	1	1	19	20	-	-	-	-
National Aeronautics and Space Administration	2	-	1,749	-	3	-	3,735	-
National Labor Relations Board	-	-	-	-	-	-	-	-
Railroad Retirement Board	-	-	-	-	1	-	1,612	-
Small Business Administration	1	-	28	-	-	-	-	-
Smithsonian Institution	-	-	-	-	2	-	405	-
Tariff Commission	-	1	-	7	-	-	-	-
Tennessee Valley Authority	2	-	12,010	-	-	-	-	-
Veterans Administration	8	1	2,534	312	86	28	48,794	13,759
Civil Aeronautics Board	-	1	-	11	-	-	-	-
Federal Aviation Agency	-	2	-	119	-	1	-	674

[1] For this study, employees covered by statutory salary systems other than Classification Act, and employees covered by separate pay systems are carried under Classification Act, except for the TVA Trades and Labor (blue collar) classifications which are carried under Wage Board.

Table 4. Federal collective bargaining agreements by size of bargaining unit, 1967 and 1964

Number of employees in bargaining unit	Total studied				AFL-CIO				Unaffiliated			
	Agreements		Workers		Agreements		Workers		Agreements		Workers	
	1967	1964	1967	1964	1967	1964	1967	1964	1967	1964	1967	1964
Total	685	209	984,318	599,542	[1]553	183	904,952	525,274	[1]133	27	79,366	74,268
1-50	175	60	4,616	1,594	135	55	3,515	1,483	40	5	1,101	111
51-100	87	19	6,376	1,340	70	15	5,038	1,067	17	4	1,338	273
101-150	60	21	7,651	2,734	51	19	6,538	2,469	9	2	1,113	265
151-200	45	14	7,960	2,492	37	12	6,608	2,134	8	2	1,352	358
201-300	65	19	15,768	4,609	49	16	11,787	3,931	16	3	3,981	678
301-500	77	16	30,320	6,485	66	14	25,772	5,660	11	2	4,548	825
501-750	52	19	32,240	12,162	38	16	23,367	10,360	14	3	8,873	1,802
751-1,000	42	10	35,720	8,830	34	7	29,113	6,307	8	3	6,607	2,523
1,000-5,000	65	22	118,387	49,658	57	20	107,519	45,306	8	2	10,868	4,352
Over 5,000	17	6	725,280	509,638	[1]16	6	685,695	446,557	[1]3	1	39,585	63,081
Not available	-	3	-	-	-	3	-	-	-	-	-	-

[1] In 1967, the national Post Office agreement covered 6 unions affiliated with the AFL-CIO, and 1 unafiliated union. In 1964, the agreement covered 4 affiliated unions and 2 unaffiliated unions. Agreement coverage was allocated by affiliation.

Table 5. Federal collective bargaining agreements, exclusive of Post Office, by region, [1] 1967 and 1964

Region [1]	Agreements		Employees covered	
	1967	1964	1967	1964
Total	684	208	375,485	128,128
Interregional agreements	19	4	31,450	4,833
New England	59	16	28,826	7,098
Middle Atlantic	85	30	50,129	23,391
East North Central	50	16	23,134	6,838
West North Central	30	14	9,437	2,808
South Atlantic	171	50	91,188	36,915
East South Central	38	10	26,310	7,800
West South Central	51	17	15,225	5,828
Mountain	51	11	23,417	2,343
Pacific	119	36	70,709	30,009
Outside the United States	11	4	5,660	265

[1] The regions used in this study include: New England—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; Middle Atlantic—New Jersey, New York, and Pennsylvania; East North Central—Illinois, Indiana, Michigan, Ohio, and Wisconsin; West North Central—Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota; South Atlantic—Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, and West Virginia; East South Central—Alabama, Kentucky, Mississippi, and Tennessee; West South Central—Arkansas, Louisiana, Oklahoma, and Texas; Mountain—Arizona, Colorado, Idaho, Montana, New Mexico, Nevada, Utah, and Wyoming; and Pacific—Alaska, California, Hawaii, Oregon, and Washington.

Chapter II. Agreement Impasse Procedures

The 1961 President's Task Force on Employee-Management Relations in the Public Service recommended that impasse resolution procedures, "devised and agreed to on an agency by agency basis, "should be available to the negotiating parties, but that any impasses occurring "should be solved by other means than arbitration." Executive Order 11491 stipulated that when voluntary procedures, including the use of the FMCS, do not work then the Federal Service Impasses Panel (FSIP) "may consider the matter and may recommend procedures to the parties for the resolution of the impasse or may settle the impasse by appropriate action. Arbitration or third-party factfinding with recommendations to assist in the resolution of an impasse may be used by the parties only when authorized or directed by the panel." Short of arbitration and invocation of the FSIP, the principal procedures voluntarily devised by the parties and found in agreements were factfinding, mediation, and referral of deadlocked issues to higher authority for resolution. These appeared in nearly half (321) of the 684 agreements studied (table 6). Virtually all contracts in the Veterans Administration (106), General Services Administration (46), and the Department of Interior (45) contained one or more of these procedures. The percentages were notably low in the Navy, Air Force, Army, and Department of Transportation agreements.

Although most contracts contained provisions referring impasses to higher agency authorities for resolution, most Federal employees in the study were covered by provisions creating factfinding committees.

	Agreements	Employees
Total	684	375,485
Having impasse resolution procedures [1]	321	154,810
Factfinding [2]	187	102,472
Mediation	76	45,866
Referral to higher authority	201	68,706
No reference to impasse resolution procedures	363	220,675

[1] Nonadditive. A number of agreements contained more than 1 procedure.
[2] Not included in these tabulations are 23 Department of Interior agreements providing for prenegotiation factfinding committees which were charged with developing relevant facts for the negotiating parties.

Compared with 1964, both factfinding and mediation in 1967 covered about the same proportion of all contracts studied, but the proportion of workers increased. In both years, however, only a small proportion of the agreements used these procedures:

	Percent in 1967		Percent in 1964	
Procedure	Agreements	Employees	Agreements	Employees
Factfinding	27.3	27.3	25.0	15.7
Mediation	11.1	12.2	11.5	6.2

Precise information on referral of impasses to higher authority was not available for 1964. At that time, the Bureau estimated that in about 25 percent of the contracts, stalemated issues could be submitted to an agency official for final and binding decision. In 1967, this proportion was almost 30 percent.

Each of the three procedures followed agency patterns. Factfinding totals, for example, were influenced by 106 Veterans Administration agreements; mediation provisions by the Interior Department (43); and referral to higher authority by a combination of the General Services Administration (45), Interior (32), Army (28), and Veterans Administration (23).

Of the 321 provisions, 135, or 42.1 percent, contained more than one means of resolving impasses (table 6). These covered 39 percent of the employees under agreements having procedures for resolving negotiation stalemates. Most involved a combination of factfinding and referral to higher authority (81 agreements and 45,957 employees). Under multiple step provisions, the negotiating parties could avail themselves sequentially of two or three different methods should an impasse be reached. For example, a committee's finding of fact could be useful to higher management authority, even though the committee was unable to settle the issues.

Factfinding Committees

Well over four-fifths of the 187 factfinding committees in the study were established as tripartite bodies, having an equal number of union and management appointees who jointly selected a neutral third party.

	Agreements	Employees
With factfinding procedures -----	187	102,472
Referring to composition of committee ----------	177	99,208
Bipartite ----------	13	8,021
Tripartite ----------	161	77,399
Single third party ----------	1	221
Other ----------	2	13,567
No reference to composition of committee ----------	10	3,264

The high prevalence for tripartite committees, as noted previously, was influenced by Veterans Administration agreements which included 102 provisions and which covered 53,139 employees.

The number of union and management members on tripartite committees varied, but predominantly, they included either one or two representatives from each party. In the first illustration below, the committee had to be composed of bargaining unit employees. This requirement was found in a number of agreements. It insures that the third parties will be familiar with the unit's operations and problems.

(1) The factfinding committee shall consist of three storage division employees: Employer and union shall each appoint one member, and these two shall select the third member. No member of the negotiating committee shall serve on the factfinding committee.

(2) When mutual agreement cannot be reached on matters subject to consultation and negotiation, the negotiating parties agree to submit the dispute to a factfinding committee consisting of five members, two selected by the employer, two selected by the union, and the fifth member will be selected by the first four members.

One provision established a tripartite committee with two neutral individuals, one of whom functioned as a nonvoting chairman. Each was selected differently. One was to be chosen by union and management representatives from any source, but the nonvoting chairman was to be selected from an established list of grievance examiners:

(3) When agreement cannot be reached on working conditions or matters subject to negotiation, the negotiating parties shall submit the dispute to a joint factfinding committee consisting of six members, two selected by the command, two selected by the union, the fifth member will be selected by the four members, and the sixth member will be a nonvoting chairman selected from the list of grievance examiners by mutual agreement of the union and the command.

Only 13 agreements created factfinding committees that were bipartite, as in the following:

(4) In case of impasse during negotiations or consideration of questions relating to the interpretation or application of this basic agreement or supplements thereto, the hospital director and union shall each designate two representatives to serve as a factfinding committee. . . .

Three additional agreements fitted neither a bipartite nor tripartite description. One provided for a single neutral third party rather than a committee and the other two provided for either a single neutral or a tripartite committee depending upon the scope and complexity of the impasse:

(5) If consultation and negotiation on a negotiable matter fail to produce an amicable agreement, it shall be the prerogative of either the head of the agency or the union to request the use of a disinterested third party for development of facts bearing on the dispute and for the presentation of an advisory recommendation.

(6) When agreement cannot be reached on working conditions or matters subject to negotiations, the negotiating parties shall submit the dispute to a joint factfinding committee. This committee may consist of one or more member(s) depending upon the mutual agreement of the negotiating team consistent with the scope and complexity of the problem to be resolved. The factfinding group, if more than one, will be equally represented by the union and employer with an odd or impartial member, if required, to be mutually selected.

All but 3 of the 187 agreements referring to factfinding stipulated the committee's authority. The preponderance limited the committee to a finding of facts only, but in one-third of the contracts it was also authorized to make recommendations. The latter will be affected by the requirement in Executive Order 11491 that factfinding boards making recommendations can only be employed with the approval of the Federal Service Impasses Panel:

Scope of authority	Agreements	Employees
With factfinding procedures -----	187	102,472
Referring to scope of authority --------	184	100,871
Finding of facts only ----------	122	78,668
Permitted to make recommendations ----------	59	21,641
Other ----------	3	562
No reference to scope of authority -----	3	1,601

Normally, the factfinding committee would submit its assessment of the facts directly to the negotiating parties, as in the first illustration below. In this manner, the authority of the negotiating parties was not abridged, and the activities of the factfinding committee permitted the negotiators a cooling off period. Hopefully the findings of fact would provide the negotiators with a basis for settlement when they returned to the bargaining table. There were additional provisions, however, under which the factfinding committee referred deadlocked issues to higher authority, as in the second illustration. In this case, the advent of the factfinding committee meant that the negotiating committee had terminated its function. Both illustrations, coming from different agreements in the same agency, are worded identically except for the referral of findings:

(1) The committee shall, by inquiry, research the exact facts at the basis of the dispute and submit their findings to the negotiating parties for consideration.

(7) . . . The committee shall, by inquiry, research the exact facts at the basis of the dispute and submit their findings to the depot commander for decision. . . .

A number of provisions limiting the committee to findings of fact specified, as in the following examples, that the committee would make its presentation without

recommendation or would not have "any authority of decision." Often silent on the method of presentation, some provisions stipulated that the report must be made in writing, or, as in the second illustration, both in person and in writing:

(8) The committee shall, by inquiry, research, and conference, ascertain the exact facts at the basis of the dispute and submit their findings, without recommendations, to the negotiating parties for consideration, by a date specified by the negotiating committee.

(9) . . . This committee will not include any member of the negotiating parties, nor will it have any authority of decision. The committee will study the situation at issue and present its findings in person and in writing to the negotiating parties. . . .

Ordinarily, the committee's finding of fact would be submitted as one report. The implication was one of unanimity. One clause, however, provided for the submission of a minority report should differences develop and be unresolved within the factfinding committee:

(10) . . . The committee shall ascertain and review the facts involved in the impasse and promptly submit its findings to the negotiating parties. If the findings are not unanimous, each member may submit a separate report.

The 59 agreements which permitted the factfinding committee to make recommendations used virtually uniform language, as in the following:

(11) This committee will research all facts pertaining to the matter involved and will submit its findings and recommendations to the negotiating parties within 10 working days.

Whereas most of the provisions limiting the committee to factfindings were in Veterans Administration contracts, those which permitted recommendations were clustered largely in Army (20) and Justice Department (16) agreements.

Three additional agreements, all involving units of the Veterans Administration, provided some flexibility. Two permitted the negotiating parties to determine the scope of authority of the factfinding committee when they referred the stalemate to it:

(12) The factfinding committee shall, by inquiry, research, conference, and other means considered necessary, develop and assemble the facts relating to the matter at issue and submit their findings in writing to the negotiating committee for considerations. Such findings may be submitted with or without recommendations as may be agreed upon by the parties at time of referral.

The third provided for stages of factfinding committee activity. In the initial stage the committee was limited to a report of findings. If subsequently the parties remained stalemated, then the committee would reevaluate events and resubmit findings, this time with recommendations. Final authority still remained with the parties, however, since the recommendations were not binding:

(13) The committee shall, by inquiry, research, and conference, ascertain the exact facts at the basis of the dispute and submit their findings without recommendations, within 10 days, to the negotiating parties for consideration.

. . . In the event the parties are still unable to reach an agreement, the dispute will be referred back to the factfinding committee who will reevaluate the situation and submit their findings, with recommendations, within 10 days. These recommendations will not be binding upon the parties.

Should negotiations move toward an impasse, contracts provided two approaches for invoking factfinding. The first was automatic. When an impasse is reached, the factfinding machinery will be initiated. The question then becomes one of deciding when an impasse has been reached. In some instances, impasse is reached only after serious

and/or diligent negotiations, as in the third illustration. Employment of such language indicates an underlying concern that if it is too easy to turn to outsiders, the parties would tend to forego their negotiating responsibilites.

(14) When agreement cannot be reached on working conditions or matters subject to negotiation, the negotiating parties shall submit the dispute to a joint factfinding committee. . . .

(9) When impasses arise, a factfinding committee will be established consisting of two members selected by the district engineer and two members selected by the lodge president.

(15) When agreement is not reached after serious and diligent negotiation, the parties hereby agree to submit the issue to a joint factfinding committee.

Under the second approach initiation of factfinding required the positive action of one of the parties, again with the prerequisite of diligent bargaining:

(16) In the event of a dispute between the employer and the union which is not resolved after diligent consultation or negotiation, either party may request in writing to the other that the dispute be submitted to a joint factfinding committee.

Referral to Higher Authority

Of the 201 provisions that referred resolution of impasses to higher authority, over three-fifths required first that some other means of breaking the stalemate must have been tried (table 6). Most frequently this was factfinding; less often, mediation.

The remainder went directly to higher levels of management. This was especially true in General Services Administration (GSA) contracts.

About two-thirds of the referral agreements (130) set forth the status of the higher authority's decision. In most cases, the decision was binding and thus was similar to arbitration in private industry except that the final determination was made by a management official instead of a neutral third party. [6]

(17) Impasses between the employer and the employee organization may be submitted to the Administrator of GSA. The decision of the administrator will be binding upon all concerned.

(18) If the parties are still unable to reach agreement, the dispute shall be submitted by the parties to the Director of the Weather Bureau or his designated representative for consideration of the evidence, at which level the lodge may be represented by its national office. The decision of the Director of the Weather Bureau shall be final and binding on both parties to the disagreement.

In others, the finding was advisory. The parties could accept it or use it as a basis for further negotiations:

(19) If the problem is not resolved after the negotiating parties examine the committee report, the matter shall be referred to the department level for an advisory opinion and a copy of the referral sent to the national office of this Federation.

(20) In the event the issue in dispute is not resolved, the matter shall be referred to the Director, Division of Claims Control, for his consideration and advice.

(21) If the problem is not resolved within 15-calendar days after the negotiating parties examine the factfinding report, each party retains the right to submit both proposals to their respective higher headquarters for their recommendations.

Stalemates, sometimes, could be carried to several levels of higher authority. Thus, decisions of intermediate levels were not final, but subject to further review:

[6] Exective Order 11491 provides that arbitration, like third-party factfinding with recommendations, may be used to overcome negotiation stalemates, but only with the approval of the Federal Service Impasses Panel.

(22) If agreement on issues cannot be reached between the association and the district supervisor, the Association may present its case to the Tobacco Division Director and so on to the Administrator of AMS and to the Director of Personnel of USDA if still dissatisfied.

(23) Impasses over those matters appropriate to this agreement which are within the delegated authority of the Forest may be appealed to the Chief, Division of Personnel Management, Southern Region. Decisions and impasses unresolved at the regional level will be appealed first to the Washington office, then to the Department of Agriculture.

Several clauses clearly indicated that intermediate levels of management could attempt to resolve the impasse, rather than offer decisions that could be appealed to the next higher step. Final, and usually binding determinations, thus would be reserved for the highest management level:

(24) 1. Both parties shall prepare a concise statement of their respective positions on the impasse and forward it to the Director, Personnel Division, ARS. PD will obtain the views of other interested parties and will suggest a solution of the impasse to the local parties.

2. If the solution suggested by PD is not acceptable to either party and it wishes further consideration, the matter may be referred by either party to the Administrator, ARS, for final decision.

(25) If efforts to bring about agreement are not successful, the parties may agree to submit the dispute to the Commanding General, U.S. Army Armor Center, or his designated representative for review. If agreement is not reached, the parties may agree to submit the dispute to the Commanding General, First U.S. Army, or his designated representative, whose recommendation shall be final and binding on both parties to the dispute. . . .

In one provision, a stalemate unresolved at the highest level could be referred for an advisory opinion to a neutral third party:

(26) If the problem is not resolved after the negotiating parties examine the committee report, the matter shall be referred to the Bureau of Prisons and the national office, AFGE, for solution at that level. If the matter cannot be resolved at that level, it may be referred for an advisory opinion by an impartial arbitrator from the Federal Mediation and Conciliation Service.

Other provisions moved negotiations to the highest management and union level for a possible settlement:

(27) After genuine negotiating sessions in which all proposals and issues have been discussed and there is no further reasonable prospect that either side will make further concessions, both employer and union agree to have impasses submitted to Director, DCASR Philadelphia for resolution. If impasse cannot be resolved at this level it will be submitted to the Staff Director, Civilian Personnel, Headquarters DSA for review and recommended action to the Director, DSA. Concurrent with the submission to DSAH, copies of correspondence will be forwarded to the national headquarters, AFGE, so they may be fully informed and in a position to negotiate to resolve deadlocks.

In general, referral of deadlocks to higher management authority was automatic, as in the following:

(28) If the efforts to bring about agreement through normal negotiations at the coast director level are not successful, the dispute shall be submitted by both parties to the Maritime Administrator or his designated representative, for consideration of the evidence. His decision shall be final and binding on both parties to the disagreement.

A few provisions required one or both of the negotiating parties to request higher management's intervention:

(29) After genuine negotiating sessions in which all proposals and issues have been discussed and there is no further reasonable prospect that either side will make further concessions, both employer and union agree to have impasses submitted to the staff director, . . . for resolution, if requested by either party.

Mediation

As in the 1964 study, mediation, or the entrance of a third party to help resolve a deadlock, was less prevalent than other means of breaking a stalemate. In part, this may have resulted from the hands-off policy of the Federal Mediation and Conciliation Service during the early years of Executive Order 10988. [7]

Department of Interior agreements (43) included over one-half of the 76 mediation provisions, the same proportion as in 1964. In worker coverage, however, three provisions in the Tennessee Valley Authority agreements affected 17,978 employees, almost two-fifths of all employees covered by mediation provisions. Although most of the agreements (54) employed mediation in conjunction with another impasse resolution method (usually referral to higher authority), over two-thirds of the workers covered by mediation provisions (31,219) came under contracts in which mediation was the only procedure.

Nearly four-fifths of the agreements providing for mediation defined the mediator's role as the traditional attempt to conciliate opposing views:

(30) The mediator shall use his best efforts to bring the parties to agreement by mediation.

Although mediation ordinarily is conducted by a single neutral, a few contracts provided for a mediation board, as in the following illustration:

(31) /The employer/ and the /union president/ shall each appoint a representative to serve as a member of a mediation board. A third member, mutually agreeable to the first two, shall be chosen by them from a list furnished by the Federal Mediation and Conciliation Service, or from such other sources as the parties may agree upon. The third member shall be a member of the board and chairman thereof.

The board shall meet and establish the points at issue. The chairman will then attempt to mediate the differences between the parties. . . .

Infrequently, provisions empowered mediators to make recommendations to the parties. The language found in these clauses was relatively uniform and read as follows:

(32) The mediator will be requested to meet with the parties, study the issues, and make recommendations and suggestions designed to assist the parties in resolving the matters at issue.

As in factfinding, the parties had to be at impasse after diligent efforts to agree before initiating mediation:

(33) If agreement is still not reached following the above procedure, every effort will be made to insure that the services of a mediator are not invoked prematurely, wastefully, or on inconsequential matters. Mediation will then be used to help solve impasses in negotiation. . . .

Occasionally, notice to request mediation could lead to one last effort at reaching agreement. If the stalemate continued for a designated period, either one of the negotiators could call for mediation:

(34) If the agency or the union concludes that an impasse has been reached on a negotiable issue at the agency level, either party may request mediation of the impasse by furnishing the other party a statement of its present position in writing together with a notice of intent to request mediation. Within 14 days of receipt of the notice, the other party may submit, in the interest of compromise, a counter proposal. Failure to submit a counter proposal within the 14 days will constitute agreement to proceed with mediation.

If after discussion between the parties of a counter proposal . . . either party concludes that the impasse still exists, it may thereupon notify the other party in writing and unilaterally request mediation.

[7] Abner, Willoughby. "The FMCS and Dispute Mediation in the Federal Government," Monthly Labor Review, May 1969, pp. 27-29. The policy was eased in 1965. Executive Order 11491 refers to FMCS involvement in resolving impasses as a step to be taken before invoking the participation of the Federal Service Impasses Panel.

Few agreements indicated the method by which a mediator would be selected. In those that did, some stipulated that the mediator would be appointed by the Federal Mediation and Conciliation Service, or selected by the parties from a list supplied by the FMCS; in others, such a list would be used only if the negotiators failed to choose a mediator:

(35) Authority for the use of a mediator . . . shall be by mutual agreement. . . . A list of approved mediators will be requested from the Federal Mediation and Conciliation Service . . . Upon receipt of the list the parties will meet to make selection of a mediator.

(36) . . . If the matter remains unresolved, representatives of the employer and the lodge shall meet . . . to agree upon the selection of a mediator from within the Federal Government Service. If agreement cannot be reached, the lodge and employer may agree to jointly request the Federal Mediation and Conciliation Service to furnish a mediator, if one is available.

The parties also could anticipate future need for mediation, and establish their own panel of acceptable neutrals:

(37) When agreement is not reached in direct negotiation upon rates of pay and working conditions affecting employees covered by this agreement, either party may invoke the services of a mediator to be selected jointly by the parties from a panel of five suitable persons previously agreed to by the council and the project.

Under most agreements (47), one party could call for mediation; others (15) required mutual consent:

(38) . . . In the event the parties are unable to reach agreement, negotiation on the disputed issue will be terminated at the end of the 30-day period, unless it is mutually agreed upon to submit it to mediation . . .

A small number of agreements prevented prolonged mediation by limiting its duration. In general, this conformed with the policy of the FMCS to limit the length of mediation efforts.[8]

(32) The mediator's services will be terminated as the parties may decide, provided that the mediation period shall not extend beyond a 3-day period unless agreed upon between both parties. . . .

Most mediation provisions provided that the negotiating parties should divide the costs of mediation.

(39) The expenses of mediation including the compensation and expenses of the mediator shall be borne equally by the local and project.

Sometimes an employer's share was restricted by existing allowable Federal payments for consultants:

(40) . . . The services of a mediator will be utilized, if mutually desired, prior to the referral of such issues through command channels, and the cost of such services shall be borne equally by the employer and the lodge within the limits of the regulations governing the employment and compensation of experts and consultants.

[8] Ibid.

Table 6. Procedures to resolve negotiating impasses in Federal collective bargaining agreements by agency, 1967

Agency	Total studied [1]		Having impasse resolution procedures							
			Total		Factfinding		Mediation		Referral to higher-management authority	
	Agreements	Employees	Agreements	Employees	Agreements	Employees	Agreements	Employees	Agreements	Employees
Total	684	375,485	321	154,810	87	45,236	22	31,219	77	17,751
Agriculture	14	6,206	9	5,421	-	-	-	-	7	5,229
Commerce	10	2,039	5	259	-	-	-	-	2	198
Defense	6	2,766	3	563	-	-	-	-	2	342
Air Force	49	38,922	15	20,835	4	3,091	-	-	4	1,292
Army	110	53,931	39	24,952	4	1,823	5	6,851	5	3,052
Navy	181	140,739	5	3,568	-	-	-	-	1	355
Health, Education, and Welfare	24	19,569	15	7,646	1	75	-	-	8	2,562
Interior	45	4,148	45	4,148	-	-	13	2,555	2	27
Justice	17	2,460	17	2,460	-	-	-	-	1	235
Labor	2	9,035	1	3,835	-	-	1	3,835	-	-
Transportation	34	4,387	2	191	-	-	-	-	1	41
Treasury	9	3,054	2	1,490	1	1,377	-	-	-	-
Atomic Energy Commission	7	397	3	77	-	-	-	-	3	77
Civil Service Commission	1	98	1	98	1	98	-	-	-	-
General Services Administration	47	5,240	46	5,223	-	-	-	-	41	4,341
Interstate Commerce Commission	1	19	-	-	-	-	-	-	-	-
National Aeronautics and Space Administration	5	5,484	-	-	-	-	-	-	-	-
National Labor Relations Board	5	1,529	-	-	-	-	-	-	-	-
Railroad Retirement Board	1	1,612	1	1,612	-	-	-	-	-	-
Small Business Administration	1	28	1	28	-	-	-	-	-	-
Smithsonian Institution	3	435	2	200	-	-	-	-	-	-
Tariff Commission	1	8	-	-	-	-	-	-	-	-
Tennessee Valley Authority	3	17,978	3	17,978	-	-	3	17,978	-	-
Veterans Administration	108	55,401	106	54,226	76	38,772	-	-	-	-

Agency	Having impasse resolution procedures—Continued									
	Factfinding and referral		Mediation and referral		Factfinding, mediation, and referral		Factfinding and mediation		No reference	
	Agreements	Employees	Agreements	Employees	Agreements	Employees	Agreements	Employees	Agreements	Employees
Total	81	45,957	35	3,368	8	1,630	11	9,649	363	220,675
Agriculture	1	29	1	163	-	-	-	-	5	785
Commerce	3	61	-	-	-	-	-	-	5	1,780
Defense	1	221	-	-	-	-	-	-	3	2,203
Air Force	4	15,541	1	105	1	121	1	685	34	18,087
Army	19	8,025	3	951	1	80	2	4,170	71	28,979
Navy	2	2,013	1	444	1	756	-	-	176	137,171
Health, Education, and Welfare	6	5,009	-	-	-	-	-	-	9	11,923
Interior	-	-	26	1,076	4	490	-	-	-	-
Justice	16	2,225	-	-	-	-	-	-	-	-
Labor	-	-	-	-	-	-	-	-	1	5,200
Transportation	-	-	1	150	-	-	-	-	32	4,196
Treasury	1	113	-	-	-	-	-	-	7	1,564
Atomic Energy Commission	-	-	-	-	-	-	-	-	4	320
Civil Service Commission	-	-	-	-	-	-	-	-	-	-
General Services Administration	2	219	2	479	-	-	1	184	1	17
Interstate Commerce Commission	-	-	-	-	-	-	-	-	1	19
National Aeronautics and Space Administration	-	-	-	-	-	-	-	-	5	5,484
National Labor Relations Board	-	-	-	-	-	-	-	-	5	1,529
Railroad Retirement Board	1	1,612	-	-	-	-	-	-	-	-
Small Business Administration	1	28	-	-	-	-	-	-	-	-
Smithsonian Institution	2	200	-	-	-	-	-	-	1	235
Tariff Commission	-	-	-	-	-	-	-	-	1	8
Tennessee Valley Authority	-	-	-	-	-	-	-	-	-	-
Veterans Administration	22	10,661	-	-	1	183	7	4,610	2	1,175

[1] Excludes national Post Office agreement.

Chapter III. Negotiated Grievance Procedures

Almost 56 percent of the agreements examined referred to negotiated grievance procedures; in total, these applied to 65 percent of all employees studied (table 7). Navy contracts included 33 percent of the grievance systems and 52 percent of the employees covered by them. Except for the clear pattern in the Interior Department, where all 45 agreements contained grievance procedures, agencies were more likely to have a mixture of agreements with and without such systems.[9] For instance, a significant number of Army and Veterans Administration contracts contained grievance procedures, but total contracts were almost equally divided between those with and those without negotiated systems. The absence of negotiated grievance procedures meant that an employee having complaints had to use the existing nonnegotiated agency system.

Usually lengthy, the negotiated provisions embraced one or more of a variety of subjects, including the employee's right to choose either the negotiated or agency system, the union's role under the procedures, the negotiated system's scope, procedural steps, and the employment of hearing panels and factfinding committees in reaching settlement of employee complaints before invoking advisory arbitration. This section will describe these features of the grievance procedure.

Selection of Grievance Procedure

When making a complaint, employees had to choose between negotiated and agency grievance procedures. Nearly two-thirds of the provisions expressly set forth this right:

	Agreements	Employees covered
Total with negotiated grievance procedures	380	245,863
May select negotiated or agency procedure	244	180,456
Negotiated and agency procedures are integrated	41	24,475
Other means of selection	7	3,309
No reference to selection	88	37,623

Under Executive Order 11491, however, selection provisions are likely to diminish. If the parties agree and the grievance procedure meets standards of the Executive order, applicable laws, the Civil Service Commission, and the Agency, the negotiated system may become the exclusive procedure for members of the bargaining unit.

Provisions presently stipulating the right to select a procedure commonly also state that, once made, the grievant's choice could not be changed:

> (41) If no satisfactory settlement is reached between the employee and the supervisor, the employee will indicate in writing within 10 calendar days whether he wishes to pursue his grievance under this, the union grievance procedure, or under the Navy grievance procedure. The employee may not change his decision once the choice has been made.
>
> (42) The employee(s) grievance must be reduced to writing, indicating whether he desires to follow the grievance procedure which is part of this agreement, or wishes to follow the grievance procedure provided by the Department of the Army in applicable regulations. The employee(s) choice at this point shall be irrevocable.

Almost 10 percent of the employees under agreements with negotiated grievance procedures were covered by an integrated system. In these cases, the negotiated procedure served either as a preliminary or as an optional first step to the agency procedure. Integrated systems were distinguishable from those providing an employee with a choice between procedures, first, by the clear combination of both into a single system, and second, by the absence of the irrevocable choice provision frequently

[9] TVA, NASA, and the Tariff Commission also had a 100-percent incidence of negotiated procedures; but, except for TVA's 17,978 workers, the number of agreements and employee coverage were small.

found in optional provisions. As the following illustrations show, normally the negotiated procedure was relegated to the informal steps at the start of the grievance process:

(43) Employees of the bargaining unit may use the following procedure instead of the VA procedure prescribed in VA Manual MP-5, chapter 12, for the informal settlement of grievances: . . .

If the grievance is not settled informally under the procedure prescribed above, the employee, within 10 calendar days following the decision, may use existing VA procedure . . .

(44) If the employee is not satisfied with the decision of his immediate supervisor he may pursue his grievance sucessively through the various levels of authority cited in Article XII . . .

If the decision by the division director is not acceptable, the employee may file a formal grievance directly with the Administrator of ARS in accordance with the provisions of AM 460.5.

The remaining provisions all involved special arrangements which permitted the employee to bypass agency procedures and go directly to arbitration, as in the first illustration; or which provided the employee with additional options, such as the right to withdraw from the negotiated procedure at any time in favor of the agency system, as in the second example:

(45) The procedure for informal adjustment of grievances outlined in MP-5, Part I, as implemented by VA Employee Letter 00-62-2, will be followed . . .

If the informal attempt to resolve the grievance has not been acceptable to the employee, he may then request a hearing in accordance with VA Manual MP-5, Part I, or he may request advisory arbitration as outlined below.

(46) Before, during or after the employment of the procedure above set forth, the aggrieved employee may abandon the said procedure and proceed under the grievance procedure provided by the Department of Health, Education and Welfare Personnel Manual.

Union Role

To represent all employees in the unit effectively, the union must be familiar with the nature of employee complaints, even though employees may bypass the negotiated system for the agency system. Nine out of 10 provisions (350 of 380), therefore, declared that the union must be notified or allowed to observe during the formal steps of the grievance. Union presence was not always required during the informal early step of the procedure where employee and supervisor could meet to settle complaints on their own. Provisions invariably guaranteed that the union's presence would not interfere with the employee's right to process his own complaint:

(47) . . . The /union/ shall also be promptly notified by the division of the receipt of the complaint (in the formal, agency procedure) and shall be afforded an opportunity to be represented at any discussion of the grievance or complaint and at any subsequent personal presentation or hearing. The employee shall be advised that /the union's/ right to be represented during discussions and hearings of the grievance or complaint shall not operate to impair the right of the employee to handle the grievance in his own way and to choose his own representative . . .

(48) If aggrieved employees covered by this agreement do not choose to be represented by the union, the union, nevertheless, may have a representative present at formal discussions between such employees and management. The right of the union to be present shall not be permitted to impair the right of the employee to handle the grievance in his own way . . .

When the program director receives a written grievance from an employee or group of employees covered by this agreement, he will inform the union that a grievance has been received and give the union the date and time the grievance will be discussed.

Often the union could present its own position concerning the complaint, at least for the record:

(49) If an employee in the unit does not desire to be represented by the union, a representative of the union may be present as an observer. The observer may . . . make a statement of his organization's views concerning the case for inclusion in the record.

Union observers, however, could be excluded for reasons of security or at the request of the employee:

(50) . . . if the employee does not choose a union member as his representative, the union will be given the opportunity to have an observer present at discussions between the employee and supervisory officials concerning the grievance. However, in matters of personal concern not relating to working conditions, if for sufficient reasons as determined by appropriate management officials, an employee requests that a union member and/or employee representative not be present at the proceedings, the request will be honored.

(51) When the employee does not desire a union representative, the union may have an observer present, . . . unless employer forbids his presence for reasons of a security classification on matters to be discussed, or the employee objects to the presence of such an observer.

Normally, provisions limited union presence to the formal steps, but in some, the union could be brought in at the informal step as well, unless the employee objected. Some provisions stipulated that union representatives would not be paid when acting as observers. This acted as a possible deterrent to union attendance.

(52) The union must be given the opportunity to have an observer at discussions between employees and management in the course of grievance proceedings. This includes the first level of supervision unless the aggrieved employee objects to a union observer at that level. The union observer is permitted to present the views of his organization on the matter at issue at an appropriate time during the discussion as determined by the supervisor or hearing officer . . . When a committeeman takes the role of an observer only, he will not be in a duty or pay status. . . .

Scope of the Grievance Procedure

As used in the Federal Service, a grievance is "a matter of personal concern or dissatisfaction to an employee the consideration of which is not covered by other systems of agency review."[10] Four-fifths of the agreements having negotiated grievance procedures spelled out those matters that the parties agreed would fall within the terms of this general definition. In most cases, this was accomplished by listing subjects which would be excluded from coverage under the negotiated procedure, usually because they were already under other systems. Presumably matters not specifically cited as outside its scope could be covered by the negotiated system. However, such determinations would have to be made through negotiations or perhaps by neutral third parties:

Scope	Agreements	Employees covered
Total with grievance procedures	380	245,863
Total defining scope of grievance procedure	327	210,254
By exclusions	153	129,112
By general terms	94	39,960
By inclusions	54	24,917
By inclusions and exclusions	26	16,265
Referring to undefined agency regulations	12	17,401
No reference to scope of grievance procedure	41	18,208

Navy agreements constituted three-quarters of the provisions that defined the scope of the grievance procedure through exclusion.

Subjects eliminated from negotiated grievance procedures tended to be numerous and varied. Army and Navy agreements typically listed both excluded topics and the agency systems which applied to them, as in the following:

[10] Section 13 of Executive Order 11491 differentiates "employee grievances" from "disputes over the interpretation and application of the agreement," but does not define "employee grievances."

(53) The procedures governing appeals from adverse actions are set forth in Civilian Personnel Regulation E2. 5. The procedures governing appeals from job evaluation determinations are set forth in Civilian Personnel Regulation P30. 5. The cited regulations provide no latitude for change at the activity level and thus are not subject to consultation or negotiation. Accordingly, appeals from adverse actions, job evaluation determinations and reductions in force will be processed in accordance with the procedures outlined in applicable Department of Army regulations.

Complaints alleging discrimination will be processed in accordance with the procedures outlined in Civilian Personnel Regulation E3.

Complaints which arise either from the immediate work environment of the employee, from situations which exist within the employee's work group, or from policies, regulations, or directives of the employer will be processed in accordance with Civilian Personnel Regulation E2. 4.

To provide for the virtually satisfactory settlement of questions involving the interpretation or application of this agreement or management decisions on matters for which policies or regulations have not been issued, the following procedures shall be followed. . . .

(54) The employer and the union agree that appeals from adverse action or complaints resulting from the following types of actions shall not be considered under the provisions of this article:

1. Reduction in force (NCPI 351)
2. Position classification (NCPI 512)
3. Performance ratings and performance rating warnings (NCPI 430)
4. Discrimination under Executive Order 10925, Equal Employment Opportunity Policy (NCPI 713)
5. Incentive awards (NCPI 450)
6. Adverse actions under P. L. 733 81st Congress, E. O. 10450 and failure to be cleared for sensitive duties (NCPI 732)
7. Ungraded rating determinations, wage and pay level determinations and pay alignments (NCPI 531)
8. Nonselection for promotion when the sole basis for the grievance is an allegation by an employee that he is better qualified than the person selected (nonappealable)
9. Decisions of the Commanding Officer, U. S. Naval Communication Station Honolulu on appeals of earned ratings in competitive and noncompetitive promotion action (NCPI 770)
10. Appeals based on an allegation that the employee was improperly ranked in terms of qualification requirements and thus was not within the range of selection (NCPI 770)
11. Appeals which allege that the Federal Merit Promotion Program, the Navy Merit Promotion Program, or the Naval Communication Station Honolulu Merit Promotion Program were violated (NCPI 770)
12. Grievance appeals based on the operation of, or alleged noncompliance with statute, Civil Service Regulations, NCPI's, Bureau or Office directives or actions ordered by the Civil Service Commission or other agency outside the Navy (NCPI 770)
13. Complaints based on action or unfavorable administrative decision of officials of a Naval activity other than the Naval Communication Station Honolulu (NCPI 770)
14. Suspensions, demotions, separation and removal actions, reduction in rank or compensation and official letters of reprimand (NCPI 770)
15. Letters of caution or requirement including notification of decision to withhold within grade salary increase for graded employees, and oral admonishments (NCPI 750)
16. Group grievances (NCPI 721)

Fewer than 15 percent of the agreements defined the scope of the grievance procedure by specifying issues to which it applied. In citing grievable matters, introductory language often stipulated that the subjects referred to were illustrative, rather than inclusive. Thus, the door was left open for other employee complaints:

(55) A "grievance" is defined as an employee's feeling of dissatisfaction with some aspect of his employment, a management decision affecting him, or an alleged violation of his rights. For example, dissatisfaction with working conditions or job relationships; promotional disputes; belief that an admonishment or reprimand is unjustified; or complaints arising from reassignment and transfer for administrative reasons.

(44) Matters applicable under this procedure involve among other things:

(a) Working conditions.
(b) Improper application of rules and regulations.
(c) Unfair treatment, including coercion, restraint, or reprisal. Suspension without pay of 30 days or less may be considered under the grievance appeal process provided the grievant can establish that unfair treatment is present.
(d) Areas of competition established for purpose of reduction in force.
(e) Promotion procedures utilized and promotion actions effected in application of the agency merit promotion plan.
(f) Classification of position, except where appeal is initially made to the Civil Service Commission.
(g) Nonselection for training opportunities.

In a few instances, the provisions defined the grievance procedure's scope by listing matters included and excluded:

(56) A. As used in this agreement, the term "grievance" covers such matters as: (1) Working conditions and environment, (2) relationships with supervisors and with other employees and officials, (3) any disciplinary action not covered in appeals from adverse actions (387 DM 12 and 13), and (4) implementation of personnel policies and employee management agreements. These procedures are restricted to questions of the application of established policies to an individual employee or group of employees; the policies themselves are not subjects for grievance action.

B. Matters excluded from consideration under these procedures are: (1) Nondiscriminatory Government employment policy appeals (380 DM 1-8), and (2) performance rating appeals (331 DMI and chapter P4 FPM). . . .

Over a quarter of the negotiated grievance procedures were far less specific as to their scope than the provisions previously cited. These grievances were defined in more general terms which tended to paraphrase the Federal Personnel Manual's "matter of personal concern or dissatisfaction;" and usually they also stipulated that matters of interpretation or application of the agreement were grievable:

(57) To provide employees with ample opportunity to secure consideration of their dissatisfaction with matters affecting them personally that are subject to the employer's control and to provide a means for presenting complaints or grievances arising from the interpretation or application of this agreement, the following procedure shall be adhered to:

(58) The purpose of this article is to provide for a mutually satisfactory method for settlement of questions involving the interpretation or application of this agreement or consideration of grievances arising in the unit under the terms of this agreement or any alleged violation thereof.

Twelve agreements defined grievances by referring to agency manuals, as in the following:

(59) Grievances under this article are as defined in NCPI 770.1-3a.

Procedural Steps

Virtually all grievance clauses included an informal step involving a meeting between the immediate supervisor and the complaining employee. As in private industry, emphasis is upon settlement of the grievance at an early step, before it becomes a formal complaint. While the employee could be accompanied by a union representative, this, as noted earlier, was often a matter of choice for the grievant.

When the supervisor and employee are unable to settle differences at this informal stage, usually the employee puts his complaint in writing.

The complaint moves to higher levels of authority as long as the grievant remains dissatisfied with management's decision. Factfinding and/or advisory arbitration may be employed as the terminal step. At all steps, the rights of the grievant usually are protected against delay by requiring written decisions within stipulated time limits.

Features of these procedural steps are illustrated below:

(60) 1. An employee having a complaint will take the complaint up with his immediate supervisor who will attempt to adjust it. . . .

2. If the employee is not satisfied with the answer of his immediate supervisor, he may, within 10 calendar days, file a grievance by: (1) Electing, on a form provided by the agency, to use either the FAA grievance procedure or the negotiated grievance procedure contained in this article. . . .

3. Grievances processed under the negotiated procedure will be reviewed and answered by the Area Manager, Miami Area, in writing within 30 calendar days after his receipt of the grievance form and pertinent attachments. If the employee is not satisfied with the decision of the area manager . . . /he/ may . . . request that the grievance be submitted for review by an impartial factfinder. . . . The factfinder will conduct a hearing confined to the specific issue or issues of the grievance. . . . The Director, Southern Region, after due consideration of all pertinent data, including the report of the factfinder, shall render a final decision which shall be binding on the parties.

(61) 6. The dispute or grievance shall first be taken up by the steward, the aggrieved employee, or employees, and the appropriate supervisor or other management officials. The supervisor must give his answer within 5 working days.

7. If no satisfactory settlement is reached between the steward, the aggrieved employee, or employees, and the supervisor, the grievance shall be reduced to writing . . . and submitted within 5 working days by the chief steward to the division chief involved. . . .

8. If no satisfactory settlement is reached . . . then the grievance, endorsed by the division chief involved, may be referred by the chief steward to the appropriate union officer or representative for processing directly with the civilian personnel officer of the employer, or his representative through the appropriate director.

9. . . . Upon request of the appropriate officer of the union, the civilian personnel officer of the employer, or his representative, shall arrange to meet . . . with the appropriate officers of the union, the chief steward, the steward, and the aggrieved employee and/or employees, in an effort to reach a satisfactory settlement of the grievance or dispute.

10. In the event the grievance or dispute is not satisfactorily settled, the grievance will be forwarded to the depot commander who will issue a Letter of Decision to the employee involved. . . . In event the employee is not satisfied with the decision of the depot commander, he may, through union representation, within 30 days after such decision by the commander request the matter be submitted to advisory arbitration.

Factfinding and Hearing Panels

Among negotiated grievance procedures studied, the use of factfinding panels to help resolve employee complaints was not widespread. Only two-fifths of the agreements (159), affecting fewer than a third of the employees (76,637) provided for such boards. The low proportion may be explained, in part, by the reliance on advisory arbitration to resolve grievance disputes.

Among agencies, only Interior Department agreements revealed a high incidence of factfinding provisions; 42 of 45 procedures included hearing panels. Less frequently they were found in Navy (38), Army (21), and Transportation (13) agreements.

Panels were more likely to be composed only of union and management representatives (82) than to involve neutral third parties alone or in a tripartite arrangement (55):

	Agreements	Employees covered
Total with grievance procedures	380	245,863
Referring to factfinding or hearing panels	159	76,637
Specifying composition of panel	141	53,128
Bipartite: Equal numbers	50	6,181
Bipartite: Unequal numbers	32	20,612
Tripartite	29	10,525
Neutral party only	26	13,917
Other	4	1,893
Reference to panel; no reference to composition	18	23,509
Reference to undefined agency regulations	19	8,626
No reference to factfinding or hearing panels	202	160,600

Each of the four agencies having a number of panel provisions had distinctly different panel compositions. With one exception, each was responsible for the largest concentration in one of the classifications in the above tabulation. Only Army contracts adopted a variety of panel compositions.

Interior Department provisions made up 42 of the 50 agreements establishing bipartite panels composed of equal numbers of labor and management representatives:

(62) The union and the area director shall each appoint two members and two alternates to a joint grievance board which shall hear disputes submitted to it in accordance with this grievance procedure.

The largest concentration of Navy agreements (19) stipulated that its hearing panels would consist of unequal numbers of management and union representatives. Management, as a rule, chose the larger number of panelists, as in the following:

(63) The grievance advisory committee will consist of three members appointed by the commanding officer. One of these will be selected by the head of the union.

Another 10 Navy agreements represented the largest concentration of provisions utilizing a tripartite panel. This arrangement was also set forth in a small number of Army agreements and in the Justice Department, from which the following illustration was taken:

(64) The hearing committee shall consist of one member selected by the employer, a second member selected by the employee, and the third member selected by mutual consent of the first two members.

Of the 13 Department of Transportation agreements, 10 provided for a neutral third party to review the employee complaint, as did a scattering of other agencies, including again the Navy. The neutral could come from within the agency, as in the first example, or could be drawn from the outside, as in the second:

(65) When an employee in the unit submits his grievance in writing to the commanding officer, the latter will establish a grievance advisory committee of one military officer to conduct a hearing in the case. Said officer shall be appointed on the basis of unbiased viewpoint and general overall knowledge of the activity. . . .

(66) The employer, within 10 calendar days after receiving the request for a factfinder, will ask the Federal Mediation and Conciliation Service to submit a list of five impartial persons qualified to act as a factfinder. Upon receipt of the list, the parties (union and employer) shall meet and attempt to agree upon an individual from the list submitted. If they cannot agree, each party will strike two names and the remaining name shall be the factfinder.

Of the 159 agreements establishing a panel or committee, 130 referred to its scope of authority. Although most provisions permitted the panel to recommend a disposition of the grievance, most employees were under provisions restricting the panel to a finding of facts:

	Agreements	Employees covered
Total referring to a panel or committee	159	76,637
Specifying scope of authority	130	59,702
Limited to finding of facts	43	35,357
May recommend	87	24,345
Reference to undefined agency regulation	6	591
No reference to scope	23	16,344

Typical of those limited to a finding of fact are the following:

(67) Within 5 days after the conclusion of the hearing, the committee will submit to the master a copy of the hearing record and the committee's findings of fact.

(68) Within 10 days of the hearing, the committee will prepare a report of findings, and forward the transcript and report to the Bureau Director or his designee.

When the panel could recommend, its function approximated the responsibilities found in advisory arbitration. Occasionally, the minority could give its own recommendation, as in the second illustration:

(69) The joint grievance board shall meet within 5 working days after receiving a grievance. . . . The board shall apply its best efforts to determine pertinent facts and shall attempt by majority vote to formulate for the Area Director a recommended settlement.

(70) The committee's report to the head of the activity shall include a recommendation as to the disposition of the grievance appeal and shall include a minority opinion if applicable.

Usually expenses connected with factfinding were shared equally by the agency and the union:

(71) All the fees and expenses of the factfinder and the factfinding process, including the fees and expenses of a reporter, if mutually agreed to by the parties, shall be shared equally by the employer and the union.

Table 7. Provisions for a negotiated grievance procedure in Federal collective bargaining agreements by agency, 1967

Agency	Total studied		Having a negotiated procedure		No reference	
	Agreements	Employees	Agreements	Employees	Agreements	Employees
Total	684	375,485	380	245,863	304	129,622
Agriculture	14	6,206	6	5,073	8	1,133
Commerce	10	2,039	7	1,810	3	229
Defense	6	2,766	5	2,565	1	201
Air Force	49	38,922	12	5,741	37	33,181
Army	110	53,931	53	31,849	57	22,082
Navy	181	140,739	127	127,321	54	13,418
Health, Education, and Welfare	24	19,569	4	1,412	20	18,157
Interior	45	4,148	45	4,148	-	-
Justice	17	2,460	8	1,160	9	1,300
Labor	2	9,035	1	3,835	1	5,200
Transportation	34	4,387	30	4,130	4	257
Treasury	9	3,054	4	410	5	2,644
Atomic Energy Commission	7	397	-	-	7	397
Civil Service Commission	1	98	-	-	1	98
General Services Administration	47	5,240	8	670	39	4,570
Interstate Commerce Commission	1	19	-	-	1	19
National Aeronautics and Space Administration	55	5,484	5	5,484	-	-
National Labor Relations Board	5	1,529	5	1,529	-	-
Railroad Retirement Board	1	1,612	1	1,612	-	-
Small Business Administration	1	28	-	-	1	28
Smithsonian Institution	3	435	3	435	-	-
Tariff Commission	1	8	1	8	-	-
Tennessee Valley Authority	3	17,978	3	17,978	-	-
Veterans Administration	108	55,401	52	28,693	56	26,708

Chapter IV. Advisory Arbitration

Under Executive Order 10988, unions and Federal agencies could negotiate provisions for advisory arbitration of employee grievances. By 1967, 7 out of 10 negotiated grievance procedures included advisory arbitration, and covered almost 4 out of every 5 employees. This represented a small increase in the proportion of agreements with advisory arbitration since 1964, and a slight decline in proportionate employee coverage:

	1964		1967	
	Agreements	Employees covered	Agreements	Employees covered
Total, negotiated grievance procedures	96	80,778	380	245,863
Containing advisory arbitration	63	69,926	266	194,669
Percent containing advisory arbitration	65.6	86.6	70.0	79.2

The proportionate decline in employee coverage suggests that new bargaining units establishing advisory arbitration are smaller, on the average, than those reporting in 1964; this, in turn, implies that advisory arbitration is trickling down to smaller units.

Most agreements were concentrated in three agencies (Navy, Interior, and Army), which together constituted 7 out of 10 arbitration provisions and almost 3 out of 4 of the nonpostal employees coming under such agreements (table 8). Contracts in 18 Federal agencies contained arbitration provisions in 1967 compared with 10 in 1964.

A few contracts contained no provision for advisory arbitration, but permitted reopening to negotiate such a clause if later developments warranted adopting it:

> (72) Until such time as additional experience is gained by both parties under the operation of this agreement, it is resolved that the subject of advisory arbitration of grievances not be included in this agreement. Should future experience show an appreciable number of irreconcilables, this matter may be reopened . . .

Initiation of Advisory Arbitration

Advisory arbitration is not automatic in the grievance procedure. The decision to take the dispute to arbitration usually is made after evaluating the issues involved and the chances of success. A party to the dispute must invoke arbitration, often in writing, and usually within stipulated time limits after the final step in the grievance procedure.

As the following tabulation shows, advisory arbitration can be initiated most often by the complaining employee, less often by either party, and least often by their mutual consent:

	Agreements	Employees covered
Specifying initiating procedures for arbitration	266	194,669
At grievant's request	174	133,505
Request by either party	71	55,371
Mutual consent	21	5,793

When the grievant is given the right to request arbitration, the final decision to initiate such action usually rests with the union:

(73) If an employee so elects and the union agrees, a request may be made for advisory arbitration of the grievance . . .

(74) If the employee is not satisfied with the decision the employer rendered in accordance with step 4 of the union grievance procedure, he may ask the union to institute arbitration proceedings. The union will determine whether to institute such proceedings.

Union agreement to arbitrate is implicit where the employee is required, as in the first illustration, to use the negotiated procedure or where it is stipulated, as in the second illustration, that the union must represent the employee:

(75) An employee must elect the negotiated procedure to be eligible to request arbitration . . .

(76) If the employee remains dissatisfied with the decision of the administrator, he may elect to invoke advisory arbitration in lieu of appeal to the director of personnel for a formal hearing, provided the /union/ represents the employee and the employee submits a signed statement to the director of personnel invoking the arbitration . . .

At any given step, the complaining employee may want to drop his grievance. Even though the union or the employer may wish the issue clarified, some clauses provide that arbitration may not be invoked without the consent of the employee: [11]

(77) If the employer and the union fail to settle any grievance arising under Article XXIV titled Grievance Procedure with respect to the interpretation, application, or alleged violation of this agreement or of any policy or decision of the agency, such dispute shall, upon written notice by the party requesting arbitration to the other party, be referred to advisory arbitration. . . . arbitration shall be invoked only with the approval of the individual employee or employees concerned . . .

(78) Arbitration . . . shall be invoked only with the approval of (1) the union, which must obtain the consent of the employee or employees concerned, and (2) the Director of the Weather Bureau.

The few agreements which required mutual consent of all the parties to invoke arbitration, in effect, gave to the employer a veto power over the case:

(68) In the event grievances are not resolved in accordance with the provisions of Article XXI, advisory arbitration may be resorted to only in accordance with the following conditions:

. . . A request for arbitration must have the written consent of: (1) The employee or employees concerned, (2) the Metal Trades Council, and (3) the Director of the Bureau.

Other provisions were more explicit in this respect and stated that the employer will decide upon the issue of arbitrability, but the union could appeal the decision to higher management:

(79) If the union is not satisfied with the decision of the employer, the union may . . . make formal request to the employer that such unresolved grievance be submitted to advisory arbitration. Upon receipt of such a request, the employer will decide whether or not such a matter is subject to advisory arbitration. If it is decided that it is not subject to advisory arbitration, the union shall have the right to appeal such decision to the Division Engineer, South Atlantic Division. . .

Executive Order 10988 placed two limits upon the nature of arbitration. First, arbitration was to be advisory. Final decisions still would be made by management, and the arbitrator's recommendation could be accepted or rejected in whole or in part. This policy has been abandoned in favor of arbitration with limited appeal to the FLRC in Executive Order 11491. Second, advisory arbitration would be limited to issues of interpretation and application of the agreement, and, binding arbitration has been extended to employee grievances. As noted in previous illustrations, contract provisions often reflect one or both of the Executive Order 10988 limitations, by using language basically the same as that in the Executive order. Sometimes the limits placed upon the arbitrator were spelled out in further detail:

[11] This requirement was set forth in Section 8 (b) of Executive Order 10988 and is continued in Section 14 of Executive Order 11491 for employee grievances.

(80) The arbitrator will conduct a hearing confined to the specific issue or issues of the grievance. The arbitrator's function will be to make a determination based on the facts presented to him and issue a report to the director, Central Region, together with his recommendations. It is understood and agreed that the recommendations of the arbitrator shall be advisory in nature only and subject to the approval of the Director, Central Region . . .

As in private industry, others specified the authority of the arbitrator by differentiating between the actions of management under the agreement, which were arbitrable; and changes in the agreement or in management policy, which were not arbitrable:

(31) . . . Arbitration shall extend only to the interpretation or application of this agreement or (Office) policy. Arbitration shall not extend to any changes in the agreement or policy . . .

(29) In arbitrating a grievance, the arbitrator shall have no authority to substitute his judgement for that of the employer as to the reasonableness of any practice, rule or regulation of the employer and shall be limited to deciding whether the facts established by the parties justify the action of the employer within the reasonable exercise of employer discretion and is not arbitrary and is not an abuse of discretion.

Selecting the Arbitrator

Usually, the agreement provided for a single arbitrator; only rarely for an arbitration board, as in the following:

(81) Within 5 working days of receipt of the arbitration request, the employer or his representative will meet with the union for the purpose of endeavoring to agree on the selection of a board of arbitrators. Such board to be composed of one member appointed by the employer, one member appointed by the union, and a chairman appointed by initial agreement of the parties . . .

As this illustration indicates, time limits are placed on employer and union representatives to select the arbitrator. Ordinarily these extend for from 1 to 2 weeks, to move the grievance toward final solution as soon as possible.

All the agreements referring to arbitration also referred to the selection of the arbitrator, but few outlined the sources from which the selections would be made:

	Agreements	Employees covered
Referring to selection of the arbitrator	266	194,669
Not specifying source of arbitrator or referring to privately established panel	187	168,144
Arbitrator from panel supplied by:		
Federal Mediation and Conciliation Service	27	4,674
American Arbitration Association	2	3,265
Government agency other than FMCS	4	13,133
Other sources of arbitrators	46	5,453

When sources of arbitrators are not specified or when the parties establish their own panel, agreement on the choice of an arbitrator can be reached by a traditional method drawn from nongovernment collective bargaining; namely, the alternate striking of names from an odd-numbered panel with the remaining name becoming the arbitrator:

(82) The employer and the union agree to establish a panel of 10 arbitrators by each submitting the names of five qualified persons. Within 5 days of receipt of a request for advisory arbitration the employer and the union will meet to select a mutually acceptable arbitrator, or failing to agree, to select five arbitrators by lot from this panel. The employer and the union will each strike one name from the list of five and then will repeat this procedure. The remaining person will be the arbitrator.

In others, failure to agree upon an arbitrator within a given time limit required the parties to go to an agency, such as the Federal Mediation and Conciliation Service, for a panel from which final selection would be made:

(73) Within 7 calendar days after receipt of a request for arbitration, the party receiving the request shall arrange for a meeting to choose an impartial arbitrator.

If, within a period of 10 days after the meeting, the parties fail to agree on such impartial arbitrator, the Federal Mediation and Conciliation Service shall be requested to submit a list of five names. Within 3 working days of the receipt of the names, the parties shall meet to select the arbitrator.

It is conceivable, among the 187 which did not specify the source of arbitrator or use a previously established panel for selection, that in practice, the parties requested the FMCS or another agency, such as the American Arbitration Association (AAA), to draw up a list from which the arbitrator would be selected or the panel established. In 33 agreements the outside agencies were named and their role described as follows:

(83) The employer, within 10 days after receiving the request for an advisory arbitrator, will ask the Federal Mediation and Conciliation Service to submit a list of five impartial persons qualified to act as an advisory arbitrator.

(84) If the employee elects to use advisory arbitration, the arbitrator shall be choosen from the American Arbitration Association or from other sources acceptable to both parties.

One contract specified that the arbitrator had to be a Federal employee. Because of location, this agreement also specified that, lacking an arbitrator in Federal Service from the area, another person could be chosen as long as he, too, was available locally:

(42) Within 5 work days from the date of receipt of the arbitration request, the employer or his representative will meet with the employee and/or the union representative for the purpose of endeavoring to agree on the selection of an arbitrator. Efforts will be made to acquire an arbitrator from within the Federal Government Service, locally in Hawaii, or other eligible person available in Hawaii.

In the Department of Interior, the integrated grievance and arbitration procedure, illustrated below, provides that if a joint grievance board cannot resolve the dispute and the decision of management is unsatisfactory to the grievant, the dispute reverts to the joint grievance board, which selects the arbitrator. All Department of Interior agreements studied contained this provision:

(85) The union and the administrator shall each appoint two members and two alternates to a joint grievance board which shall hear disputes submitted to it in accordance with this grievance procedure.

The joint grievance board shall meet and set the time for its hearing of the case within 7 calendar days after receiving a grievance . . . The board shall apply its best efforts to determine pertinent facts and shall attempt by majority vote to formulate a recommended settlement . . . /If/ no recommendation can be reached within this period, both parties shall be so notified.

Within 10 calendar days after the division chief receives the report from the joint grievance board, he shall inform the employee, the union, and the branch chief of his proposed settlement.

If the employee then wishes to take the grievance to arbitration, he will within 10 calendar days request the joint grievance board to appoint an arbitrator.

Having chosen the arbitrator, the parties' desire for a prompt resolution of the dispute has resulted in a time limit upon the arbitrator. Commonly, the arbitrator must submit his advisory opinion within 30 days after the close of hearings. The language utilized is almost standard in Federal agreements:

(86) The arbitrator will be requested by the employer and the /union/ to render his recommendations as quickly as possible, but in any event, within 30 calendar days after the close of the proceedings.

As in private industry, arbitration costs are borne equally by the parties, [12] except that in the Federal Government the total cost is limited by existing rules and regulations. The maximum monetary amount may be specified and related expenses, such as the cost of shorthand reporters, also may be allowed:

(87) The fee and the expense of the arbitrator shall be borne equally by /the employer and the union/ except payment may not exceed the maximum authorized by current regulations and will not exceed $150 per day . . .

(88) The fee and expense of the arbitrator shall be borne equally by the employer and the union provided that the per diem cost to the employer shall not exceed that authorized by law for experts and consultants. The cost of a shorthand reporter or reporters, if requested by the arbitrator, shall be shared equally by the parties . . .

The agreement to share cost may specify separately items such as arbitrator fees, arbitrator expenses, cost of hearing facilities, and cost of other services:

(89) The arbitrator's fee shall not exceed $150 per day. The arbitrator's fee and expenses shall be borne equally by the employer and the /union/ except that the employer's share of the per diem cost of the arbitrator's expense shall not exceed that authorized by applicable regulations. In the event hearings are held in facilities not under the administrative control of the employer, the cost of such facilities shall be borne equally by the employer and the /union/. Further, the employer and the /union/ shall share equally the expenses of any mutually agreed upon services considered desirable or necessary in connection with the arbitration proceedings.

When the arbitrator requests a transcript of the proceedings, the parties may agree to share the costs. If either party wants a transcript, it pays the full cost and the second party subsequently may purchase a copy:

(90) In those cases where either party deems it necessary, it may arrange that a transcript of the arbitration hearing be made by a qualified shorthand reporter. The party making such arrangement shall bear the full cost thereof. The other party may purchase a copy of the transcript. If the arbitrator requests a hearing transcript, the expense of the original copy and the reporter's fee shall be borne equally. . .

Official Time Off

To facilitate the movement of complaints through the grievance steps and arbitration, over three-quarters of the agreements having such procedures permitted paid time off to persons involved. [13] (See following tabulation.) These covered almost four-fifths of the employees under negotiated grievance and arbitration procedures. As a rule, the provisions differentiated between the early preparatory steps of the grievance, and the later formal grievance steps and arbitration hearings. Official time off was provided most often for grievance meetings, less often for arbitration hearings, and least frequently for preparation of grievances:

	Agreements	Employees covered
Total, with negotiated grievance procedures	380	245,863
Providing official time off	291	195,190
Grievance preparation	93	94,101
Grievance processing	239	175,168
Arbitration	212	156,639
No reference to official time off	89	50,673

NOTE: Nonadditive.

[12] Section 14 of Executive Order 11491 specifically stipulates equal sharing.

[13] The Federal Personnel Manual, chap. 771, which is the basic guideline for employee grievance and arbitration systems, stipulates a reasonable amount of official time for grievants, representatives, and witnesses.

The low incidence of official leave to prepare for grievances may indicate that in many cases grievance processing also includes grievance preparation. Relative to the total number of negotiated provisions, time off is more likely to be granted for arbitration than for grievances.

When time off was allowed to help prepare a grievance, the clauses overwhelmingly applied to union representatives:

	Agreements	Employees covered
Total granting time off for grievance preparation ----	93	94,101
Time off for:		
Grievant ----------	7	2,249
Union representatives ----------	78	81,447
Grievant and union representative ----------	8	10,405

The prevalence of clauses citing union representatives and the low incidence of those citing the grievant reflects, first, the unions' need to establish the right of its representatives to be available to service the needs of members. Secondly, the formalization into contract language of existing practices permits complaining employees to be consulted about their grievances without economic loss to the union representatives.

Few provisions left the amount of time off unlimited. Often justification for such leave was required:

(51) The employee and his representative will be afforded a reasonable time, up to a maximum of 8 hours, without charge to leave to prepare for discussions and presentation of his grievance to the employer's representative.

(91) Since the proper preparation of a grievance may require some official time during normal working hours, the personnel officer will grant the grievant and/or his representative, upon written justification of the need therefore, official time commensurate with said need.

Other agreements set no specific time limit, but used words such as excessive or unreasonable use of time. In all of these clauses, the underlying goal was to minimize the loss of production to the employer. The second illustration prohibited the union representative from soliciting grievances on Government time:

(92) Reasonable time will . . . be granted for representatives to discuss with employees grievances and appropriate matters directly related to the work situations in their areas. The lodge representatives will guard against the use of excessive time in the handling of such matters.

(93) Time off during working hours will be permitted without loss of pay or benefits of any kind to permit . . . stewards to discuss with employees and cognizant management officials grievances and other appropriate matters . . . They may receive and investigate but may not solicit grievances. The union agrees, whenever business of any nature is being transacted during working hours, only that amount of time reasonable and necessary to bring about a prompt and expeditious disposition of the matters will be utilized.

(94) The union representatives . . . may receive and investigate . . . complaints or grievances of employees on government time or property . . . Union representatives will guard against excessive use of time in handling matters necessitating their absence from their work assignment. The steward and union representatives may engage in such activities without suffering any loss in pay or benefits of any kind.

Provisions stipulating time off while the grievance was being processed through its various steps (1) again provided official leave most often to union representatives, (2) said little about time off for the grievant since a complaining employee would be given official leave to process his grievance, and (3) granted leave to witnesses about as often as to union representatives:

	Agreements	Employees covered
Total granting time off for grievance processing	239	175,168
Time off for:		
Union representative only	74	25,297
Grievant only	3	1,712
Witness only	81	64,803
Union representative and grievant	16	12,328
Union representative and witness	52	66,147
Union representative, grievant, and witness	13	4,881

Provisions granting time off to grievants and union officials for processing complaints were basically the same in language as those cited previously for preparing grievances, including the caution to union representatives not to abuse official time off. Provisions permitting official leave to witnesses usually stipulated that witnesses could be called in at any step of the procedure:

(95) At each and every step of the grievance procedure, the union shall be permitted to call relevant employee witnesses who shall suffer no loss of pay for so serving.

(65) At any of the steps of the grievance procedure set forth in this article, both parties shall have the right to call a reasonable number of relevant employee witnesses. Such employee witnesses shall suffer no loss of pay or leave for the time spent in testifying.

Over half of the provisions referring to witnesses were found in Navy agreements.

Four-fifths of the agreements having advisory arbitration, covering the same proportion of workers, provided official time off for individuals participating in such hearings. In contrast to those referring to processing grievances, which stressed time off for union officials and witnesses, advisory arbitration provisions overwhelmingly granted official leave to all three participants:

	Agreements	Employees covered
Total provisions with advisory arbitration	266	194,669
Providing official time off	212	156,639
Union representatives only	25	2,998
Witnesses only	9	2,254
Union representatives and witnesses	2	534
Union representatives, grievants, and witnesses	176	150,853

Provisions generally scheduled hearings during working hours at the same time that they granted full pay status to participants:

(53) 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 pay status, without charge to annual leave, while participating in the arbitration proceedings.

In the General Services Administration, arbitration hearings were scheduled during the day shift, but the agency was safeguarded against paying overtime wages to participants:

(96) The arbitration hearing shall, whenever practicable, be held at the GSA during the regular day shift work hours of the normal GSA basic work week. The aggrieved employee as well as his representative and necessary witnesses who are GSA employees shall be in a pay status without charge to annual leave while participating in the arbitration proceedings. However, in no event will the employee, his representative and witnesses, if employees of GSA, be paid overtime by reason of participation in the arbitration proceedings.

Table 8. Provisions for advisory arbitration of grievances in Federal collective bargaining agreements by agency, 1967

Agency	Total with negotiated procedures		Total with advisory arbitration		No reference	
	Agreements	Employees	Agreements	Employees	Agreements	Employees
Total	380	245,863	266	194,670	114	51,193
Agriculture	6	5,073	3	3,806	3	1,267
Commerce	7	1,810	5	506	2	1,304
Defense	5	2,565	4	2,344	1	221
Air Force	12	5,741	11	5,641	1	100
Army	53	31,849	42	25,845	11	6,004
Navy	127	127,321	100	114,576	27	12,745
Health, Education, and Welfare	4	1,412	2	1,283	2	129
Interior	45	4,148	45	4,148	-	-
Justice	8	1,160	5	778	3	382
Labor	1	3,835	1	3,835	-	-
Transportation	30	4,130	12	2,141	18	1,989
Treasury	4	410	4	410	-	-
Atomic Energy Commission	-	-	-	-	-	-
Civil Service Commission	-	-	-	-	-	-
General Services Administration	8	670	6	534	2	136
Interstate Commerce Commission	-	-	-	-	-	-
National Aeronautics and Space Administration	5	5,484	3	509	2	4,975
National Labor Relations Board	5	1,529	2	1,260	3	269
Railroad Retirement Board	1	1,612	-	-	1	1,612
Small Business Administration	-	-	-	-	-	-
Smithsonian Institution	3	435	1	235	2	200
Tariff Commission	1	8	-	-	1	8
Tennessee Valley Authority	3	17,978	3	17,978	-	-
Veterans Administration	52	28,693	17	8,841	35	19,852

Chapter V. Grievance, Arbitration, and Negotiation Impasse Procedures in the National Postal Agreement [14]

The National Post Office agreement covered more employees (608,833) than all other agreements combined (375,485), and constituted just over three-fifths of all employees covered by exclusive recognition agreements in the Bureau's study (table 1). The six affiliated unions and unaffiliated labor organization which are parties to the agreement cover 86 percent of the Post Office's 1967 employment. [15] The following table compares employment coverage and union membership for 1964 and 1967 for the seven labor organizations:

Employee organization	1967		1964	
	Employment coverage	Union membership [1]	Employment coverage	Union membership [1]
National Association of Letter Carriers of the U. S. A-----	192,045	210,000	171,351	167,913
United Federation of Postal Clerks ----------	306,729	166,000	228,740	139,000
National Rural Letter Carriers Association (Ind.) --------	30,727	41,192	43,276	42,300
National Association of Post Office and General Service Maintenance Employees ----------	21,054	13,175	19,805	8,424
National Association of Special Delivery Messengers ----	4,716	2,605	4,018	1,500
National Federation of Post Office Motor Vehicle Employees ----------	10,878	8,000	4,224	6,200
National Association of Post Office Mail Handlers, Watchmen, Messengers and Group Leaders ----------	42,684	24,000	([2])	([2])

[1] Union membership is for 1968.
[2] Did not gain exclusive recognition until 1965.

NOTE: All unions are AFL-CIO affiliates unless designated independent (Ind.).

Since 1964 the number of employees represented by the department-wide postal agreement has increased more than 135,000. In addition to growth in coverage by 5 of the 6 signatories to the earlier agreement, an additional 40,000 employees were added when the National Association of Post Office Mail Handlers, Watchmen, Messengers and Group Leaders (AFL-CIO) [16] gained exclusive recognition in 1965.

Beyond the purview of this study are approximately 24,500 exclusive recognition local units that have negotiated more than 13,000 local postal agreements. Also excluded from the study's scope are four independent unions formally recognized at the national level. [17]

Negotiation Impasse Procedures

The department-wide postal agreement provides for mediation of impasses during national negotiations when requested by either party. Before mediation can be requested, all negotiable items must be disposed of and a final effort must be made to resolve the deadlocked issues. The party initiating mediation must notify the other party in writing.

The mediator is chosen from a list supplied by the Federal Mediation and Conciliation Service. Should the mediator fail to resolve the impasse, it is referred to the Postmaster General for final decision.

[14] The text of postal negotiation impasse and grievance and arbitration procedures appears in appendix B.
[15] See Union Recognition in the Federal Government, Statistical Report, November 1967, U. S. Civil Service Commission, Office of Labor-Management Relations.
[16] Affiliated with the Laborers International Union (AFL-CIO).
[17] National Alliance of Postal and Federal Employees; National Postal Union; National League of Postmasters of the United States; and National Association of Postal Supervisors.

The National Agreement also provided for referral to higher management and union authority when local negotiations reach an impasse after 14 days of bargaining. Attempts are made to settle the impasse, first by the regional director of industrial relations and the regional employee representative; failing resolution within 15 days, the deadlocked issues are forwarded to the Deputy Assistant Postmaster General, Bureau of Personnel, and the representatives of the national exclusive labor organization for further negotiation, again with a 15-day time limit. Settlement at either level is final and binding on the local negotiators. Failure to break the deadlock at the national level means that the issue dies for the life of the local agreement.

Grievance and Arbitration Procedures

A grievance, as defined in the agreement, is, "any cause for dissatisfaction outside an employee's control if the matter grows out of employment in the postal service and the remedy sought is within the authority of the Postmaster General or other postal official to whom such authority has been delegated." The agreement excludes from the grievance procedure matters such as the Department's mission, budget, technology, organizational structure, and personnel assignments "unless such assignment violates laws, regulations or policy." Also excluded from the grievance procedure are a number of items for which special appeals systems have been adopted. Among these are alleged violations of local agreements, appeals on promotions, denial of step increases because of unsatisfactory performance, adverse actions, grade level determinations, or allegations of discrimination.

When a grievance is processed, the union, if selected by the employee to represent him, is entitled to be present at all steps and to receive copies of written decisions and summaries. When the grievant does not select the union to represent him, the union, nevertheless, retains the right to be present at all steps and to state its position on the grievance.

The negotiated grievance procedure is a multiple step system with provisions for a hearing committee, a Board of Appeals and Review, and advisory arbitration. At the initial or informal step of the procedure the grievance is discussed by the employee with his immediate supervisor. He may be accompanied, if he desires by his union representative, both of whom will be allowed sufficient official time to present the complaint. If not satisfactorily resolved within 3 days, the grievance may be discussed informally at the second step with the installation head. Alternatively, it may be reduced to writing and filed formally with the installation head.

If the decision of the installation head, which must be delivered in writing within 5 working days, is not satisfactory, the grievant then may proceed to the second level of appeal. Within 5 days after receiving the installation head's written decision, the grievant may request a hearing.

If a hearing is requested, within another 3 days a three-man committee will be formed, consisting of a member appointed by the grievant, another appointed by the installation head, and a chairman selected by the first two. All three must be employed in the Post Office Department. The committee conducts an informal hearing; no witnesses are cross-examined. Within 5 working days after completion of the hearings, the committee prepares a summary for the installation head, the grievant, and his representative, together with its decision. The hearing committee's decision is binding unless appealed within 10 working days.

When the grievant, his representative, or the installation head is not satisfied with the hearing committee's decision, or when the grievant has not requested a hearing, the grievance is taken to the second appeal level. The second appeal level varies according to the type of postal installation—the Regional Director for Post Offices and

Regional Headquarters Offices, the Bureau Head or Chief Postal Inspector in other cases. Before the decision at the second appeal level, the grievant or his representative may request an informal discussion with the Regional Director of the Industrial Relations Division who will attempt to arrive at a settlement. If travel is involved, the employee will pay his own expenses and take annual leave or leave without pay.

If the Director of the Personnel Division fails to resolve the issue, the grievance will be certified to the Regional Director within 3 days. Within an additional 10 days, the Regional Director will render a decision based solely on the information already contained in the grievance file.

At this point, should the grievant wish to appeal further, he may request a review at the Department level by the Board of Appeals and Review or he may request advisory arbitration. If selected, the Board of Appeals and Review may grant a further hearing, or discuss the case with the grievant and/or his representative. If another hearing is held and if the national exclusive organization does not represent the grievant, it, nevertheless, will be notified, permitted to be present and to state its point of view on the grievance. The decision that the Board finally renders is considered to be that of the Postmaster General, except for promotional appeals. In that case, the Assistant Postmaster General, Bureau of Personnel, may render a final decision based on the Board's recommendations. Throughout these procedures the Postmaster General retains residual authority.

Advisory Arbitration

If the employee chooses advisory arbitration rather than the Board of Review and Appeals and if the union consents to pay one-half the arbitration cost, the grievance will be presented to an arbitrator selected from a list submitted by the Federal Mediation and Conciliation Service. Within 30 days after receipt of files, he will make an advisory award based on the record established. His award may be appealed by either party to the Assistant Postmaster General, Bureau of Personnel.

Special Procedures

An employee may grieve denial of promotion under the established grievance procedure when the basis for the grievance is an alleged procedural error or the grievant's qualifications. Any other appeal from a promotional decision follows a special procedure.

Grievances alleging violation of the local agreement may be processed through the established procedure only through the installation head. At that point the grievance is appealed to a Labor-Management Committee. If not resolved, the complaint is certified to the regional director who will make the final decision.

Grievances involving an appeal from a withheld salary step-increase are processed through an independent procedure which, in some respects, differs in structure from the negotiated procedure. The first level of appeal, for example, provides for a fact-finder or "hearing officer-investigator," and the final appeal is to the Board of Review and Appeals, referred to earlier, with no recourse to advisory arbitration.

Pay Status

The National Postal agreement does not provide for the pay status of employee witnesses called to testify during a grievance proceeding. As noted earlier, a "reasonable amount" of official time is provided for the employee and his representative.

Appendix A

Identification of Clauses

Clause number	Agency, installation, and employee organization
1	Army, Atlanta Army Depot, Forest Park, Ga. Service Employees (SEIU)
2	Army, Fort Sam Houston, San Antonio, Tex. Government (AFGE)
3	Army, Ryukyu Islands Command, Okinawa, Japan Government (AFGE)
4	Veterans Administration Hospital, Beckley, W. Va. Government (AFGE)
5	Defense, Armed Forces Institute, Madison, Wis. Government (AFGE)
6	Air Force, Hill AFB, Utah Government (AFGE)
7	Army, New Cumberland Army Depot, New Cumberland, Pa. Government (AFGE)
8	Veterans Administration Hospital, Iron Mountain, Mich. Government (AFGE)
9	Army, U.S. Army Engineer District, Baltimore, Md. Government (AFGE)
10	Agriculture, Consumer and Marketing Service, Meat Grading Branch, Sioux City, Iowa Government (AFGE)
11	Army, Brooke Army Medical Center, Fort Sam Houston, Tex. Government (AFGE)
12	Veterans Administration Regional Office, Lincoln, Nebr. Government (AFGE)
13	Veterans Administration Regional Office, Providence, R.I. Government (AFGE)
14	Army, U.S. Army Advisor Group Fort Hayes, Columbus, Ohio Government (AFGE)
15	Health, Education and Welfare, Social Security Administration, District Office, San Jose, Calif. Government (AFGE)
16	Air Force, Griffiss AFB, New York Fire Fighters (IAFF)
17	General Services Administration, Region 3, Arlington, Va. Fire Fighters (IAFF)
18	Commerce, Weather Bureau, Environmental Science Services Administration, Jacksonville, Fla. Government (AFGE)
19	Army, Red River Army Depot, Fort Riley, Kans. Government (AFGE)
20	Health, Education and Welfare, Social Security Administration, Payment Center, Philadelphia, Pa. Government (AFGE)
21	Air Force, Luke AFB, Arizona Government (AFGE)
22	Agriculture, Consumer and Marketing Service, Tobacco Division, Washington, D.C. Tobacco Inspectors (FTIMA) (Ind.)
23	Agriculture, National Forests of Texas, Lufkin, Tex. Government (AFGE)

Clause number	Agency, installation, and employee organization
24	Agriculture, Agricultural Research Service, Animal Disease Laboratory, Ames, Iowa Government (AFGE)
25	Army, Army Armor Center, Fort Knox, Ky. Retail Clerks (RCIA)
26	Justice, U.S. Penitentiary, Lewisburg, Pa. Government (AFGE)
27	Defense, Defense Contract Administration Services Region, Camden, N.J. Government (AFGE)
28	Commerce, Maritime Administration Olympia Reserve Fleet, Olympia, Wash. Government (AFGE)
29	Defense, Contract Administration Services Office, Huntsville, Ala. Government (AFGE)
30	Interior, Bureau of Reclamation, Region 6, Billings, Mont. Electrical, Brotherhood (IBEW)
31	Agriculture, Office of the Inspector General, Washington, D.C. Federal Employees (NFFE) (Ind.)
32	Army, Anniston Army Depot, Anniston, Ala. Government (AFGE)
33	Veterans Administration Hospital, Montrose, N.Y. Federal Employees (NFFE) (Ind.)
34	Army, U.S. Army Training Center, Fort Leonard Wood, Mo. Retail Clerks (RCIA)
35	Veterans Administration Hospital, Louisville, Ky. Government (AFGE)
36	Army, District Corp of Engineers, Savannah, Ga. Government (AFGE)
37	Interior, Bureau of Reclamation, Columbia Basin Project, Ephrata, Wash. Columbia Basin Trades Council (CBTC)
38	Veterans Administration Hospital, Leech Farm Rd., Pittsburgh, Pa. Postal and Federal (NAPFE)
39	Interior, Bureau of Indian Affairs, Wapato Irrigation Project, Wapato, Wash. Federal Employees (NFFE) (Ind.)
40	Air Force, Whiteman AFB, Mo. Government (AFGE)
41	Navy, Naval Ordnance Station, Indian Head, Md. Machinists (IAM)
42	Army, U.S. Army, Hawaii Machinists (IAM)
43	Veterans Administration Hospital, West Haven, Conn. Government (AFGE)
44	Agriculture, Agricultural Research Service, Plant Quarantine Division, Washington, D.C. Federal Plant Quarantine Inspectors (FPQT) (Ind.)
45	Veterans Administration Center, Dublin, Ga. Government (AFGE)
46	Health, Education and Welfare, Social Security Administration, Miami District Office, Miami, Fla. Government (AFGE)
47	Agriculture, Agricultural Research Service, Northern Utilization Research and Development Div., Peoria, Ill. Federal Employees (NFFE) (Ind.)
48	Interior, Bureau of Commercial Fisheries, Region I, Seattle, Wash. Alaska Fishermen's Union (SIU)

Clause number	Agency, installation, and employee organization
49	Navy, Marine Corp Air Station, Cherry Point, N. C. Machinists (IAM)
50	Transportation, Coast Guard Base, Boston, Mass. Government (NAGE) (Ind.)
51	Air Force, Otis AFB, Mass. Government (NAGE) (Ind.)
52	Air Force, Wright-Patterson AFB, Dayton, Ohio Machinists (IAM)
53	Army, Red River Army Depot, Texarkana, Tex. Chemical Workers (ICW)
54	Navy, Naval Communication Station, Honolulu, Hawaii Machinists (IAM)
55	Veterans Administration Center, Bay Pines, Fla. Government (AFGE)
56	Interior, Geological Survey, Map Reproduction Branch, Washington, D. C. Lithographers (LPIU)
57	Transportation, Federal Aviation Administration, Headquarters, Wash., D.C. Machinists (IAM)
58	Veterans Administration Hospital, Wilmington, Del. Laborers (LIU)
59	Navy, Naval Air Station, Brunswick, Maine Government (NAGE) (Ind.)
60	Transportation, Federal Aviation Administration, Maimi Air Research Traffic Control Center, Miami, Fla. Government (NAGE) (Ind.)
61	Army, Red River Army Depot, Texarkana, Tex. Plumbing and Pipe fitting (PPF)
62	Interior, Bureau of Indian Affairs, Flathead Irrigation Project, Billings, Mont. Electrical, Brotherhood (IBEW)
63	Navy, Naval Air Station, Whidbey Island, Wash. Government (AFGE)
64	Justice, Federal Youth Center, Kentucky Government (AFGE)
65	Navy, Public Works Center, Pearl Harbor, Hawaii Machinists (IAM)
66	Transportation, Federal Aviation Agency, New Castle Airport Traffic Control Tower, Del. Government (NAGE) (Ind.)
67	Navy, Military Sea Transport Service, Far East Area, Yokohama, Japan Military Sea Transport Union (SIU)
68	Commerce, National Bureau of Standards, Washington, D. C. Metal Trades Council (MTC)
69	Interior, Bureau of Indian Affairs, Chemawa Boarding School, Chemawa, Oreg. Federal Employees (NFFE) (Ind.)
70	Navy, Naval Ammunition Depot, Oahu, Hawaii Government (AFGE)
71	Transportation, National Aviation Facilities Experimental Center, Atlantic City, N. J. Machinists (IAM)
72	Navy, Military Sea Transport Service, Atlantic, Brooklyn, N. Y. National Maritime Union (NMU)
73	Veterans Administration Hospital, Pittsburgh, Pa. Government (AFGE)

Clause number	Agency, installation, and employee organization
74	Army, U.S. Army Electronic Command, Fort Monmouth, N.J. Government (AFGE)
75	Air Force, McGuire AFB, N.J. Government (AFGE)
76	Agriculture, Consumer and Marketing Service, Poultry Division Inspection, Atlanta, Ga. Government (AFGE)
77	Army, Rock Island Arsenal, Rock Island, Ill. Machinists (IAM)
78	Commerce, Weather Bureau, Environmental Science Services Administration, New York, N. Y. Government (NAGE) (Ind.)
79	Army, Mobile District Corp of Engineers, Mobile, Ala. National Maritime Union (NMU)
80	Transportation, Minneapolis Air Research Traffic Control Center, Minneapolis, Minn. Government (NAGE) (Ind.)
81	Navy, Naval Construction Battalion Center, Davisville, R.I. Government (NAGE) (Ind.)
82	Navy, Naval Supply Center, Oakland, Calif. Government (AFGE)
83	Transportation, Roanoke Airport Traffic Control Tower, Roanoke, Va. Government (NAGE) (Ind.)
84	Agriculture, Consumer and Marketing Service, Office of the Administrator, Washington, D.C. Government (AFGE, National Joint Council of Food Inspection Locals)
85	Interior, Bonnville Power Administration, Portland, Oreg. Government (AFGE)
86	Navy, Marine Corps Air Facility, Santa Ana, Calif. Government (AFGE)
87	Navy, Naval Oceanographic Office, Suitland, Md. Lithographers (LPIU)
88	Treasury, Bureau of Engraving and Printing, Washington, D.C. Printing Pressmen (IPPA)
89	Navy, Naval Air Station, Virginia Beach, Va. Metal Trades Council (MTC)
90	Navy, Public Works Transportation Center, San Francisco, Calif. Machinists (IAM)
91	Commerce, Patent Office, Washington, D.C. Patent Office Professional Association (POPA) (Ind.)
92	Justice, Federal Prison Camp, Alabama Government (AFGE)
93	Navy, Norfolk Naval Shipyard, Norfolk, Va. Technical Engineers (AFTE)
94	Treasury, Bureau of Engraving and Printing, Washington, D.C. Electrical Workers (IBEW)
95	Army, Fort Lewis, Tacoma, Wash. Machinists (IAM)
96	General Services Administration, Region I, Waltham, Mass. Government (NAGE) (Ind.)

Appendix B

1968–70 National Postal Agreement's Grievance, Arbitration, and Negotiation Impasse Resolution Procedures

Procedures Covering Local Negotiations

. . . If the other party considers the proposal non-negotiable, it shall so state in writing, giving specific reasons why. A mere statement such as "it is a prerogative of management," is not sufficient. Any proposal which has a direct effect on personnel policies, practices and working conditions and is not barred by Rule 13 is a proper subject for negotiation.

b. If agreement cannot be reached on the allegation of "non-negotiability", the questions shall immediately be referred to the **Regional Director of Industrial Relations** and the Regional Representative(s) of the Organization(s) for joint determination. Such submissions shall be signed by the Chief Negotiator of both parties **and forwarded by the Installation Head to such designated officials at the regional level.**

(1) **If agreement is reached at the regional level within 10 days of receipt the decision shall be binding on the local parties.**

(2) **If agreement cannot be reached at the regional level, the questions shall immediately be referred to the Deputy Assistant Postmaster General, Bureau of Personnel, and the Representative(s) of the National Exclusive Organization(s) for determination. Such submission shall be signed by both parties and forwarded to such designated officials at the National Level by the Regional Director of Industrial Relations.**

c. **When a determination is reached after the close of the negotiation period that a proposal(s) is negotiable, the parties will be given an additional period of one day to attempt to reach agreement on such proposal(s).**

d. **Agreements will not be signed until disposition of proposal(s) has been made under a, b, and c above.**

17. When a proposal has been tentatively agreed upon by both parties, it shall be initialed by both parties. This does not prevent the proposal being reopened during the current negotiation period.

18. It is mutually agreed that an impasse occurs only after both parties have presented proposals and counterproposals in good faith and both parties have considered the proposals and counterproposals of the other party in good faith and despite such honest and diligent efforts no agreement can be reached on the subject being negotiated. When it has been determined that an impasse has been reached **on a particular proposal, the following procedures shall apply:**

a. Impasse items shall be reported at the close of the first **14 days** of negotiations and at the conclusion of negotiations to the **Regional Director of Industrial Relations** and the Regional Representative(s) of the Organization(s) for joint consideration. Such submission shall be signed by the **Installation Head to the Regional Director of Industrial Relations and the Regional Representative(s) of the Organization(s).**

b. If agreement is reached at the regional level within 15 days of receipt the decision shall be binding on the local parties.

c. If mutual agreement cannot be reached at the regional level, the impasse shall be forwarded promptly to the Deputy Assistant Postmaster General, Bureau of Personnel and the representatives of the National Exclusive Organization(s) concerned for consideration. Such submission shall be signed by the **Regional Director of Industrial Relations** and the Regional Employee Representative(s) and forwarded to **the Deputy Assistant Postmaster General, Bureau of Personnel and the representatives of the National Exclusive Organization(s).**

d. A decision shall be reached within 15 working days of receipt and proper notification of representatives of the employee organization(s) involved by the Department. If the representative of the employee organization(s) involved fails to meet in an effort to resolve the impasse during the stipulated time, the impasse will be considered unresolved.

e. The decision at the national level shall be binding on the local parties. If no decision is reached **at the national level** the impasse issues will fail and not be subject to further negotiation during the life of the local agreement.

f. **If the impasse being processed involves local affiliate(s) of the National Exclusive Organization for the craft, Department and/or Regional officials will meet only with national and/or regional representatives of the National Exclusive Organization(s) concerned. If the impasse being processed involves a local organization not affiliated with the National Exclusive Organization for the craft, Department and/or Regional officials will meet simultaneously with the national and/or regional representatives of the National Exclusive Organization(s) concerned and with the national and/or regional representatives of the local organization.**

g. Final signing of local agreements shall not be later than 15 days after both local parties have been notified of action taken on all impasses at the regional or national level.

19. Issues not made the subject of negotiation during the negotiating period can be negotiated no sooner than 120 calendar days after the effective date of the local agreements and only by mutual consent of the parties. Either party desiring to negotiate such items must designate their intention by sending a ten-calendar day written notice to the other party. These negotiations must begin within 15 calendar days after receipt of the notice and cannot continue for more than ten calendar days.

20. None of the issues agreed upon during the principal negotiating period can be renegotiated during the life of the local agreement.

21. The installation head shall furnish signed copies of all negotiated agreements to the following: two (2) copies to the **Regional Director of Industrial Relations;** one (1) copy each to the Regional Representative of the **National Exclusive** Organization; **and one (1) copy to the** National Headquarters of the National Exclusive Organization, **and one (1) copy to** the Local Chief Negotiator of each of the crafts concerned.

Grievance Procedure

A. Definition

1. A grievance is any cause for dissatisfaction outside an employee's control if the matter grows out of employment in the Postal Service and the remedy sought is within the authority of the Postmaster General or other

postal official to whom such authority has been delegated. Grievances shall not be accepted for processing which are based upon matters such as the mission of the Department, its budget, the technology of performing its work, its organization, and assignment of personnel unless such assignment violates laws, regulations or policy.

2. Grievances on alleged violations of local agreements must be processed under the section of this procedure on violations of local agreements.
3. Grievances on promotions must be processed under the section of this procedure on promotion appeals.
4. Appeals on the denial of a salary step-increase when the denial is based on unsatisfactory service during the required period of satisfactory service must be processed through the procedures established in Paragraph S of this Article.
5. Appeals from adverse actions, determination of grade level, cases of alleged discrimination because of race, creed, color, national origin **or sex** and interpretations or alleged violations of this Agreement will be made through separate procedures. Dissatisfactions arising out of a decision appealed through compensation, adverse action or equal employment opportunity procedure are not subject to further appeal under the grievance procedure.

B. Guides for Supervisors

1. Most grievances arise from instances of misunderstandings or problems that should be settled promptly and satisfactorily on an informal basis at the supervisory levels before they become formal grievances. The prompt settlement of these problems is desirable in the interest of sound employee-management relations. To this end, the practice of friendly discussions of problems between employees and their supervisors is not only encouraged but directed.
2. The immediate supervisor must maintain an atmosphere in which the employee can speak freely. Complaints shall be given careful and unprejudiced consideration.
3. Fair and prompt handling by the immediate supervisor will result in the satisfactory settlement of a large majority of these problems at the work level.
4. To accomplish this, it is directed that these problems be settled wherever possible at the earliest stage of discussion. Every reasonable effort shall be made to avoid referral to the grievance procedure.

C. Eligibility to Appeal

Any employee, except Christmas or seasonal assistants, may file a grievance appeal, provided action on such appeal is initiated within thirty (30) working days from the date of the action or condition giving rise to the grievance. An employee organization may file an appeal on behalf of an employee(s) provided the employee(s) has (have) so authorized the organization in writing.

D. Grievance Steps at Installation Level:

1. Whenever an employee considers himself aggrieved, he shall discuss the matter with his immediate supervisor. If he desires, he may be accompanied by a representative of his own choice. Both the aggrieved and his representative shall be allowed a reasonable amount of official time to present the grievance. There shall be no delay and normally the efforts of the supervisor to resolve the grievance shall not exceed three (3) working days.
2. If the immediate supervisor cannot resolve the grievance the employee has the right to discuss the grievance with the head of the installation or his designee, and to be accompanied by his representative. Both the aggrieved and/or his representative shall be allowed a reasonable amount of official time to present the grievance. The designee must have authority to resolve the grievance.
3. If as a result of such discussion at Step (2) the grievance is not resolved or if the employee does not wish to discuss the grievance at Step (2) it shall be reduced to writing and filed with the head of the installation.
4. The grievance shall be signed by the employee or, if he so authorizes in writing, it may be signed by his employee organization representative or by his own chosen representative. It must contain the following information:
   a. Title and grade level of grievant
   b. Nature of grievance
   c. Corrective action requested and reasons
   d. Summary of efforts made to resolve grievance informally.
   e. Name of designated representative (individual or organization) if any.

E. An Individual's Right To Be Represented

1. An employee has the right to select whomever he desires to represent him at each level of the grievance procedure. In the event that the person selected at the various levels is someone other than a representative of the exclusive organization, the exclusive organization at that level has a right to be present.
2. When an employee requests an organization rather than an individual to represent him in a grievance procedure, management will recognize the President of that organization as the representative, unless that official designates another organization representative.

F. Right of Organization With Exclusive Recognition

The exclusive organization at each level has the following rights in grievance matters processed at that level:

1. To be notified of the time and place of the proceedings at each step of the grievance beginning with discussion with the head of the installation or designee.
2. To be present at all steps of the grievance procedure. (No right to be present at initial contact with supervisor if the aggrieved has not selected a representative.)
3. The organization, if any, with exclusive recognition at the level where the grievance is being processed shall be furnished with a copy of the written decision and summary, at any step at which a written decision and/or summary is involved.
4. If not the designated representative of the grievant, shall have an opportunity to state the exclusive organization's position on the grievance. This right shall be exercised only one time, at each step, and shall follow the presentation made by the employee and/or his representative.

G. Installation Head's Decision

Within five (5) working days from the receipt of the written appeal, the installation head shall render a written dated decision to the grievant and submit a copy to the employee's representative, if any. The letter of decision shall indicate as clearly as is practicable, without a detailed analysis, the basis for the action taken and must advise the employee of his right to appeal including the right to a hearing. The installation head shall establish an official grievance file for use in the event of a further appeal.

H. Appeal From Installation Head's Decision

1. If the grieved employee desires to appeal the decision of the head of the installation but does not desire a hearing,

he shall appeal within five (5) working days after receipt of the decision in writing to the second level of appeal. A copy of the appeal to the second level shall be furnished to the installation head who shall forward the entire grievance file to the second level of appeal along with his answer to the grievance, within five (5) working days. The installation head's answer should indicate as clearly as is practicable the basis for the action taken, a copy of which shall be sent to the grievant. The grievant may within five (5) working days after receipt of the installation head's answer file exceptions to the Regional Director. The grievant's exception will become a part of the grievance file and must be considered by the Regional Director in arriving at a decision.

2. The appeal shall contain the following information:
   a. Title and grade level of grievant
   b. Nature of grievance
   c. Corrective action requested and reasons
   d. Summary of efforts made to resolve grievance informally
   e. Name of designated representative (individual or organization) if any
   f. Decision of the installation head
   g. Any additional information pertinent to the grievance
   h. A request for informal discussion if such is desired.

I. Hearing

1. If the employee desires a hearing either he or his representative must notify the installation head in writing, within five (5) working days of the installation head's decision. The installation head shall within three (3) working days arrange for formation of a three-man hearing committee and he shall arrange a place for the hearing. The hearing committee will consist of the following members: the grievant will name the person of his choice to be a member, the installation head will name the second member, and these two members will agree, within three (3) working days, on a third member who will act as chairman. All three members must be employees of the postal service. At those installations where there are ten or less employees, the grievant and/or the installation head is permitted to name members from nearby postal installations employing more than ten people.
2. The hearing committee shall act as an unbiased group to hear and evaluate such information pertinent to the grievance as may be presented by the grievant and management of the installation. While the hearing committee will listen to and ask questions of both sides, there shall be no confrontation of witnesses nor shall either side be permitted to cross-examine the other. Persons appointed to the hearing committee must approach their duties with an open mind and their recommendations must be based on a fair evaluation of the facts without distortion or personal bias.
3. Conduct of the hearing shall be as informal as is consistent with an orderly presentation of the case. While the hearings will not be limited by legal rules of evidence and procedures, testimony should be within reasonable bounds of relevancy. Only one witness should be permitted at a time. The grievant and his representative shall be present throughout the hearing.
4. The installation head shall make available to the hearing committee all records and facts pertinent to the case, other than security or other classified material.
5. An abstract of the proceedings covering all pertinent facts shall be kept. The abstract shall be signed by and copies furnished to all members of the hearing committee. Within five (5) working days after the completion of the hearing, the hearing committee shall furnish the installation head, the grievant and his representative with a summary of the hearing together with its decision.
6. The decision of the hearing committee shall be binding at the expiration of ten (10) working days unless appealed at the next higher level by the grievant or his representative or the installation head within that period.
7. Because the decision of the hearing committee may have a substantial impact on the operations of the postal installation, it shall not be placed into effect until the installation head has had an opportunity to appeal at the second level. If no appeal is filed, the decision shall be carried out upon expiration of the appeal period. If an appeal is made by the installation head, the decision of the hearing committee shall be held in abeyance unless changed by the second level. The decision rendered at the second level of appeal is binding and shall be promptly implemented by the installation head.

J. Official Time, Installation Level

1. The employee and his chosen representative shall have a reasonable amount of official time to present his grievance. A reasonable amount of time is determined by local management, except that the chairman of the hearing committee rather than local management determines the length and the conduct of the hearing.
2. In those cases where an organization with exclusive recognition represents the unit in which the grievant is employed, but is not the grievant's chosen representative, the exclusive organization representative may attend all proceedings, as provided herein, with his attendance at the proceedings charged to annual leave or leave without pay at his discretion. (In no instance may such attendance be charged to official time.)
3. Members of the hearing committee and representatives for management shall be granted official time for necessary absences from their assigned tours.

K. Appeal From Hearing Committee Decision

1. If the decision of the hearing committee is not acceptable to the grievant or to the installation head, either party may appeal in writing within ten (10) working days from the hearing committee decision to the second level of appeal. The grievant shall request informal discussion at the regional level at the same time if he desires such discussion. As most postal installations are post offices the second appeal would be to the Regional Director and the procedures will be set forth accordingly. However, the procedures are equally applicable to all employees. The installation heads and the second levels of appeal are indicated in Section U.
2. If the grievant appeals, a copy of the letter of appeal shall be submitted to the installation head who shall promptly forward the grievance file to the Regional Director. Either party may file with the Regional Director exceptions to the summary of the hearing committee within the ten-day time limitation. The exceptions to the summary must be confined to the material appearing in the summary. In the event that either party to the grievance, or his representative, does not appear to make any presentation or give testimony, that party shall be denied the right to provide exceptions to the summary. If the installation head appeals he should submit the grievance file with the letter of appeal to the Regional Director and copy of the letter of appeal to the grievant.

L. Decision of the Regional Director

1. If the grievant or his representative requests informal discussion prior to the decision, the **Regional Director of Industrial Relations** shall then arrange for the employee and/or his representative to meet with him for informal discussion designed to arrive at a settlement. All travel and other costs on the part of the organization, the grievant or his representative shall be at his own expense. However, the Regional Director shall arrange to have annual leave or leave without pay granted at the option of each employee involved.
2. If the **Regional Director of Industrial Relations** is not able to arrive at an informal settlement of the grievance, he shall within three (3) days following the informal discussion submit the case to the Regional Director who shall render a decision based on the merits as contained in the record of the official grievance file within ten (10) days. If no informal discussions are held the decision will be rendered within ten (10) days after receipt of the file by the Regional Director.
3. No additional information shall be solicited by the Regional Director. However, the Regional Director may accept new relevant and material evidence which was not available at the hearing upon a showing by the party presenting the new evidence that it was not previously disclosed through no fault of the party making request for its consideration. Copies of the decision shall be forwarded to the grievant, his representative and the installation head. The basis for the decision shall be stated as clearly as practical and the grievant shall be notified of any further appeal rights.

M. Appeals From the Regional Director's Decision

The decision of the Regional Director may be appealed to the Department by the grievant or his representative within ten (10) working days from the date of the Regional Director's decision. The appeal should be addressed to the Board of Appeals and Review, Bureau of Personnel, Post Office Department, Washington, D.C. 20260. The appeal should contain a full statement as to the reason for appealing the decision and, in addition, may request an opportunity for discussion of the case at the Departmental level. The appellant or his representative shall send a signed copy of the letter of appeal to the Regional Director. Upon receipt of this copy of a letter of further appeal, the Regional Director will promptly forward the entire grievance file to the Board of Appeals and Review, Bureau of Personnel.

N. Review by Board of Appeals and Review, Bureau of Personnel

1. The Board of Appeals and Review, Bureau of Personnel, will docket the appeal, notify the employee and other interested parties of its receipt, and schedule it for review. There is no right to a hearing at this level, but an additional hearing may be granted if such is deemed warranted. If a hearing is not held the grievant and/or his representative may discuss the case with the Board of Appeals and Review. If a hearing or discussion is scheduled at this level, the national Exclusive Organization, if not the representative, will be so notified and will be given an opportunity to be present throughout the proceedings and to state its position on the grievance.
2. The Board will render a decision on the appeal which shall be considered as the decision of the Postmaster General. In cases involving promotional matters, the Board may make a privileged recommendation to the Assistant Postmaster General, Bureau of Personnel, who will render the final decision.
3. The Board or the Assistant Postmaster General, Bureau of Personnel, as appropriate, will notify each party of the decision and will forward copies to appropriate postal officials, the Employee Organization with national exclusive recognition and such other parties deemed necessary.

O. Residual Authority

These procedures in no way impair the residual authority of the Postmaster General.

P. Termination

A grievance will be terminated when so requested by the grievant at any stage of the proceedings.

Q. Promotion Appeal Procedure

An employee may aggrieve under this Article the denial of promotion to the positions set forth in the list in the Supplemental Agreement on Seniority or any position or positions which may be added to that list that is to be filled by promotion on the basis of senior qualified. A decision may be appealed either on the basis of alleged procedural error or on the basis of qualifications. Any other promotion appeal shall be processed under the section of Article XXIII dealing with promotion appeals.

Advisory Arbitration and Optional Mediation

A. Advisory Arbitration

1. Coverage
   All craft or occupational group employees who are in units which are represented by an employee organization on an exclusive basis at the national level may request advisory arbitration of:
   a. The decision of the official at the first level of appeal of an adverse action.
   b. The decision of the official at the second level of appeal on grievances.
   c. The differences between the Department and the Organizations as to the meaning and application of the provisions of this Agreement which cannot be resolved and which are not proper subjects for appeal through grievance, adverse action, or other appeal procedures.
   d. **The decision of the Regional Director of Industrial Relations on allegations of violations of the Code of Fair Labor Practices.**

2. Limitations
   a. The arbitrator's award is subject to the provisions of existing or future laws, regulations and policies.
   b. The arbitrator's jurisdiction shall not be extended to include such areas of discretion or policy as the mission of the Post Office Department, its budget, its organization, the technology of performing its work and the assignment of its personnel.
   c. The arbitrator shall not have jurisdiction over promotions.
   d. The arbitrator shall have no power to add to or subtract from, to disregard or modify, any of the terms of this or any agreements made by the undersigned parties.

e. It is understood by the parties that any and all arbitration proceedings are:

(1) Advisory in nature with any awards or recommendations subject to the approval of the Post Office Department.

(2) Shall not extend to changes in or proposed changes in agreements or Department policy.

(3) Shall be invoked only with approval of the individual employee or employees concerned and the appropriate employee organizations party to this Agreement.

3. Procedures

a. An employee desiring arbitration of a decision of the official at the first level appeal of an adverse action or second level appeal of a grievance shall notify that official in writing and must submit the written consent of the organization having exclusive jurisdiction at the national level to pay one-half of the cost of arbitration. The request for arbitration and the consent of the organization must be filed within ten working days after receipt of the letter of decision from the official whose decision is appealed.

b. The official whose decision is appealed, within three working days of the receipt of the request to arbitrate, shall request the Federal Mediation and Conciliation Service to furnish a list of the names of five arbitrators from the list maintained by that Agency. No later than five working days after receipt of the list of arbitrators, the official whose decision is appealed and the appropriate representative of the employee organization will alternately cross off one at a time the names of arbitrators from the list furnished. After the parties have crossed off the names of four arbitrators, the name remaining on the list will be the arbitrator selected by the parties.

c. Within five working days after selection of the arbitrator and receipt of his consent to arbitrate the matter, the official whose decision is appealed shall forward the entire file to the arbitrator. The method to be used in arbitrating the dispute is under the arbitrator's jurisdiction and control, subject to such rules and procedures as the parties may jointly prescribe. He is to make his own awards and write his own opinions based on the record established. He may not delegate this duty and responsibility to others in whole or in part without the knowledge and prior consent of both parties. The power of the arbitrator may be exercised in the absence of any party, who after due notice, fails to be present or obtain a postponement. The advisory award of the arbitrator, however, must be supported by evidence as it cannot be based solely upon the default of a party.

d. The advisory award shall be made not later than thirty days from the date of the closing of the hearing, or the receipt of a transcript and any post-hearing briefs, or if oral hearings have been waived, then from the date of receipt of the final statements and proof by the arbitrator, unless otherwise agreed upon by the parties. However, a failure to make an advisory award within thirty days shall not invalidate an award.

e. The arbitrator's advisory award shall be mailed to the official whose decision has been appealed, the employee, and the employee organization. The advisory award of the arbitrator may be further appealed by either party within ten working days from date of receipt of the award.

f. Appeal from the arbitrator's advisory award shall be to the Assistant Postmaster General, Bureau of Personnel.

B. Optional Mediation

1. Introduction

In any national negotiations conducted between the parties pursuant to this Agreement, the respective bargaining committees shall make every good faith effort to reach agreement on all issues prior to invoking other provisions of this Article.

2. Definition of Impasse

It is mutually agreed that an impasse occurs after both parties have presented proposals and counter-proposals in good faith and both parties have considered the proposals and counter-proposals of the other party in good faith and despite such honest and diligent efforts no agreement can be reached on the subject being negotiated.

3. Procedures

a. When it has been determined that an impasse has been reached, the item shall be laid aside. After all negotiable items on which agreement can be reached have been disposed of, the parties shall once more attempt to resolve any existing impasse items.

b. If after such effort, either party concludes an impasse or impasses still exist, it may request mediation, notifying the other party in writing.

c. Within five days after such notification, the parties shall jointly request the Federal Mediation and Conciliation Service to provide mediation service, or if such mediation service is not available to provide a list of five qualified mediators from which a selection will be made.

d. Within five days after receipt of such list, the parties will meet for the purpose of selecting the mediator by alternately striking names until one remains. Such person shall be the duly selected mediator.

4. Duties and Responsibilities of Mediator

a. The mediator shall use his best efforts to bring the parties to an agreement on any and all impasses without taking sides.

b. **This will include any and all means he deems advisable providing he makes no public report or evaluation on the issues nor any public statement of findings of fact.**

5. Costs

The cost of the services of the mediator and any other mediation expenses jointly incurred shall be borne 50% by the Department and 50% by the Organizations.

6. Referral to Postmaster General

Any impasses not resolved through mediation shall be submitted to the Postmaster General for consideration. The Organizations may meet with the Postmaster General and may submit briefs, documentary evidence and other pertinent material on each unresolved impasse. His decision shall be final.

Appendix C

Grievance Arbitration Awards

To provide some insight into the issues that work their way through the various steps of the grievance procedure, this appendix presents several advisory arbitration decisions. They illustrate cases in which grievances have been upheld or denied, in whole or in part. Since these opinions antedate Executive Order 11491, they are all advisory in nature; they may be affirmed or denied by higher management authority, usually by a letter or a memorandum to the grievant or to the union. Under Executive Order 11491, however, arbitration will be binding, subject to a limited appeal to the newly established Federal Labor Relations Council.

A. UPHOLDING THE AGENCY'S POSITION

President
AFGE Lodge No. 1570
Federal Correctional Institution
Tallahassee, Florida 32304

Warden
Federal Correctional Institution
Tallahassee, Florida 32304

Re: Whether the Merit Promotion Plan had been followed in the filling of a vacancy of Federal Prison Industries Foreman and whether the contract between the Lodge and the institution had been followed

Gentlemen:

The grievance was filed by a member of Lodge No. 1570 of the American Federation of Government Employees AFL-CIO to determine the correctness of a promotion and/or lateral assignment in connection with a position as foreman of the canvas shop at the Federal Correctional Institution, Tallahassee, Florida.

The hearing was held in the recreation room of the Federal Correctional Institution, Tallahassee, Florida, on Tuesday, November 8, 1966.

A national representative of the AFGE (American Federation of Government Employees) from Montgomery, Alabama, presented the employees' position.

The Employee-Management Relations Officer of the Bureau of Prison Industries, Department of Justice, Washington, D.C., presented the institution's side of the question.

In essence, the complaint of the AFGE was that the grievant was not considered for a vacancy for which he was qualified and that the vacancy had not been posted. Specific attention was called to Supplementary Agreement (Rec'd Tallahassee, December 13, 1965, Warden's Office), particularly Article I, Section 1, second sentence and Article XIII, Section 1, second and third sentences. The grievant also made reference to Section 3 of the same article.

Article XIII

Promotions and Reassignments

Section 1. Promotions shall be made on the basis of qualifications, fitness, and merit. The selecting supervisor or official shall select that candidate who is best qualified in accordance with the spirit and intent of governing regulations outlined by the Civil Service Commission. In order to utilize fully the talents and abilities of employees in the unit who have demonstrated a high degree of potential for advancement and growth, such employees will be given full consideration for all vacancies whenever possible. Vacancies which come within the scope of career field programs and mandatory placement actions will be made in accordance with applicable regulations.

Section 2. In the selection process, due consideration shall be given to the seniority of the employee involved.

Section 3. Details of employees to perform duties of a higher level or a different line of work shall be rotated, to the maximum extent practicable, among the best qualified employees in accordance with applicable regulations. No detail will be made to avoid the principles of the Merit Promotion Program.

The Bureau of Prisons Delegation of Authority dated 5-6-66 (Section 3) under Explanation is herewith presented:

3. EXPLANATION. The authority delegated to the Director, Bureau of Prisons, and Commissioner, Federal Prison Industries, Incorporated,

allows him:

a. . . . to take final action in matters pertaining to the employment, direction, and general administration (including appointment, assignment, training, promotion, demotion, compensation, leave, classification, and separation) of personnel, except attorneys in the Bureau of Prisons, . . . in Classification Act grades GS-1 through GS-13 and in wage board positions.

Section I and Section II of the Merit Promotion Plan are herewith presented:

When higher positions become vacant they shall be filled by promotion of available and qualified employees who have demonstrated a potential for advancement.

When such employees are not available in the department or when qualifications of available persons outside the department are unquestionably superior, such positions shall be filled by appointment of persons outside the department.

In the consideration of employees of the department for promotion, areas of selection shall be sufficiently broad to assure that the number of available candidates makes possible the selection of a well-qualified employee for the vacancy to be filled.

Management has the responsibility to fill each job from among the best qualified to meet service needs who are available from within or without the Federal Prison Service.

Section II of the Merit Promotion Plan provides:

> Vacancies may be filled by reassignment or change to lower grade.
>
> Employees shall be considered automatically for all vacancies that occur within their line of work and for which they are qualified provided a PF-10 (promotion evaluation) with appropriate recommendations is on file.

4. Exhibit 6 (Notification of Personnel Action - Form 50) is the legal authorization for making the reassignment. Item 12 (Nature of Action) reflects Reassignment.

The last paragraph of Section I beginning "Management has the responsibility . . . from within or without the Federal Prison Service" is not being followed in this or other cases, apparently is not desired by either the AFGE or the Prison Industries Division of the Department of Justice and it would be my recommendation that it be deleted since it is not now or likely to be used in the future, and its presence may cause some difficulty in the future.

In the employer's brief on page 7 it is alleged "There were no protests from employees and is firm evidence that the practice (concerning reassignment without advertising) is a matter of policy and acceptable to employees."

The absence of protest does not constitute "firm evidence that the practice is a matter of policy and acceptable to employees," in my opinion. Another interpretation would be that the AFGE exercised restraint because it did not feel there was a qualified employee to fill the vacancy. In the instant case they (the AFGE) feel that it has a qualified candidate and elects to process this as a grievance. This is in accordance with the basic agreement.

The grievant was approved for a one hundred dollar ($100) Sustained Superior Performance Award on 11-8-60 and had a fifty dollar ($50) award approved on 10-10-63. A second fifty dollar ($50) suggestion award was approved on 10-30-64.

The evidence is substantial that the employee is doing a very satisfactory job in his present position and is highly regarded by both his employers and his co-workers.

The facts in the case clearly indicate, however, that in the absence of a favorable PF-10 (promotion evaluation) along with appropriate recommendations on file, the grievant is not being passed over or his rights disregarded in any way. Faced with the practical problem of reassigning a superfluous employee from Atlanta to a position he was capable of filling (first by detail and then by reassignment) precluded advertising. Communications may have been faulty, but certainly there was no malice or trickery involved. The reassignment does not constitute a violation of the supplementary agreement, in my opinion.

In summation - the Department of Justice's action does not violate the Merit Promotion Plan.

R/W

Royal Mattice
Arbitrator

B. MODIFYING THE AGENCY'S ACTION

U.S. Naval Supply Center
Charleston, South Carolina

AND

The Charleston Metal Trades Council
Charleston, South Carolina

Arbitration hearing held in Charleston, S.C., June 7, 1967

The major facts in this case are not in dispute and have been brought out at previous hearings. In summary, J.J., a laborer with some 24 years' service, was apprehended at the gate when leaving work on December 28, 1966 with a piece of metal. Because of attempted removal of government property, Mr. J was suspended from work for a period of 10 work days, April 3, 1967 to April 14, 1967, inclusive. The union has appealed the suspension, requests that the discipline be changed to reprimand, and asks that he receive his pay for the 10-day period of suspension.

The union bases its case mainly on the following:

1. Mr. J has a third grade education, is functionally illiterate, and of limited intelligence.
2. He has a long record of employment at the base.
3. The piece of metal allegedly stolen was of negligible value. It was in fact taken from the scrap barrel.
4. Mr. J did not have full protection afforded by the constitution and as interpreted by recent court decisions.
5. Other instances of penalties for theft involved items of some monetary value.

The U.S. Naval Supply Center based J's suspension on the following:

1. This is the minimum penalty that can be administered and still make an impression. Other penalties for theft have been of longer duration.
2. This relatively light penalty was a consequence of Mr. J's service and because of his behavior during the processing of his case.
3. The theft was a clear violation of Article XXV, NCPI 750.
4. Mr. J had been instructed about taking property from the base (although he claimed he thought that this did not refer to trash).
5. His rights were not violated at any time.

Opinion of the Arbitrator

It is evident that the supply center decision to suspend Mr. J was motivated by a desire to moderate the penalty and still make an impression, not only on Mr. J but on others with regard to theft. Losses of such a nature have been considered to require strong, determinate action.

At the same time, the union in support of Mr. J has made a strong case. This is especially true with respect to the man, his record, and the virtually valueless material. Although it looks as if Mr. J had some idea that what he was doing was wrong, his general behavior has reflected integrity.

The arbitrator believes that the minimal penalty of a reprimand is warranted in this case. In the light of all circumstances, he feels that the 10 days' suspension was unduly severe. It is hard to believe that this man will ever take anything again. Moreover, since the theft involved a piece of scrap metal, the minor penalty of a reprimand cannot possibly serve as a dangerous precedent.

Recommended Decision

The arbitrator recommends that the Commanding Officer adjust the earlier decision and grant to Mr. J pay for the 10 days while suspended.

_____ Arbitrator

June 28, 1967
Date

From: Commanding Officer

To: Mr. J.J., Laborer

Subject: Arbitration case of your 10-day suspension for "Attempted Theft of Government Property" (first infraction) on 28 December 1966.

1. I have reviewed your case and you are advised that your 10-day suspension, which was effected 3 April 1967 through 14 April 1967, is hereby reduced to an official reprimand for "Attempted Theft of Government Property" (first infraction) on 28 December 1966. In accordance with this decision, action is being taken to pay you for the 10 days that you were suspended.

C. UPHOLDING THE GRIEVANT'S POSITION

An advisory arbitration between:

Washington Area Metal Trades Council
AND
U.S. Naval Ordnance Laboratory,
White Oak, Maryland

Advisory Opinion Award
(Claim for overtime pay)

April 25, 1968

Before: Samuel H. Jaffee
Arbitrator

Last June, management changed the basic workweek of certain refrigeration mechanics from Monday—Friday to Tuesday—Saturday, on a rotating basis. The purpose was to provide air-conditioning service on Saturdays during the summer months for employees working Saturdays in certain buildings.

For several years in the past, during the summer months, management had, without changing the basic workweek of the mechanics, assigned some of them work on Saturdays (though not all Saturdays) for the same purpose, and for such work the men were paid time and one-half, under the contract, for the additional Saturday work.

Last June, however, via the change in the workweek, management paid no premium pay for the Saturday work, on the basis that Saturday was now part of the basic workweek of the employees involved during that period of time.

This resulted in the present dispute, the council claiming that management had no right on the facts to change the basic workweek, management asserting it had such right.

The Contractual Arrangement

Two documents constitute the contractual arrangement between the parties, and the parties have referred to both. The first is the collective bargaining agreement (contract) itself. The second consists of certain regulations, labelled NCPI-610, relating to hours of work.

A. The contract

Article II is entitled Provisions of Laws and Regulations. Section 1 states that the contract is "subject to the provisions of any applicable existing or future laws, regulations or policies of the Federal Government.

Article III is entitled Matters Appropriate for Consultation. Section 1 states that "matters appropriate for consultation between the parties are policies and programs relating to working conditions which are within the discretion of the employer including but not limited to such matters as . . . hours of work."

Article III, Section 3 states that "there may be certain current personnel policies not specifically covered by this agreement or not clearly defined by regulations which have been generally acceptable in the past. Such conditions will continue for the effective period of this agreement subject to the considerations expressed below. Any such condition that is or may be contrary to any rule, regulation or law, or which would hamper the operations of the employer, may be discontinued or modified by the employer. The employer will consider the views of the Council in such matters prior to effecting any change."

Article IV is entitled Rights of Employer. Section 4 says that "In making rules and regulations . . . the employer shall not nullify or abrogate the rights of the Council or employees as contained in other provisions of this agreement."

Article VI is entitled Hours of Work and Basic Workweek. Section 1 says:

> The basic workweek will consist of five 8-hour days, Monday through Friday inclusive, except for those jobs which directly relate to . . . health and providing necessary power, heat, and maintenance, or when the execution of the work of the laboratory would be adversely affected by failure to effect a change. Such change will be made after consultation with the council.

B. NCPI-610

1-2. Policy

General.

(2) The basic 40-hour workweek shall be scheduled on 5 days, which shall be Monday through Friday wherever possible . . .

b. Service-type functions

In the service-type functions . . . where services must be provided around the clock or on all days of the week, work schedules will be fixed according to the need for the service . . .

1-4. Definitions

1 /el/. Service-type functions

This includes functions which are required to be performed outside the activity's normal working hours or days on a continuous basis, such as: . . .

(5) Utility equipment operation and service watches . . .

2-2. Changing days or hours of work

b. Changing days within the basic workweek under special circumstances.

The days within the basic workweek may be changed as follows:

(1) General

Employees performing service-type functions . . . requiring rotation . . . may have their days of work within the basic workweek changed /on stated notice/.

Contentions

The council has three basic arguments, any one of which, it maintains, is sufficient to make out its case. These arguments may be briefly summarized as follows:

1. Under the contractual arrangement between the parties, management had no right to make the change at all, this aside from points 2 and 3 below:

   a. NCPI 1-2-a (2) says the basic workweek is 40 hours, Monday-Friday. There are two exceptions:

      (1) "Service-type functions" /see 2-1-h and 202 (b)/, and (2) where to fail to do otherwise would adversely affect the mission of the activity (see 1-2-a). At no time during the grievance procedure did management try to justify the change on the second of these exceptions; it relied, instead, solely on the first.

   b. But a "service-type function" was not involved. NCPI 1-1-b defines such functions as those "where services must be provided around the clock or on all days of the week . . ." This was not the situation here. Hence, the only authority on which management relies for the change does not support it.

   c. VI-1 of the contract is of no aid to management. The cooling function of the refrigeration is not one of named functions excepted from the Monday-Friday workweek requirement of VI-1.

2. The company violated III-3 of the contract which in effect provides that personnel practices, generally acceptable in the past, will continue. The evidence is clear that for the past 10 years, during the summer months, refrigeration mechanics assigned to the department affected had worked Saturdays outside their basic Monday-Friday workweek, and were paid for the Saturday work on an overtime basis.

3. The company violated VI-1 and III-3 of the contract when it failed to consult and "consider the views" of the council before effecting the change complained of.

Management has three basic arguments. (Management in its letter-brief presented an additional one relating to cost-saving and, in support, attached certain documentary material. The Council objected to the additional argument and its supporting material on the ground that this was entirely new matter not in evidence. It is sufficient here to say that this additional argument would in any event be insufficient to change what the result here would be without it.) Management's basic arguments may be summarized as follows:

1. Management had the right to make the change under VI-1 of the contract. The exceptions there listed include jobs of Public Work types in the operation and maintenance of utilities and facilities. The work here in question fits the exceptions. NCPI 1-4-1 /el/ also indicates that service-type functions include "Utility equipment operation and service watches." Here, then, was a service-type function permitting the change in the basic workweek. The required advance notice of the change was concededly given.

2. It is not true, as the union asserted, that the refrigeration mechanics worked all summer Saturdays in the prior years. Thus, there were four successive Saturdays in June, 1965, on which operations no overtime was recorded. Nor was it true that overtime schedules were set up in the past for weeks at a time. It was never approved for more than 1 week at a time, in which connection the expected weather was a factor.

3. The facts indicate that there was appropriate consultation with the union before the change was effected, twice in fact.

I should add that management put in evidence certain arbitration decisions which management argued in general supported its position. The Council in turn disagreed, taking the position that, if anything, they supported the Council's views. I have of course read these decisions and, as well, the elaborations of the arguments which are here highly summarized.

Conclusions

As I read the contractual arrangement between the parties, management may change the basic workweek on stated advance notice (concededly here given) in the following cases: (1) where a "service-type function" is involved (1-2-b and 1-4-L); or (2) as to those jobs that directly relate to . . . health and providing necessary heat and maintenance (VI-6); or (3) where management determines that the activity would be seriously handicapped or adversely affected in its mission if the change is not made (VI-1 and 1-2-a); or (4) costs would be substantially increased if the change is not made (1-2-a).

The union contends that management has relied only on item (1) above. But it seems to me that management also relies on item (2). There is no evidence that (3) was involved, and there was no claim as to (4) except for the first time in the company's letter-brief; as to the last I should comment, however, that, as earlier indicated, consideration of it would in any event not change the ultimate result. Let us, then, consider the application of items (1) and (2) to the situation here.

Was a "service-type function" involved? It is important at the outset to note that these words are defined in the contractual arrangement, and it is then, this definition which must control, not some other. NCPI-610, Section 1-2-b, indicates that service-type functions are "where services must be provided around the clock or on all days of the week." And Section 1-4-L /el/, says that a service-type function "includes functions which are required to be performed . . . on a continuous basis . . ."

On this basis, it is difficult to understand how it can validly be maintained that the functions involved in this case were "service-type." For they were not "provided around the clock or on all days of the week," and were not "continuous." During the summer the functions in question were performed 6 days of the week, not 7, not Sunday. Management, arguing in effect that the functions were "service-type," points to the reference in NCPI 1-5-1 /e1/ relating to "Utility equipment operation and service watches." But this is preceded by the words "on a continuous basis, such as . . ." The fact remains that the operation in question here was not continuous. Under NCPI 2-2-a, management could not change an employee's basic workweek for less than 3 consecutive weeks except, under "b," where it is a service-type function requiring rotation. Here the basic workweek was purportedly changed, but though it was done on a rotating basis as far as the Saturday work was concerned, it was not a service-type function as contractually defined.

Management also points to VI-1 of the contract. The Council argues that this section does not apply because cooling is not listed as one of the specified exceptions. I disagree with the Council's approach on this aspect. It is true that cooling is not specifically mentioned, but it refers to activities which directly relate to health, and to heat, for example. And to say that VI-1 as a whole does not also embrace cooling is, to me, far too rigorous an interpretation of the clear intent of its language.

But this does not solve the problem. We cannot properly read VI-1 in isolation. The contractual arrangement, and especially its related provisions, must be read as a whole, and it remains true that a service-type function must be involved to permit what was done here. NCPI-610, it must be emphasized, are employer-drafted regulations. Management is hardly in a position to argue that it is not to be bound by its own regulations.

As the matter stands, therefore, I see no escape from the conclusion that the Council's claim of violation of the contractual arrangement must be accepted.

The Council makes other points: That management violated the past practice clause (III-3); that it violated the requirement that management consult the Council before effecting the change (VI-1 and III-3); that it also violated the provision for no lay-off during regular hours of the basic workweek "to compensate or offset" overtime hours (VII-3). But these are additional independent arguments, and in view of what I have earlier concluded I see no need to determine their validity.

Advisory Award

The claim of the Council (Plumbers' Local 509) is granted: It is found that the N.O.L. violated the contractual arrangement between the parties by wrongly changing the basic workweek of the refrigeration mechanics here involved, including certain Saturdays in 1967 as part of such basic workweek. The employees thus affected are to be made whole accordingly. The parties are to compute the resultant damages, with terminal arbitration on failure of agreement in whole or in part.

Samuel H. Jaffee
Arbitrator

Washington, D.C.
April 25, 1968

U.S. NAVAL ORDNANCE LABORATORY

WHITE OAK

Silver Spring, Maryland 20910

From: The Commander
To: Chief Steward, Metal Trades Council

Subj: Arbitrator's Advisory Opinion Award

Ref: (a) Agreement between MTC and NOL dated 6 August 1965
(b) Advisory Opinion Award of 25 April 1968 by Arbitrator

1. As required by reference (a) I am herewith transmitting my decision as to the disposition of the subject grievance.

2. By reference (b) Arbitrator Jaffee has "found that NOL violated the contractural arrangement between the parties by wrongly changing the basic workweek of the refrigeration mechanics here involved, including certain Saturdays in 1967 as part of such basic workweek." His advisory opinion award was "The employees thus affected are to be made whole accordingly. The parties are to compute the resultant damages, with terminal arbitration on failure of agreement in whole or in part."

3. My decision in this matter is as follows:

a. The basic workweek was improperly changed from Monday through Friday to Tuesday through Saturday and that part of the award is accepted.

b. The corrective action, namely, to make the affected employees "whole" presumably by recomputing the employees' compensation at overtime rates for the Saturdays worked is rejected since there is no authority to implement this aspect of the award. Under law, there is no way for the Navy Department to pay directly and retroactively such compensation. The only method by which the employees could be provided any compensation would be, for those employees who had annual leave available, to request annual leave for the Mondays they did not work, in which event they could be compensated at overtime rates for the Saturday work. This latter method will be authorized for those who make application for annual leave and who had annual leave available.

c. Terminal arbitration is rejected on the grounds that there is no provision in the contractural arrangements for terminal arbitration.

Appendix D

Executive Order 11491: Labor-Management Relations in the Federal Service

WHEREAS the public interest requires high standards of employee performance and the continual development and implementation of modern and progressive work practices to facilitate improved employee performance and efficiency; and

WHEREAS the well-being of employees and efficient administration of the Government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment; and

WHEREAS the participation of employees should be improved through the maintenance of constructive and cooperative relationships between labor organizations and management officials; and

WHEREAS subject to law and the paramount requirements of public service, effective labor-management relations within the Federal service require a clear statement of the respective rights and obligations of labor organizations and agency management:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including sections 3301 and 7301 of title 5 of the United States Code, and as President of the United States, I hereby direct that the following policies shall govern officers and agencies of the executive branch of the Government in all dealings with Federal employees and organizations representing such employees.

GENERAL PROVISIONS

Section 1. Policy. (a) Each employee of the executive branch of the Federal Government has the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right. Except as otherwise expressly provided in this Order, the right to assist a labor organization extends to participation in the management of the organization and acting for the organization in the capacity of an organization representative, including presentation of its views to officials of the executive branch, the Congress, or other appropriate authority. The head of each agency shall take the action required to assure that employees in the agency are apprised of their rights under this section, and that no interference, restraint, coercion, or discrimination is practiced within his agency to encourage or discourage membership in a labor organization.

(b) Paragraph (a) of this section does not authorize participation in the management of a labor organization or acting as a representative of such an organization by a supervisor, except as provided in section 24 of this Order, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee.

Sec. 2. Definitions. When used in this Order, the term --

(a) "Agency" means an executive department, a Government corporation, and an independent establishment as defined in section 104 of title 5, United States Code, except the General Accounting Office;

(b) "Employee" means an employee of an agency and an employee of a nonappropriated fund instrumentality of the United States but does not include, for the purpose of formal or exclusive recognition or national consultation rights, a supervisor, except as provided in section 24 of this order;

(c) "Supervisor" means an employee having authority, in the interest of an agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to evaluate their performance, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(d) "Guard" means an employee assigned to enforce against employees and other persons rules to protect agency property or the safety of persons on agency premises, or to maintain law and order in areas or facilities under Government control;

(e) "Labor organization" means a lawful organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with agencies concerning grievances, personnel policies and practices, or other matters affecting the working conditions of their employees; but does not include an organization which --

(1) consists of management officials or supervisors, except as provided in section 24 of this Order;

(2) asserts the right to strike against the Government of the United States or any agency thereof, or to assist or participate in such a strike, or imposes a duty or obligation to conduct, assist or participate in such a strike;

(3) advocates the overthrow of the constitutional form of government in the United States; or

(4) discriminates with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin;

(f) "Agency management" means the agency head and all management officials, supervisors, and other representatives of management having authority to act for the agency on any matters relating to the implementation of the agency labor-management relations program established under this Order;

(g) "Council" means the Federal Labor Relations Council established by this Order;

(h) "Panel" means the Federal Service Impasses Panel established by this Order; and

(i) "Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations.

Sec. 3. Application. (a) This Order applies to all employees and agencies in the executive branch, except as provided in paragraphs (b), (c) and (d) of this section.

(b) This Order (except section 22) does not apply to --

(1) the Federal Bureau of Investigation;

(2) the Central Intelligence Agency;

(3) any other agency, or office, bureau, or entity within an agency, which has as a primary function intelligence, investigative, or security work, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with national security requirements and considerations; or

(4) any office, bureau or entity within an agency which has as a primary function investigation or audit of the conduct or work of officials or employees of the agency for the purpose of ensuring honesty and integrity in the discharge of their official duties, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with the internal security of the agency.

(c) The head of an agency may, in his sole judgment, suspend any provision of this Order (except section 22) with respect to any agency installation or activity located outside the United

States, when he determines that this is necessary in the national interest, subject to the conditions he prescribes.

(d) Employees engaged in administering a labor-management relations law or this Order shall not be represented by a labor organization which also represents other groups of employees under the law or this Order, or which is affiliated directly or indirectly with an organization which represents such a group of employees.

ADMINISTRATION

Sec. 4. Federal Labor Relations Council. (a) There is hereby established the Federal Labor Relations Council, which consists of the Chairman of the Civil Service Commission, who shall be chairman of the Council, the Secretary of Labor, an official of the Executive Office of the President, and such other officials of the executive branch as the President may designate from time to time. The Civil Service Commission shall provide services and staff assistance to the Council to the extent authorized by law.

(b) The Council shall administer and interpret this Order, decide major policy issues, prescribe regulations, and from time to time, report and make recommendations to the President.

(c) The Council may consider, subject to its regulations --

(1) appeals from decisions of the Assistant Secretary issued pursuant to section 6 of this Order;

(2) appeals on negotiability issues as provided in section 11 (c) of this Order;

(3) exceptions to arbitration awards; and

(4) other matters it deems appropriate to assure the effectuation of the purposes of this Order.

Sec. 5. Federal Service Impasses Panel. (a) There is hereby established the Federal Service Impasses Panel as an agency within the Council. The Panel consists of at least three members appointed by the President, one of whom he designates as chairman. The Council shall provide the services and staff assistance needed by the Panel.

(b) The Panel may consider negotiation impasses as provided in section 17 of this Order and may take any action it considers necessary to settle an impasse.

(c) The Panel shall prescribe regulations needed to administer its function under this Order.

Sec. 6. Assistant Secretary of Labor for Labor-Management Relations. (a) The Assistant Secretary shall --

(1) decide questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for his consideration;

(2) supervise elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative, and certify the results;

(3) decide questions as to the eligibility of labor organizations for national consultation rights under criteria prescribed by the Council; and

(4) except as provided in section 19(d) of this Order, decide complaints of alleged unfair labor practices and alleged violations of the standards of conduct for labor organizations.

(b) In any matters arising under paragraph (a) of this section, the Assistant Secretary may require an agency or a labor organization to cease and desist from violations of this Order and require it to take such affirmative action as he considers appropriate to effectuate the policies of this Order.

(c) In performing the duties imposed on him by this section, the Assistant Secretary may request and use the services and assistance of employees of other agencies in accordance with section 1 of the Act of March 4, 1915, (38 Stat. 1084, as amended; 31 U.S.C. §686).

(d) The Assistant Secretary shall prescribe regulations needed to administer his functions under this Order.

(e) If any matters arising under paragraph (a) of this section involve the Department of Labor, the duties of the Assistant Secretary described in paragraphs (a) and (b) of this section shall be performed by a member of the Civil Service Commission designated by the Chairman of the Commission.

RECOGNITION

Sec. 7. Recognition in general. (a) An agency shall accord exclusive recognition or national consultation rights at the request of a labor organization which meets the requirements for the recognition or consultation rights under this Order.

(b) A labor organization seeking recognition shall submit to the agency a roster of its officers and representatives, a copy of its constitution and by-laws, and a statement of its objectives.

(c) When recognition of a labor organization has been accorded, the recognition continues as long as the organization continues to meet the requirements of this Order applicable to that recognition, except that this section does not require an election to determine whether an organization should become, or continue to be recognized as, exclusive representative of the employees in any unit or subdivision thereof within 12 months after a prior valid election with respect to such unit.

(d) Recognition, in whatever form accorded, does not --

(1) preclude an employee, regardless of whether he is a member of a labor organization, from bringing matters of personal concern to the attention of appropriate officials under applicable law, rule, regulations, or established agency policy; or from choosing his own representative in a grievance or appellate action;

(2) preclude or restrict consultations and dealings between an agency and a veterans organization with respect to matters of particular interest to employees with veterans preference; or

(3) preclude an agency from consulting or dealing with a religious, social, fraternal, or other lawful association, not qualified as a labor organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members.

Consultations and dealings under subparagraph (3) of this paragraph shall be so limited that they do not assume the character of formal consultation on matters of general employee-management policy, except as provided in paragraph (e) of this section, or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees.

(e) An agency shall establish a system for intra-management communication and consultation with its supervisors or associations of supervisors. The communications and consultations shall have as their purposes the improvement of agency operations, the improvement of working conditions of supervisors, the exchange of information, the improvement of managerial effectiveness, and the establishment of policies that best serve the public interest in accomplishing the mission of the agency.

(f) Informal recognition shall not be accorded after the date of this Order.

Sec. 8 Formal Recognition. (a) Formal recognition, including formal recognition at the national level, shall not be accorded after the date of this Order.

(b) An agency shall continue any formal recognition, including formal recognition at the national level, accorded a labor organization before the date of this Order until --

(1) the labor organization ceases to be eligible under this Order for formal recognition so accorded;

(2) a labor organization is accorded exclusive recognition as representative of employees in the unit to which the formal recognition applies; or

(3) the formal recognition is terminated under regulations prescribed by the Federal Labor Relations Council.

(c) When a labor organization holds formal recognition, it is the representative of its members in a unit as defined by the agency when recognition was accorded. The agency, through appropriate officials, shall consult with representatives of the organization from time to time in the formulation and implementation of personnel policies and practices, and matters affecting working conditions that affect members of the organization in the unit to which the formal recognition applies. The organization is entitled from time to time to raise such matters for discussion with appropriate officials and at all times to present its views thereon in writing. The agency is not required to consult with the labor organization on any matter on which it would not be required to meet and confer if the labor organization were entitled to exclusive recognition.

Sec. 9. National consultation rights. (a) An agency shall accord national consultation rights to a labor organization which qualifies under criteria established by the Federal Labor Relations Council as the representative of a substantial number of employees of the agency. National consultation rights shall not be accorded for any unit where a labor organization already holds exclusive recognition at the national level for that unit. The granting of national consultation rights does not preclude an agency from appropriate dealings at the national level with other organizations on matters affecting their members. An agency shall terminate national consultation rights when the labor organization ceases to qualify under the established criteria.

(b) When a labor organization has been accorded national consultation rights, the agency, through appropriate officials, shall notify representatives of the organization of proposed substantive changes in personnel policies that affect employees it represents and provide an opportunity for the organization to comment on the proposed changes. The labor organization may suggest changes in the agency's personnel policies and have its views carefully considered. It may confer in person at reasonable times, on request, with appropriate officials on personnel policy matters, and at all times present its views thereon in writing. An agency is not required to consult with a labor organization on any matter on which it would not be required to meet and confer if the organization were entitled to exclusive recognition.

(c) Questions as to the eligibility of labor organizations for national consultation rights may be referred to the Assistant Secretary for decision.

Sec. 10. Exclusive recognition. (a) An agency shall accord exclusive recognition to a labor organization when the organization has been selected, in a secret ballot election, by a majority of the employees in an appropriate unit as their representative.

(b) A unit may be established on a plant or installation, craft, functional, or other basis which will ensure a clear and identifiable community of interest among the employees concerned and will promote effective dealings and efficiency of agency operations. A unit shall not be established solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be established if it includes --

(1) any management official or supervisor, except as provided in section 24;

(2) an employee engaged in Federal personnel work in other than a purely clerical capacity;

(3) any guard together with other employees; or

(4) both professional and nonprofessional employees, unless a majority of the professional employees vote for inclusion in the unit.

Questions as to the appropriate unit and related issues may be referred to the Assistant Secretary for decision.

(c) An agency shall not accord exclusive recognition to a labor organization as the representative of employees in a unit of guards if the organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.

(d) All elections shall be conducted under the supervision of the Assistant Secretary, or persons designated by him, and shall be by secret ballot. Each employee eligible to vote shall be provided the opportunity to choose the labor organization he wishes to represent him, from among those on the ballot, or "no union." Elections may be held to determine whether --

(1) a labor organization should be recognized as the exclusive representative of employees in a unit;

(2) a labor organization should replace another labor organization as the exclusive representative; or

(3) a labor organization should cease to be the exclusive representative.

(e) When a labor organization has been accorded exclusive recognition, it is the exclusive representative of employees in the unit and is entitled to act for and to negotiate agreements covering all employees in the unit. It is responsible for representing the interests of all employees in the unit without discrimination and without regard to labor organization membership. The labor organization shall be given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

AGREEMENTS

Sec. 11. Negotiation of agreements. (a) An agency and a labor organization that has been accorded exclusive recognition, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws and regulations, including policies set forth in the Federal Personnel Manual, published agency policies and regulations, a national or other controlling agreement at a higher level in the agency, and this Order. They may negotiate an agreement, or any question arising thereunder; determine appropriate techniques, consistent with section 17 of this Order, to assist in such negotiation; and execute a written agreement or memorandum of understanding.

(b) In prescribing regulations relating to personnel policies and practices and working conditions, an agency shall have due regard for the obligation imposed by paragraph (a) of this section. However, the obligation to meet and confer does not include matters with respect to the mission of an agency; its budget; its organization; the number of employees; and the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty; the technology of performing its work; or its internal security practices. This does not preclude the parties from negotiating agreements providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

(c) If, in connection with negotiations, an issue develops as to whether a proposal is contrary to law, regulation, controlling agreement, or this Order and therefore not negotiable, it shall be resolved as follows:

(1) An issue which involves interpretation of a controlling agreement at a higher agency level is resolved under the procedures of the controlling agreement, or, if none, under agency regulations;

(2) An issue other than as described in subparagraph (1) of this paragraph which arises at a local level may be referred by either party to the head of the agency for determination;

(3) An agency head's determination as to the interpretation of the agency's regulations with respect to a proposal is final;

(4) A labor organization may appeal to the Council for a decision when --

(i) it disagrees with an agency head's determination that a proposal would violate applicable law, regulation of appropriate authority outside the agency, or this Order, or

(ii) it believes that an agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or this Order.

Sec. 12. Basic provisions of agreements. Each agreement between an agency and a labor organization is subject to the following requirements --

(a) 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;

(b) management officials of the agency 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; and

(6) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency; and

(c) 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.

The requirements of this section shall be expressly stated in the initial or basic agreement and apply to all supplemental, implementing, subsidiary, or informal agreements between the agency and the organization.

Sec. 13. Grievance procedures. An agreement with a labor organization which is the exclusive representative of employees in an appropriate unit may provide procedures, applicable only to employees in the unit, for the consideration of employee grievances and of disputes over the interpretation and application of agreements. The procedure for consideration of employee grievances shall meet the requirements for negotiated grievance procedures established by the

Civil Service Commission. A negotiated employee grievance procedure which conforms to this section, to applicable laws, and to regulations of the Civil Service Commission and the agency is the exclusive procedure available to employees in the unit when the agreement so provides.

Sec. 14. Arbitration of grievances. (a) Negotiated procedures may provide for the arbitration of employee grievances and of disputes over the interpretation or application of existing agreements. Negotiated procedures may not extend arbitration to changes or proposed changes in agreements or agency policy. Such procedures shall provide for the invoking of arbitration only with the approval of the labor organization that has exclusive recognition and, in the case of an employee grievance, only with the approval of the employee. The costs of the arbitrator shall be shared equally by the parties.

(b) Either party may file exceptions to an arbitrator's award with the Council, under regulations prescribed by the Council.

Sec. 15. Approval of agreements. An agreement with a labor organization as the exclusive representative of employees in a unit is subject to the approval of the head of the agency or an official designated by him. An agreement shall be approved if it conforms to applicable laws, existing published agency policies and regulations (unless the agency has granted an exception to a policy or regulation) and regulations of other appropriate authorities. A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement, or, if none, under agency regulations.

NEGOTIATION DISPUTES AND IMPASSES

Sec. 16. Negotiation disputes. The Federal Mediation and Conciliation Service shall provide services and assistance to Federal agencies and labor organizations in the resolution of negotiation disputes. The Service shall determine under what circumstances and in what manner it shall proffer its services.

Sec. 17. Negotiation impasses. When voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or other third-party mediation, fail to resolve a negotiation impasse, either party may request the Federal Service Impasses Panel to consider the matter. The Panel, in its discretion and under the regulations it prescribes, may consider the matter and may recommend procedures to the parties for the resolution of the impasse or may settle the impasse by appropriate action. Arbitration or third-party fact finding with recommendations to assist in the resolution of an impasse may be used by the parties only when authorized or directed by the Panel.

CONDUCT OF LABOR ORGANIZATIONS AND MANAGEMENT

Sec. 18. Standards of conduct for labor organizations.

(a) An agency shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in paragraph (b) of this section, an organization is not required to prove that it has the required freedom when it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated or in which it participates, containing explicit and detailed provisions to which it subscribes calling for --

(1) the maintenance of democratic procedures and practices, including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participation in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provision for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in paragraph (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles when there is reasonable cause to believe that --

(1) the organization has been suspended or expelled from or is subject to other sanction by a parent labor organization or federation of organizations with which it had been affiliated because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by paragraph (a) of this section; or

(2) the organization is in fact subject to influences that would preclude recognition under this Order.

(c) A labor organization which has or seeks recognition as a representative of employees under this Order shall file financial and other reports, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary shall prescribe the regulations needed to effectuate this section. These regulations shall conform generally to the principles applied to unions in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary.

Sec. 19. Unfair labor practices. (a) Agency management shall not --

(1) interfere with, restrain, or coerce an employee in the exercise of the rights assured by this Order;

(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 under section 23 of this Order 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 has filed a complaint or given testimony under this Order;

(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 this Order.

(b) A labor organization shall not --

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

(2) attempt to induce agency management to coerce an employee in the exercise of his rights under this Order;

(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 work performance, his productivity, or the discharge of his 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 this Order.

(c) A labor organization which is accorded exclusive recognition shall not deny membership to any employee in the appropriate unit except for failure to meet reasonable occupational standards uniformly required for admission, or for failure to tender initiation fees and dues uniformly required as a condition of acquiring and retaining membership. This paragraph does not preclude a labor organization from enforcing discipline in accordance with procedures under its constitution or by-laws which conform to the requirements of this Order.

(d) When the issue in a complaint of an alleged violation of paragraph (a)(1), (2), or (4) of this section is subject to an established grievance or appeals procedure, that procedure is the exclusive procedure for resolving the complaint. All other complaints of alleged violations of this section initiated by an employee, an agency, or a labor organization, that cannot be resolved by the parties, shall be filed with the Assistant Secretary.

MISCELLANEOUS PROVISIONS

Sec. 20. Use of official time. Solicitation of membership or dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management.

Sec. 21. Allotment of dues. (a) When a labor organization holds formal or exclusive recognition, and the agency and the organization agree in writing to this course of action, an agency may deduct the regular and periodic dues of the organization from the pay of members of the organization in the unit of recognition who make a voluntary allotment for that purpose, and shall recover the costs of making the deductions. Such an allotment is subject to the regulations of the Civil Service Commission, which shall include provision for the employee to revoke his authorization at stated six-month intervals. Such an allotment terminates when --

(1) the dues withholding agreement between the agency and the labor organization is terminated or ceases to be applicable to the employee; or

(2) the employee has been suspended or expelled from the labor organization.

(b) An agency may deduct the regular and periodic dues of an association of management officials or supervisors from the pay of members of the association who make a voluntary allotment for that purpose, and shall recover the costs of making the deductions, when the agency and the association agree in writing to this course of action. Such an allotment is subject to the regulations of the Civil Service Commission.

Sec. 22. Adverse action appeals. The head of each agency, in accordance with the provisions of this Order and regulations prescribed by the Civil Service Commission, shall extend to all employees in the competitive civil service rights identical in adverse action cases to those provided preference eligibles under sections 7511-7512 of title 5 of the United States Code. Each employee in the competitive service shall have the right to appeal to the Civil Service Commission from an adverse decision of the administrative officer so acting, such appeal to be processed in an identical manner to that provided for appeals under section 7701 of title 5 of the United States Code. Any recommendation by the Civil Service Commission submitted to the head of an agency on the basis of an appeal by an employee in the competitive service shall be complied with by the head of the agency.

Sec. 23. Agency implementation. No later than April 1, 1970, each agency shall issue appropriate policies and regulations consistent with this Order for its implementation. This includes but is not limited to a clear statement of the rights of its employees under this Order; procedures with respect to recognition of labor organizations, determination of appropriate units, consultation and negotiation with labor organizations, approval of agreements, mediation, and impasse resolution; policies with respect to the use of agency facilities by labor organizations; and policies and practices regarding consultation with other organizations and associations and individual employees. Insofar as practicable, agencies shall consult with representatives of labor organizations in the formulation of these policies and regulations, other than those for the implementation of section 7(e) of this Order.

Sec. 24. Savings clauses. (a) This Order does not preclude --

(1) the renewal or continuation of a lawful agreement between an agency and a representative of its employees entered into before the effective date of Executive Order No. 10988 (January 17, 1962); or

(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent the management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the date of this Order.

(b) All grants of informal recognition under Executive Order No. 10988 terminate on July 1, 1970.

(c) All grants of formal recognition under Executive Order No. 10988 terminate under regulations which the Federal Labor Relations Council shall issue before October 1, 1970.

(d) By not later than December 31, 1970, all supervisors shall be excluded from units of formal and exclusive recognition and from coverage by negotiated agreements, except as provided in paragraph (a) of this section.

Sec. 25. Guidance, training, review and information.

(a) The Civil Service Commission shall establish and maintain a program for the guidance of agencies on labor-management relations in the Federal service; provide technical advice and information to agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations; continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement.

(b) The Department of Labor and the Civil Service Commission shall develop programs for the collection and dissemination of information appropriate to the needs of agencies, organizations and the public.

Sec. 26. Effective date. This Order is effective on January 1, 1970 except sections 7(f) and 8 which are effective immediately. Effective January 1, 1970, Executive Order No. 10988 and the President's Memorandum of May 21, 1963, entitled Standards of Conduct for Employee Organizations and Code of Fair Labor Practices, are revoked.

RICHARD NIXON

THE WHITE HOUSE

October 29, 1969

Appendix E

Comparative Analysis: Executive Orders 10988 and 11491

E.O. 10988 (including Standards and Code)	E.O. 11491	Changes
Title		
Employee-Management Cooperation in the Federal Service.	Labor-Management Relations in the Federal Service.	New title to better reflect that Order governs respective rights and obligations of labor organizations and agency management.
Preamble		
Employee participation in determining personnel policies contributes to effective conduct of public business and to improved employee-management relationships. Efficient administration and employee well-being require orderly and constructive relationships with employee organizations. Clear statement of respective rights and obligations needed.	Public interest requires high standards of employee performance and modern work practices to improve employee performance and efficiency. Other clauses generally similar to E.O. 10988.	Adds statement regarding efficient work performance. Deletes statement that employee participation contributes to effective conduct of public business.
General Provisions		
Free right to join or not join labor organizations. (Section 1a)	Same. (Section 1a)	None.
Right to be an officer or representative, except where conflict of interest or otherwise incompatible with law or official duties. (1b)	Similar, except a supervisor may not participate in the management or representation of a labor organization (other than as excepted by section 24) nor may an employee where there would be conflict or apparent conflict of interest or incompatibility with law or official duties. (1b)	Prohibits supervisors from acting as union officers or representives, with minor exception. Adds appearance of conflict of interest to limitation on employees' right to engage in the management or representation of a labor organization.
Defines "employee organization," excluding organizations that strike or assert the right to strike, advocate over-	Defines "labor organization" with similar exclusions, but adding discrimination on sex or age. Excludes organizations of	Substitutes term "labor organization" for "employee organization." Clearer definition. Except certain maritime unions, organizations of managers or supervisors are excluded from

E.O. 10988 (including Standards and Code)	E.O. 11491	Changes
throw of the government, or discriminate on race, color, creed or national origin. (2)	managers and supervisors. (2e)	recognition as labor organizations. Nondiscrimination requirement extended to include sex and age.
No provision.	Defines "agency," "employee," "supervisor," "guard," and other terms used in Order. (2)	Adds definitions of key terms.
Order does not apply to FBI, CIA, or to agency components having intelligence, investigative, or security functions if agency head determines Order cannot be applied consistent with national security requirements. No appeal. (16)	Same. (3b, 1, 2, 3)	None.
No provision.	Excludes agency components which investigate employee integrity in performance of duties, when agency head determines Order cannot be applied consistent with internal security of agency. No appeal. (3b4)	Adds authority for agency to exclude employees engaged in certain internal security work.
Agency head may suspend any provision of Order, except nonveteran adverse action appeal right, in installations outside U.S. No appeal. (16)	Same. (3c)	None.
No provision.	Employees involved in administering a labor relations law or the Order may not be represented by organizations representing other employees subject to such law or Order. (3d)	Prohibits employees who administer a labor relations law or the Order from being represented by a union which could be party to a matter the employee would consider in the course of his official duty.
<u>Administration</u>		
Each agency responsible for observing and enforcing the Order, the Standards, and the Code in its own operations, with guidance, technical advice, training assistance by Civil Service	Establishes <u>Federal Labor Relations Council</u>, consisting of CSC Chairman, who is Chairman of Council, Secretary of Labor, an official of Executive Office of President, and other officials President may	Sets up top-level interagency committee as central authority to oversee program, settle policy issues, act as final appeals body on labor-management disputes except negotiation impasses on substantive issues.

E.O. 10988 (including Standards and Code)	E.O. 11491	Changes
Commission. CSC reviews program operations, reports to President. (12)	designate - - to administer Order, decide major policy issues, prescribe regulations, report to President; and - to consider appeals from decisions of Assistant Secretary of Labor, certain negotiability issues, exceptions to arbitration awards, other appropriate matters. (Section 4)	
Parties may agree on techniques to assist in resolving impasses (6b), but arbitration may not be used. (8b)	Established Federal Service Impasses Panel of at least 3 members appointed by President. Panel has independent authority but is organizationally located within Council for services and staff assistance. Authorized to take action necessary to settle impasses on substantive issues in negotiations. (5) Parties may agree on techniques to assist in resolving impasses (11a), but arbitration or third-party factfinding with recommendations may not be used except when expressly authorized by Panel. (17)	Sets up high-level governmental panel (Presidential appointees) to assist parties to resolve negotiation impasses or, if they are unable to with its assistance, to itself resolve impasse (final decision).
Department of Labor assists agencies in resolving unit and representation disputes. Issues rules, arranges for advisory arbitration. Costs reimbursed by agencies. (11)	Assistant Secretary of Labor-Management Relations decides unit and representation disputes, supervises elections and certifies results, decides disputes on eligibility for "national consultation rights," decides unfair labor practice complaints and Standards of Conduct cases. Costs not reimbursed. May require agency or union to cease or desist from violation of the Order on these matters and to take appropriate affirmative action. (6)	Transfers from agency heads to Assistant Secretary of Labor authority to decide these so-called "administrative" disputes, subject to appeal to Council, and to order and supervise elections. Services provided by Labor without reimbursement.

E. O. 10988 (including Standards and Code)	E. O. 11491	Changes
Recognition		
Recognition to be accorded to qualified organizations but not to organization which agency head determines, after consultation with Secretary of Labor, is subject to corrupt or undemocratic influences. (3a, Standards 2. 3)	Similar (7a, 18a), except Assistant Secretary of Labor decides whether organization is subject to corrupt or undemocratic influences. (6a, 4)	Transfers from agency heads to Assistant Secretary of Labor authority to disqualify organization from recognition because of corrupt or undemocratic influences.
New determination of right to exclusive recognition in unit not required within 12 months after previous determination. (3b)	Similar, except specifies new determination not required in unit or subdivision thereof within 12 months after prior valid election with respect to unit. (7c)	Adds policy that 12-month bar on new representation decisions with respect to unit also applies to subdivisions of unit, that bar applies only after determination based upon valid election.
Recognition does not prevent individual employee from taking up matters of personal concern with agency management, or from free choice of representative in grievance or appeal. (3c1)	Same. (7c1)	None.
Recognition does not prevent consultation or dealings with veterans organizations or with religious, social, or other organizations (with certain restrictions). (3c 2, 3)	Same. (7d 2, 3)	None.
Supervisor organizations may be recognized as "employee organizations." (1, 2)	Prohibited. (2e) Separate system for communication and consultation with associations of supervisors required. (7e)	Relationships with supervisor organizations to be established outside the framework of labor-management relations.
Informal recognition accorded when organization not eligible for formal or exclusive. Right to present views of members. (4)	Informal recognition not to be accorded. (7f) Existing Informal recognitions to be terminated 6 months from effective date of Order. (24b)	Eliminates Informal recognition.
Formal recognition accorded when organization has 10% membership	Formal recognition not to be accorded. (8a) Existing Formal recognitions to	Eliminates Formal recognition.

E.O. 10988 (including Standards and Code)	E.O. 11491	Changes
in unit. Right to be consulted on behalf of members in unit. (Not authorized where exclusive recognition is held by another organization.) (5)	be terminated under regulations which will be issued by Council within year from date of Order. (24c)	
National Formal recognition accorded when agency head, in his sole judgment, determines organization has sufficient number of locals or members throughout agency. Right to be consulted on behalf of members on personnel policies and practices and matters affecting working conditions, to discuss such matters and present views in writing. (5)	National Formal recognition not to be accorded. (8a) Existing National Formal recognitions to be terminated as above. (24c) National Consultation Rights accorded based upon criteria to be established by Council. Right to comment on proposed substantive changes in personnel policies, to suggest changes in personnel policies, to confer in person on such policies and present views in writing. NCR not accorded for unit covered by National Exclusive recognition. Organization may appeal to Assistant Secretary of Labor agency decision not to grant NCR. (9)	Eliminates National Formal recognition. Substitutes National Consultation Rights with subject matter limited to personnel policy, nature of "consultation" more clearly defined, specific criteria for granting to be provided, right of appeal when NCR not granted.
Exclusive recognition accorded when organization has 10% membership and is designated or selected by majority of employees in appropriate unit. (6a) Election generally valid only when votes are cast by 60% of employees present and eligible to vote. (Administrative rule.)	Exclusive recognition accorded organization selected in secret ballot election by majority of employees. (10a)	Ends granting of Exclusive recognition on basis of membership, petition, authorization cards. Election required in all cases. Deletes requirement of 10% membership. Deletes 60% representative vote rule.
"Appropriate unit" determined on installation, craft, functional or other basis which will ensure community of interest among employees in unit. May not be based solely on extent of organization. May not include managerial executives, nonclerical personnel work-	Similar, except unit is to ensure community of interest among employees concerned and to promote effective dealings and efficiency of agency operations. Also unit may not include supervisors (with minor exceptions), or guards together with other employees. (10b) Supervisors	Adds consideration of effective dealings and efficiency of agency operations to employee community of interest as basis for determining appropriate unit. Excludes supervisors from new units and within year, from existing units. Separates guards from other employees in new units established.

E. O. 10988 (including Standards and Code)	E. O. 11491	Changes
ers, supervisors with employees supervised, professionals with non-professionals unless professionals vote for inclusion. (6a)	to be excluded from existing units within year from effective date of Order. (24d)	
No provision.	Exclusive recognition to represent unit of guards not to be accorded to organization which admits other employees to membership or is affiliated with such organization. (10c)	Ends granting of representation rights for guards to organizations which represent other employees. Current representation rights not affected.
Exclusive recognition establishes right of organization to act for and negotiate agreements covering all employees in unit, obligation to represent interests of all employees without discrimination or regard to membership, opportunity to be represented at discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, other matters affecting working conditions in unit. (6b)	Same, except opportunity to be represented at "discussions" is specified as formal discussions. (10e)	Minor clarification.
<u>Agreements</u>		
Agency and organization required to meet and negotiate on personnel policy and practices and matters affecting working conditions, subject to law and policy requirements. (6b)	Similar, except requires negotiation "in good faith" and makes negotiation subject to applicable laws and regulations, including policies set forth in the Federal Personnel Manual, published agency policies and procedures, a national or other controlling agreement at a higher level in the agency, and the Order. (11a)	Adds requirement that both parties negotiate in good faith. Clarifies framework of law and policy within which negotiation takes place.
Obligation to consult or negotiate does not include agency's mission, budget, organization, and assign-	Similar, except "assignment of personnel" is replaced by "the number of employees; and the numbers,	Clarifies exclusions from the scope of negotiations and adds new one: "internal security practices."

E. O. 10988 (including Standards and Code)	E. O. 11491	Changes
ment of personnel, technology of performing the work. (6b)	types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty;" and additional area "internal security practices" is excluded. May negotiate appropriate arrangements for employees adversely affected by impact of realignment of work forces or technological change. (11b)	
No provision.	Issues as to whether a proposal is not negotiable because contrary to law, regulation, controlling agreement, or the Order are to be resolved in a specified manner—by agreement procedures, by agency head or by Council, depending upon circumstances. (11c)	Adds rules for settling disputes on negotiability issues. Right of appeal to Council on issues involving law, regulations of authorities outside the agency, or the Order.
Application of agreement provisions is subject to existing or future laws, regulations, and FPM policies. (7)	Similar, except an agreement is not subject to future agency regulations unless they are required by law, by regulations of an authority outside the agency, or are authorized by controlling agreement. (12a)	Adds policy to protect an agreement, during its term, from effect of change in agency regulations unless the change is required by outside authority.
Agency management retains right to direct employees; to hire, promote, assign, retain, discipline or lay off; to maintain efficiency; to determine methods, means and personnel for doing the work; to take necessary action in emergency. (7)	Same. (12b)	None.
No provision.	Agreement may not require an employee to become or remain a union member, or to pay money to a union except as he voluntarily authorizes for payment of dues through payroll deductions. (12c)	Prohibits agreements providing for union shop, agency shop, or maintenance of membership.
Agreements may contain grievance procedures which meet CSC stand-	Agreements may contain employee grievance procedures which meet CSC re-	Permits elimination of dual "agency system" and "negotiated system" for resolving

E.O. 10988 (including Standards and Code)	E.O. 11491	Changes
ards and do not impair rights otherwise available to employees. Advisory arbitration may be used with approval of union and employees concerned. Arbitrator's recommendation subject to decision of agency head. (8)	quirements, may make them the only grievance procedures available to employees in the unit, and may provide for arbitration (with union and employee consent and cost-sharing by union and agency). Agreements may also contain procedures for consideration of disputes over interpretation and application of agreement, including arbitration of such disputes with consent of the union (cost-sharing by union and agency). Under both employee grievance procedure and agreement dispute procedure either party may file exceptions to arbitrator's award with the Council, subject to its regulations. (13, 14)	employee grievances. Eliminates "advisory" arbitration, providing limited appeal to the Council from arbitration awards. Authorizes procedures for resolving disputes arising in administration of agreements, including use of arbitration. Requires that costs of arbitrator be shared equally.
Basic or initial agreement must be approved by agency head or his designee. (7)	All agreements are subject to approval by agency head or his designee. Agreement must be approved if it conforms with law, published agency policies and regulations (unless agency has granted exception), and regulations of other appropriate authorities. Local agreement subject to controlling agreement at higher level is approved under procedures of controlling agreement. (15)	Limits agency headquarters authority to disapprove locally negotiated agreements. Disapproval must be based solely upon conflict with applicable law, policy or regulations, not "second guessing" on appropriateness or desirability of agreement provisions.
Negotiation Disputes and Impasses		
No provision.	Federal Mediation and Conciliation Service is directed to assist parties in resolving negotiation disputes, subject to its rules. (16)	Authorizes full FMCS services to assist parties in negotiating agreements.
No provision.	If FMCS or other third-party mediation fails to resolve a negotiation impasse either party may request the Federal Service Impasses Panel to consider the matter. Panel may, in	Adds FSIP service to bring about final resolution of negotiation impasses if mediation is unsuccessful.

E.O. 10988 (including Standards and Code)	E.O. 11491	Changes
	its discretion and under its rules, consider the impasse; may recommend procedures to the parties for resolution of impasse, or settle the impasse itself. Arbitration or third-party factfinding with recommendations may be used by the parties only when authorized or directed by the Panel. (17)	
Conduct of Labor Organizations and Management		
Standards of Conduct for Employee Organizations require recognized organizations to subscribe and adhere to internal democratic practices, exclude from office persons affiliated with Communist, totalitarian or corrupt influences, prohibit officers and agents from having business or financial conflicts of interest, maintain fiscal integrity. Agency must deny, suspend or withdraw recognition if it determines, after hearing and consultation with Secretary of Labor, that organizations does not meet the Standards.	Same (18a, b) except organizations also required to file financial and other reports, provide for bonding of organization officials and employees, meet trusteeship and election standards. (18c) Assistant Secretary of Labor prescribes regulations, decides alleged violations. (18d, 6)	Adds Landrum-Griffin type financial disclosure and other requirements. Transfers from agencies to Assistant Secretary of Labor responsibility for enforcement.
Code of Fair Labor Practices prohibits certain unfair labor practices by agency management and recognized organizations. Unless complaint of violation is subject to available grievance or appeals procedure, agency investigates, tries for informal resolution, utilizes impartial procedures including hearing if substantial cause established, de-	Same prohibited practices for agency management. (19a) Similar prohibited practices for labor organizations, with additions that organization may not coerce, discipline, fine or take other economic sanction against a member as punishment for or to hinder his work performance or productivity (19b, 3), may not condone strike or prohibited picketing activity by failing to take affirmative action to prevent or stop it (19b, 4) may	Adds to list of unfair labor practices by organizations and clarifies certain provisions. Transfers from agencies to Assistant Secretary of Labor responsibility for impartial procedures and enforcement, including anti-strike and picketing provision.

E.O. 10988 (including Standards and Code)	E.O. 11491	Changes
cides whether Code violation occurred, directs appropriate remedial action by management or organization. Enforcement of strike and picketing prohibition not subject to impartial procedures provided for other alleged violations.	not discrimate in membership because of sex or age (19b, 5), may not refuse to consult or negotiate with agency as required by the Order (19b, 6). Unless complaint of violation is subject to an established grievance or appeals procedure, when complaint not resolved informally by the parties it is filed with Assistant Secretary of Labor who decides case and directs appropriate remedial action by agency or organization. (19d, 6)	
Miscellaneous Provisions		
Solicitation of memberships, dues, or other internal organization business shall be conducted during non-duty hours of employees concerned. (9)	Same. (20)	No change.
Officially requested or approved consultations and meetings between management and organization shall be conducted on official time whenever practicable. (9)	No provision.	Deletes policy on official time for consultations or meetings requested or approved by management.
Agency may require that negotiations be conducted during non-duty hours of organization representatives. (9)	Organization representatives shall not be on official time when negotiating agreement with agency management. (20)	Prohibits authorizing official time for employees acting as organization representatives in negotiations with management.
No provision. (Employee voluntary allotments for payment of dues to organizations eligible for formal or exclusive recognition are made pursuant to agency-organization agreements based upon CSC regulations. Policy established by President's Memorandum of May 21, 1963.)	Authorizes voluntary dues allotments by organization's members in unit of recognition pursuant to agency agreement with labor organization which holds formal or exclusive recognition, subject to CSC regulations. (21a)	Restates policy on voluntary dues allotments. Limits authorization of allotments to members in units for which labor organization holds formal or exclusive recognition and has allotment agreement with agency.

E.O. 10988 (including Standards and Code)	E.O. 11491	Changes
No provision.	Authorizes voluntary dues allotments pursuant to agency agreements with associations of management officials or supervisors, subject to CSC regulations. (21b, 7e)	Adds authorization for dues allotments to managerial and supervisory organizations.
All employees in competitive civil service have same rights in adverse action cases as perference eligibles under section 14, Veterans' Preference Act. Right of appeal to Civil Service Commission. CSC decision binding upon agencies. (14)	Same. (22)	No change.
Agencies issue policies and regulations for implementation of Order, after consultation with appropriate organizations. (10)	Similar. Action to be taken by April 1, 1970. (23)	Agency implementing policies required within 3 months from effective date of Order.
Order does not preclude renewal or continuation of lawful agreements between agencies and organizations entered into prior to January 17, 1962. (15)	Same. (24a1)	Continues "grandfather" provision of E. O. 10988. Currently applicable to TVA and certain agreements in Interior and Transportation.
Except where otherwise required by established practice, prior agreement or special circumstances, no unit shall be established for exclusive recognition which includes (1) any managerial executive. . . (3) both supervisors. . . and the employees whom they supervise. . . (6a)	Exception from unit criteria limited to units of management officials or supervisors represented by labor organizations which traditionally represent these officials in private industry and hold exclusive recognition for such units on date of the Order. (24a2)	Continued "established practice" exception for managerial and supervisory representation by labor organizations in maritime industry which represent officers and crews on vessels. Applicable to MEBA, MMP, NMU, SIU, and UTW.
No provision.	Existing informal recognitions terminate on July 1, 1970. (24b)	Eliminates all informal recognition 6 months from effective date of the Order.
No provision.	Existing formal recognitions terminate pursuant to Council regulations to be issued before October 1, 1970. (24c)	Directs council to provide regulations within 1 year from issuance of the Order which will eliminate all formal recognition.

E.O. 10988 (including Standards and Code)	E.O. 11491	Changes
No provision.	All supervisors other than those excepted by section 24(a) are excluded from units of formal and exclusive recognition and coverage by negotiated agreements before December 31, 1970. (24d)	Eliminates all representation of supervisors by labor organizations within 1 year from effective date of the Order (except supervisory employees on vessels - currently 24 units).
CSC provides assistance to agencies and organizations in carrying out objectives of Order. Furnishes guidance, technical advice, training assistance to agencies. Studies and reviews program, recommends improvements to the President. (12)	CSC provides guidance, technical advice and information, and training assistance to agencies. Reviews operation of program to assist in assuring adherence to its provisions and merit system requirements. From time-to-time reports to Council on state of the program and recommends improvements. (25a)	Deletes CSC overall program functions (incorporated into functions assigned to the Council). Adds review and evaluation of program operations, with reports and recommendations to Council.
No provision.	Department of Labor and Civil Service Commission to collect and disseminate program information to agencies, organizations and the public. (25b)	Adds responsibility for Labor and CSC to publicize information needed by agencies, organizations and the public.
Order effective January 17, 1962.	Order effective January 1, 1970, except sections 7(f) and 8 which are effective immediately. (26)	Provides about 3 months "get-ready" time to staff and organize the Council, the Panel, and the Assistant Secretary of Labor functions. Agencies discontinue granting new informal and formal recognitions immediately upon issuance of Order.

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