



September 17, 2008

Microsoft Law Firm Diversity Program
Detailed Q&A for Participating Law Firms

Q: What are the formulas that will be used for the Law Firm Diversity Program?

A: The first formula will pay the two percent bonus if the firm achieves in the United States a two percentage point increase in the hours worked by diverse attorneys as a percentage of total attorney hours worked on Microsoft matters, compared to the same time period in the preceding year. Fixed fees and contingency fees are included in the total fees upon which the 2 percent bonus is to be paid.

The second formula will pay the two percent bonus on total fees if the firm achieves a .5 percentage point increase in total diverse attorneys as a percentage of the firm's total attorneys in the U.S., compared to the same period in the preceding year.

Under both formulas, fixed fees and contingency fees are included in the total fees upon which the 2 percent bonus is to be paid.

Q: Do Microsoft's Premier Preferred Provider (PPP) law firms have a choice about whether to participate in the diversity incentive program?

A: This is a voluntary program. Separate from this bonus, all PPP law firms will be eligible for a maximum rate increase of 3 percent on their legal fees from Microsoft in fiscal year 2009 (FY09), regardless of whether they choose to participate or successfully achieve one of the diversity metrics. Firms that take part in the diversity program will have the opportunity to receive an additional 2 percent quarterly or annual bonus if they achieve certain progress in diversity. In other words, firms that choose to participate can achieve a total rate increase of 5 percent if they earn this bonus.

This compares to the maximum rate increase of 4 percent for the non-premier law firms working with Microsoft.

Q: Is there a distinction between full and part-time attorneys?

A: All associates, partners, and of counsel or those with similar status should be included in the calculation for purposes of these metrics, whether working full or part-time. Attorneys that are not employees of the firm, such as independent contractors or "staff" or "contract" attorneys, should not be included.

Q: Are all timekeepers (paralegals, admins, etc.) included in the calculation?

A: No, only attorney timekeepers should be included in the calculation.

Q: What categories of diversity are included in the program?

A: Only U.S. attorneys in the following categories should be included in the quarterly or annual reporting.

Racial Minority: Black/African American, Latino/Hispanic, Asian, Native Hawaiian/Other Pacific Islander, American Indian/Alaska Native, or Multi-Racial.

Gender: Female.

Sexual Orientation: Openly Gay, Lesbian or BiSexual (inclusion of openly gay, lesbian or bisexual attorneys in your calculations is optional per your firm's internal policies/legal obligations).

The first two categories must be included. We encourage firms to include the third category as well, although we are not making it mandatory at this time, since it may not be legally permissible in some states to require disclosure of or track this latter group.

In future years, we will consider including additional aspects of diversity in this definition. Because the program is only in its first year, we are taking a more focused approach.

Q: How do we account for people falling into one or more classes?

A: Please note that each attorney should only be represented **once** in your calculations. For example, do not "triple count" the contributions of a Black/African American, Lesbian woman to your firm's performance by including her hours worked or representation in the race, gender and sexual orientation categories.

Q: Does Microsoft envision a point in time in the future when a firm can be so successful with its diversity efforts that it need not take any action to receive this bonus under this program?

A: We do appreciate that there may come a time when a firm's absolute progress in strengthening diversity will be so great that it should receive this bonus regardless of whether it makes additional progress compared to the prior year. We look forward to that day. We expect to maintain this program in its current or a similar form for three to five years, after which we will evaluate what progress has been made in addressing the concerns motivating the program. Having surveyed the current situation, we do not believe that any of our PPP firms are yet in a position in which we are comfortable providing for this bonus without additional progress. We will, however, continue to consider whether there is a particular milestone that should be established for such circumstances.

Q: When do I have to select which formula and frequency I want to use as part of the program?

A: Firms are required to indicate both the formula and frequency they want to use no later than August 15 if they want to be eligible for the program. Regardless of which formula the firms choose, we are asking firms to report information using both diversity calculations so we may use the information to consider future changes to the program.

Q: Are attorneys in all of our offices worldwide included as part of the calculations?

A: No, only appropriate timekeepers from U.S. offices should be included in the calculation. In future years we may expand this to include women in offices outside the U.S.

Q: Do we need to calculate metrics for specific matters or offices?

A: No, the firm need not calculate metrics for specific matters, departments or offices. These calculations should be made on all billable hours from the appropriate timekeepers in all U.S. locations.

Q: Do we need to report the various categories of diversity?

A: For the purposes of reporting, you need only report two (three if you elect to include GLBT) categories of diversity, gender and race, making sure that time keepers are not double or triple counted across those categories. Within race, you do not need to distinguish between different categories of race for reporting purposes. However, we do ask that if you can, that you voluntarily share with us a breakdown among the various categories of race and sexual orientation.

Q: Do we need to identify individuals in our reports?

A: We do not require firms to name diverse individuals as part of the reporting. However, if the firms and the individuals voluntarily agree to do so, we would appreciate the firms providing us with the names of the diverse attorneys that work on our matters so that we may foster deeper relationships with these professionals.

Q: What is the reporting frequency?

A: If a firm chooses the quarterly option for either metric, then firm must report within 45 days of the end of each quarter. If a firm chooses the annual option for either metric, then the firm will must report within 45 days of the end of Microsoft's fiscal year (June 30th), with an informal check in at midyear to make sure the firm is on track.

If the firm chooses the metric based on attorney composition for the firm as a whole, it should report data for the last day of the reporting period and for the same date one year ago.

Q: When and how are bonuses paid?

A: Thirty days after receipt of the firm's periodic reports, Microsoft will pay qualifying firms the bonus using the payment mechanics that are used as part of our preferred provider program.

Q: When calculating bonuses, will the bonus be paid only on the hours of the appropriate timekeepers that are used for the metrics?

A: No, Microsoft will pay the bonus on all fees – hourly, contingent or fixed – that a firm invoices Microsoft during the relevant reporting period.

Q: For the purposes of calculations for the formula based on diverse representation on Microsoft matters, how are hours to be measured for fixed fee or contingent matters?

A: For any matters that Microsoft has arranged a fixed or contingent fee approach, the firm should faithfully keep track of hours worked, which will be used solely for the purposes of calculating whether the firm achieves the 2 percent bonus.

Q: Is Microsoft going to publicly disclose the diversity data it receives every quarter from its premier partner law firms?

A: We will preserve the confidentiality of each firm's information and will not disclose publicly or to any other firm either the numeric data or the news of whether any individual firm has earned the bonus. We may, however, share publicly at the end of our fiscal year the aggregated information about what percentage of all of our premier firms earned the bonus in a particular reporting period.

Q: Is this a one-year experiment for Microsoft, or do you intend to keep the program in place?

A: We are approaching this from the perspective that this is a three to five year initiative and almost certainly we will make changes over time. In part these changes will reflect experience and new learning. (This in part is why we are asking our partner firms to regularly report results - either quarterly or semi-annually for those opting for the annual calculation -- under both formulas even though their bonus will be based only on one.) Future changes in the program may also reflect changes in the diversity situation for our profession over time. For these reasons, the ability to have an ongoing assessment and dialogue with our partners will be critical.