

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

HENRY W. SEGAR, *et al.*,

Plaintiffs,

v.

MERRICK GARLAND,
Attorney General, *et al.*,

Defendants.

Civil Action No. 77-0081 (EGS)

ALLOCATION PLAN FOR THE DISTRIBUTION OF SETTLEMENT FUNDS

Pursuant to Section III of the settlement, the entire payment of \$12,568,035.60 will be divided among class members who submit timely claim forms. To facilitate the collection of information vital to the determination of final awards, every person eligible for relief will receive \$5,000 for making the effort to submit a timely claim form and the associated questionnaire. *See* Exhibit F. A person is eligible for relief if he or she (1) applied for one or more GS-14 or -15 level positions, (2) made the Best Qualified List for at least one such position at any time between January 21, 1993, and May 2, 2022, and (3) was not selected for one of more of those positions. *See* Preliminary Approval Mot. §I.

Plaintiffs will retain Settlement Services, Inc. (“SSI”), an experienced class-administration firm, to manage the distribution of notice and claim forms to all persons known to be eligible for relief (class members), receive opt-out requests and claim forms, and process payments to class members. Exhibit C (SSI Decl.). Plaintiffs will also retain Michael K. Lewis, a well-qualified neutral, to calculate and administer settlement awards. Exhibit D (Lewis CV). Mr. Lewis is an experienced neutral, who serves as Chair of the JAMS Foundation Board, and has been approved to serve similar roles in Title VII settlements in this jurisdiction. *See* Exhibit

D (Lewis CV); *Moore v. Johnson*, 1:00-cv-00953, Dkt. 835 (D.D.C. Feb. 16, 2017) (approving Dkt. 831, a similar settlement distribution plan overseen by Mr. Lewis).

After confirming a class member's eligibility for compensation, Mr. Lewis will have the discretion to make final awards based on the following criteria:

1. The class member's efforts to secure promotion to a GS-14 or -15 level position, including the duration and frequency of the class member's applications for promotions as well as the share of promotion shortfalls (*see* Dkt. 486-1, methodology for individual relief) associated with those bids;
2. The class member's career trajectory as a result of the conduct alleged in plaintiffs' motion for individual relief, including but not limited to the following:
 - a. Whether the class member ultimately attained a GS-14 or -15 position during the class period;
 - b. The time that elapsed between class member's first attempt to obtain a GS-14 or -15 level promotion and the date, if any, on which such a position was attained;
 - c. If a class member bid for a GS-14 level position, the number of his or her GS-13 assignments at DEA without or before promotion;
 - d. If a class member bid for a GS-15 level position, the number of his or her GS-14 assignments at DEA without or before promotion;
 - e. The length of class member's tenure at DEA without or prior to promotion to the GS-14 or -15 positions he or she sought during the class period.

3. The class member's efforts to address discrimination, including but not limited to the following:
 - a. Whether the class member made discrimination complaints or filed an EEO charge;
 - b. The degree of the class member's participation in efforts to challenge and resolve the conduct alleged in plaintiffs' motion for individual relief, including executing declarations or serving on the EEOMC;
4. The severity and duration of emotional distress the class member suffered as a result of the conduct alleged in plaintiffs' motion for individual relief (Dkt. 486);
5. The impact of the conduct alleged on the class member's employment and day-to-day experience at DEA (e.g., effects on a class member tenure or ability to remain at DEA).

Mr. Lewis will gather information required to make his determinations from three primary sources: (1) class counsel, who will provide Mr. Lewis with information about the class secured throughout the litigation; (2) class claim forms, which include questionnaires designed to elicit narrative responses probative of the factors above; and (3) class member interviews, as each class member may elect to participate in a one-hour interview with Mr. Lewis.

Mr. Lewis will be charged with awarding the full amount of \$12,568,035.60 to class members. He will not have discretionary authority to allocate less than the full amount, and his awards shall be binding and non-appealable. After Mr. Lewis determines the awards, SSI will manage the distribution of award payments and the distribution of appropriate tax forms to class members. Any money designated by Mr. Lewis for a class member that is not claimed within nine months of the date SSI notifies that member (or the class member's estate) of the final

award amount and attempts to distribute payment will be escheated to the appropriate state unclaimed property fund to ensure the class member may collect it in the future.

All costs Mr. Lewis and SSI reasonably incur in connection with administering notice and class awards will be covered by Defendants (Mr. Lewis and SSI will invoice Defendants directly) so that none of the \$12,568,035.60 will be diluted by administration costs. Settlement §5(c).