

New Article 3

Old Article 2

## Management Rights and Responsibilities

### 2.1 Management Rights

Nothing in this Agreement shall affect the authority of the NRC:

2.1.1 To determine the mission, budget, organization, number of employees, and internal security practices of the NRC.

2.1.2 In accordance with applicable laws-

2.1.2.1 to hire, assign, direct, layoff, and retain employees in the Agency, or to suspend, remove, reduce-in-grade or pay, or take other disciplinary action against such employees;

2.1.2.2 to assign work, to make determinations with respect to contracting out, and to determine the personnel by which Agency operations shall be conducted;

2.1.2.3 with respect to filling positions, to make selections for appointments from-

2.1.2.3.1 among properly ranked and certified candidates for promotion; or

2.1.2.3.2 any other appropriate source.

2.1.2.4 to take whatever actions may be necessary to carry out the Agency's mission during emergencies.

Nothing in this Agreement shall preclude the NRC and the Union from negotiating:

2.1.3 At the election of the NRC on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour-of-duty, or on the technology, methods, and means of performing work.

2.1.4 Procedures which management officials of the NRC will observe in exercising any authority under this section; or

2.1.5 Appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

~~2.2 — Management Retained Rights~~

~~All of the rights, powers, functions or authority which the NRC had prior to the effective date of this Agreement with the Union are retained by the NRC except as those rights, powers, functions or authority are specifically abridged or modified by this Agreement.~~

## 2.2 Agency Regulations and Policies

The Agency shall comply with its own regulations and policies governing personnel policies and practices and general conditions of employment insofar as they affect the working conditions of bargaining unit employees. The policies covered by this section include the following Management Directives, and related “yellow announcements:” Volume 2 – Information Technology; Volume 7 – Legal and Ethical Guidelines; Volume 10 – Personnel Management; Volume 13 – Transportation, Facilities and Property; and Volume 14 – Travel.

This section shall not be construed to require the Agency to issue, change or retain such regulations and policies, which it may continue to do in accordance with law.

## 2.3 Merit System Principles

In accordance with applicable FLRA case law, the Merit Systems Principles described incorporated in this section do not independently authorize and, therefore, cannot serve by themselves as the basis of a grievance or legal action by an employee or the union, nor may they serve as an independent basis for an arbitration remedy.

2.3.1 Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills after fair and open competition which assures that all receive equal opportunity.

2.3.2 All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

2.3.3 Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector and appropriate incentives and recognition should be provided for excellence in performance.

2.3.4 All employees should maintain high standards of integrity, conduct and concern for the public interest.

2.3.5 The Federal work force should be used efficiently and effectively.

2.3.6 Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

2.3.7 Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

2.3.8 Employees should be:

2.3.8.1 protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and

2.3.8.2 prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

2.3.9 Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences:

2.3.9.1 a violation of any law, rule, or regulation, or

2.3.9.2 mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety.

## 2.4 Prohibited Personnel Practices

The NRC shall not:

2.4.1 Discriminate for or against any employee or applicant for employment:

2.4.1.1 on the basis of race, color, religion, sex, or national origin, as prohibited under Section 717 of the Civil Rights Act of 1964,

2.4.1.2 on the basis of age, as prohibited under Sections 12 and 15 of the Age Discrimination in Employment Act of 1967,

2.4.1.3 on the basis of sex, as prohibited under Section 6(d) of the Fair Labor Standards Act of 1938,

2.4.1.4 on the basis of a disabling condition, as prohibited under Section 501 of the Rehabilitation Act of 1973,

2.4.1.5 on the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation.

2.4.2 Solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of:

2.4.2.1 an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

2.4.2.2 an evaluation of the character, loyalty, or suitability of such individual.

2.4.3 Coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as reprisal for the refusal of any person to engage in such political activity.

2.4.4 Deceive or willfully obstruct any person with respect to such person's right to compete for employment.

2.4.5 Influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment.

2.4.6 Grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

2.4.7 Appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position, any individual who is a relative (as defined in Section 3110 (a) (3) of 5 U.S.C.) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in Section 3110 (a) (2) of 5 U.S.C.) or over which such employee exercises jurisdiction or control as such an official.

2.4.8 Take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for:

2.4.8.1 a disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

2.4.8.2 a disclosure to Special Counsel of the Merit Systems Protection Board, or to the Inspector General of the NRC or another employee designated by the head of the NRC to receive such disclosures, of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation; or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

2.4.9 Take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation.

2.4.10 Discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this subsection shall prohibit the NRC from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, or the District of Columbia, or the United States.

2.4.11 Take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in the Civil Service Reform Act of 1978.

## 2.5 Employee Donations

NRC and NTEU support the efforts and involvement of employees participating in activities such as the Combined Federal Campaign (CFC), Federal Savings Bond Drive and Blood Drives and recognize that employees have the right to choose to participate or not in such drives. While the agency has the right to provide information and materials concerning these activities, no employee will be coerced into participating nor will their right not to participate be denied.