

Exhibit E – Allocation of Individual Monetary Awards

- I. General Process.** The Claims Allocator hired by Class Counsel shall be responsible for determining eligibility for monetary recovery and the exact formula by which Class Members will obtain monetary recovery pursuant to the provisions below. The Claims Allocator will first determine the amount of the Settlement Fund that is allocable to Class Members by subtracting fees and expenses from the Settlement Fund, as set forth in Section IV(C) of the Settlement Agreement. The Claims Allocator will then make the following calculations: (1) Service Awards; (2) Backpay Awards; and (3) Compensatory Damages. Service Awards will be calculated using the methodology detailed in Section IV(J) of the Settlement Agreement. The Claims Allocator will calculate Backpay Awards by calculating the potential amount of monetary relief for which each Class Member could be eligible, and then use those calculations to allocate the portion of the Settlement Fund attributable to Backpay Awards on a pro rata basis using 70% of the Settlement Fund remaining after the allocation of fees, expenses, and Service Awards. The Claims Allocator will calculate Compensatory Damages based on information provided by the Claimants as to the severity of their alleged emotional distress using 30% of the Settlement Fund remaining after the allocation of fees, expenses, and Service Awards.
- II. Eligibility for Monetary Relief.** Claimants are eligible to recover if they meet the following criteria.
- A. For Hiring Claims, Claimants must:**
1. Be African American (as defined in Section II(J) of the Settlement Agreement);
 2. Have timely submitted a Claim Form under the penalty of perjury pursuant to Section IV(E) of the Settlement Agreement;
 3. Have applied for a DUSM position between January 23, 1994 and the date on which the Notice of Resolution is sent to Class Members;
 4. Have failed to obtain the DUSM position applied for;
 5. Have been between 21 and 36 years of age, or eligible for an age waiver, at the time they applied for the DUSM position;
 6. Have been a U.S. Citizen at the time of the unsuccessful application; and
 7. Have not received a disqualifying criminal conviction (misdemeanor domestic violence conviction or any felony) that would result in a failed background check at the time of the unsuccessful application.
 8. Additionally, those who applied in 2012 and were not Veterans of the U.S. Armed Forces at that time will receive a 30% reduction in their backpay award in recognition of the fact that

while they were still subjected to the challenged practices, only Veterans were hired in 2012.

B. For Promotion Claims, Claimants must:

1. Be African American (as defined in Section II(J) of the Settlement Agreement);
2. Have timely submitted a Claim Form under the penalty of perjury pursuant to Section IV(E) and V(B)(4) of the Settlement Agreement;
3. Have been employed as a DUSM at any time between January 23, 1994 and the date on which the Notice of Resolution is sent to Class Members;
4. Have applied for a promotion between January 23, 1994 and the date on which the Notice of Resolution is sent to Class Members; and
5. Attest that, to the best of their knowledge, a white candidate was selected for the promotion position for which they applied or that they are unaware of the race of the candidate ultimately selected, subject to verification by any existing agency records.

III. Individual Awards Calculations - Backpay.

A. Hiring. Before adjusting each individual award pro rata, the Claims Allocator will determine the potential backpay damages for each member of the hiring class by considering the following information, which shall be made available to the Claims Allocator from a Class Member's Claim Form or Class Counsel:

1. The average difference in salary between African Americans with some college education as determined by publicly available census data averages and the average starting salary of a DUSM as determined by the publicly available average General Schedule (GS)-7 salary over the class period, which is calculated to be \$962 per year;
2. A 5-year period after each unsuccessful application for a DUSM position¹ to account for the time period in which a member of the hiring class would accrue damages after the date of any application that did not result in an offer to become a DUSM;² and

¹ Each unsuccessful application may trigger a new five-year period. For instance, if a hiring Class Member unsuccessfully applied in 2000 and 2005, the Claims Allocator may assess a ten-year period in which the Class Member accrued damages.

² Thus, a backpay award before the application of prejudgment interest for hiring Class Members before a pro rata reduction or any other adjustment would be \$4,810 (\$962 x 5). As with each category of damages, the eventual backpay award will likely be significantly less than this amount.

3. Pre-judgment interest in the amount of 5.63% per year, based on the average rate in effect under section 6621(a)(1) of the Internal Revenue Code between 1994 and 2023.

B. Promotion. Before adjusting each individual award pro rata, the Claims Allocator will determine the potential relief for each member of the promotions class by assessing backpay for each member of the promotions class by considering the following information, which shall be made available to the Claims Allocator from a Class Member's Claim Form or Class Counsel:

1. The actual difference in salary between the position a class member sought through a promotion, based on the relevant publicly available General Schedule Pay Tables for the relevant year(s), which ranges between \$8,707 and \$16,917 depending on the year and promotion sought;
2. The period during which the member of the promotions class would accrue damages, as determined by the time between the promotion application and the date the Notice of Resolution is issued to Class Members. The Claims Allocator will calculate backpay damages leading up to the Effective Date; and
3. Pre-judgment interest in the amount of 5.63% per year, based on the average rate in effect under section 6621(a)(1) of the Internal Revenue Code between 1994 and 2023.

C. Backpay Attributable to Other Employment Policies and Practices. The Claims Allocator will allocate \$5000 (subject to reduction on a pro rata basis) to any Class Member who does not satisfy the eligibility requirements within Section II for hiring or promotion backpay, but is nonetheless a current or former African American Deputy U.S. Marshal and Detention Enforcement Officer who claims that they were subject to discrimination on the basis of race as a result of the Agency's policies and practices regarding promotions, including reassignments and transfers, Headquarters assignments, or hiring and recruitment. This award will not be allocated to any Class Member who is deemed eligible for hiring or promotion backpay pursuant to Section II of this Exhibit.

IV. Individual Awards Calculations – Compensatory Damages. The Claims Allocator will determine compensatory damages, including emotional distress, by assessing the information the Class Member provided on their Claim Form. Emotional distress is defined as “the intangible injuries of emotional harm such as emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life,” and can include things like sleeplessness, anxiety, stress, depression, marital strain, humiliation, embarrassment, loss of self esteem, excessive fatigue, loss of

appetite, or a nervous breakdown and physical manifestations such as ulcers, gastrointestinal disorders, hair loss, nausea, or headaches. Each Class Member with minimal emotional distress damages, defined as emotional distress damages that did not have an effect on daily life activities or that lasted for less than a month, shall be presumptively awarded \$5,000; each Class Member with moderate emotional distress damages, defined as emotional distress that had an effect on daily life activities or that lasted for between one month and six months, shall be presumptively awarded \$25,000; each Class Member with severe emotional distress, defined as emotional distress that had a substantial effect on daily life activities or lasted for more than six months, shall be presumptively awarded \$100,000.

V. Pro Rata Distribution. Both the number of Claimants and portion of the Settlement Fund allocable to Class Members is unknown. The actual amount of attorneys' fees, attorneys' costs, Claims Allocator fees, Claims Administrator fees, and service awards to Class Agents may change depending on the actual fees and costs, and the eventual service awards allocated to Class Agents. The rate of Class Members submitting Claim Forms is also variable. Each individual award for monetary relief will be adjusted to account for these factors.

- A. After calculating the maximum amount of backpay damages for all eligible Class Members, all backpay damages shall be adjusted pro rata depending on the number of Claimants who file Claim Forms for backpay damages that are approved by the Claims Allocator and the portion of the Settlement Fund allocable to Class Members' backpay damages.³
- B. After calculating the maximum amount of compensatory damages for all eligible Class Members, all compensatory damages shall be adjusted pro rata depending on the number of Claimants who claim emotional distress that are approved by the Claims Allocator and the portion of the Settlement Fund allocable to compensatory damages.⁴
- C. An eligible Class Member will receive one combined payment for both backpay and compensatory damages.⁵ Each eligible Class Member will also receive a description of the relevant allocation between backpay and compensatory damages.

³ For example, an individual's backpay award may be \$1,000 (less applicable taxes) if (1) a Class Member successfully files a Claim Form claiming backpay damages and is determined to have a maximum backpay award of \$7,000; (2) the portion of the Settlement Fund allocable to backpay damages is \$7,000,000; and (3) the sum of all Class Members' individual backpay damages awards is \$70,000,000.

⁴ For example, an individual Class Member's compensatory damages award may be \$1,000 if (1) a Class Member successfully files a Claim Form claiming compensatory damages and is determined to have a maximum compensatory damages award of \$3,000; (2) the portion of the Settlement Fund allocable to compensatory damages is \$3,000,000; and (3) the sum of all Class Members' individual compensatory damages awards is \$30,000,000.

⁵ For example, if an individual Class Member receives a pro rata distribution of \$1,000 attributable to backpay damages (less applicable taxes) and \$1,000 attributable to compensatory damages, the Class Member will receive a combined payment of \$2,000 (less applicable taxes).

- VI. Other Factors.** The Claims Allocator has discretion to adjust individual monetary awards for all Class Members to ensure equitable distribution between the hiring and promotions classes. The primary factor in determining fair and equitable distribution between classes shall be the overall estimated damages for the hiring class calculated by Class Agent's expert labor economist, as compared to the overall estimated damages for the promotions class. The Claims Allocator has discretion to review Claim Forms to verify the identity and truthfulness of the Claimant and has discretion to adjust any award based on this review. Further, the Claims Allocator has discretion to adjust any award based on any other factor that the Claims Allocator deems appropriate to ensure fair and equitable distribution of the Settlement Fund that is consistent with commonly accepted methods of calculating damages in a Title VII case.
- V. Estates.** If a Class Member who is entitled to monetary relief under this Settlement Agreement is deceased at the time of such distribution, the amount payable to such deceased Class Member may be paid to their estate, as determined by the Claims Allocator, and as recognized by a court of competent jurisdiction. The Claims Allocator may require additional documentation to support claims submitted by estates and may, in his discretion, adjust monetary awards if a Claimant fails to submit such documentation.
- VI. Settlement Fund Allocation.** The Agency shall not be held responsible or liable for providing information or data used to distribute monetary relief, determining the distribution methodology, the determination of monetary relief to be accorded each individual, or other aspects of the monetary awards process. The individual awards owed to Class Members, including Class Agents, is not enforceable against the Agency.