

EXHIBIT D

Judgment Amount

The Judgment Amount is based, in part, on estimated¹ employee counts and average salary levels in all COLA areas during a period consisting of ten consecutive fiscal years beginning October 1, 1990, and ending September 30, 2000, which period is herein called the “Back Pay Period.” For purposes of this settlement, the term “Gross Amount” refers to 100% of the amount of additional COLA that a class member would have received during the Back Pay Period if COLA rates had been set using the same levels of adjustment that have been agreed upon for future application pursuant to Safe Harbor Principle 23. The term “Aggregate Gross Amount” means the total of all Gross Amounts for all class members. The Aggregate Gross Amount for purposes of this settlement is estimated to be \$201,595,815. This is one component of the Judgment Amount.²

Another portion of the Judgment Amount, equal to 15% of the estimated Aggregate Gross Amount, will be used to offset attorneys’ fees for the back pay recovery and as a reserve in case the actual Aggregate Gross Amount exceeds the amount estimated for purposes of settlement as described above. The attorneys’ fees for the back pay recovery will be equal to 10% of the Aggregate Gross Amount. The attorneys’ fees for other benefits of the Safe Harbor process and settlement will be determined in accordance with agreements between the plaintiffs’ attorneys and the non-profit corporations established pursuant to the settlements in *Alaniz* and *Karamatsu* (the “COLA Defense Corporations”), and the method of calculating such fees will be specified in the notice to class members published pursuant to the order of the court. A Reserve Account will be established in the amount of 5% of the Aggregate Gross Amount, or \$10,079,790. In the event that the actual Aggregate Gross Amount exceeds the estimated Aggregate Gross Amount by more than 5%, the Gross Amounts for all class members will be proportionally reduced so that the actual Aggregate Gross Amount equals 105% of the estimated amount.

The Judgment Amount also includes an amount equal to \$664,813, or approximately 0.3% of the estimated Aggregate Gross Amount, for purposes of paying expenses in connection with the administration of the settlement. A Settlement Administration Expense Account (“SAEA”) in this amount will be established and used by the trustee to pay all expenses of settlement administration, including without limitation the following: obtaining information needed for calculating individual Gross Amounts for all class members; analysis of information and calculation of individual Gross Amounts (along with individual amounts of prejudgment interest); mailing of Claim Verification forms to all class members and compilation of the resulting verifications, including analysis and handling of discrepancies and individual problems; mailing of individual checks to class members who have submitted Claim Verifications; handling and accounting for Claim Verification forms and individual settlement checks that are mailed but returned as undeliverable; reconciliation of bank statements and review and analysis of other reports and financial information; preparation of reports concerning the results of all the foregoing activities; and reimbursement of plaintiffs’ attorneys for out-of-pocket expenses incurred for any of the foregoing purposes. The SAEA also will be used to pay for the activities of the Survey Implementation Committee (“SIC”) and any sub-committees of the SIC, the Technical Advisory Committee (“TAC”), and OPM (with the joint approval of the SIC and OPM)³ during the process of developing and implementing new COLA regulations through the end of the first survey cycle. The SAEA may survive the termination of the trust. Any amount remaining in such account when the implementation of the settlement is completed will be paid or credited to the COLA Defense Corporations to meet their needs and obligations.

¹ In negotiating the Judgment Amount, the plaintiffs have used certain data provided by the defendants. It is expressly understood by the parties that the defendants cannot guarantee the accuracy of this data since it is based on government-wide estimates and assumptions.

² Initially, the data upon which the Judgment Amount is based included only full-time, permanent, non-seasonal employees in those agencies which report to OPM’s Central Personnel Data File (“CPDF”) and the employees of the USPS. The data did not cover non-USPS, part-time, temporary, or intermittent employees or any employees of those agencies which do not report to the CPDF. Based upon the initial data set, the Aggregate Gross Amount was estimated to be \$178,095,815. Including the omitted groups increases this estimate by approximately \$23,500,000.

³ Any funds transferred to this account from the OPM Account established in *Alaniz* and *Karamatsu* for purposes of the Safe Harbor process will be available for use at OPM’s sole discretion.