

To: Microsoft's Law Firm Diversity Program FY 2010 Participants

From: Brad Smith and Mary Snapp

Date: August 21, 2009

Re: FY 2010 Adjustments to the Law Firm Diversity Program

We want to thank you for your thoughtful input into the second iteration of Microsoft's Law Firm Diversity Program (LFDP). The recently concluded pilot year was a learning experience for all of us. We are confident the adjustments outlined in this memo reflect a step forward in our mutual goal of increasing the diversity of perspectives and backgrounds addressing our matters. **Please note the program adjustments in this memo are effective immediately for this fiscal year unless otherwise noted.** Our team will be working closely with you on the execution of the LFDP and we look forward to collaborating on opportunities to help you achieve your goals. Thank you for participating and for your commitment to diversity in your firms and in our profession.

Adjustments to how your firm can qualify for its bonus

Many of you expressed support for a third alternative to achieve success under the LFDP based on staying above some threshold of diverse representation in your workforce, or percentage of hours worked on our matters by diverse attorneys. This was a topic raised last year as we developed the LFDP and it is one that we have been thinking about all year.

Without being able to answer the question when is enough improvement enough, firms that institute successful programs under the LFDP and achieve outstanding growth in a few years face perpetual YOY targets on top of what may already be a state of critical mass. Similarly, firms that entered the LFDP starting with an above average baseline of diverse representation face the prospect of hitting critical mass through incremental growth in a short period. In extreme circumstances, the program can unwittingly create disincentives for firms to succeed beyond the 2% or .5% measures, ultimately harming the very effort the program is intended to reward.

A majority of your suggestions focused on calculating a threshold factoring regional or national attorney diversity benchmarks, such as NALP or Vault data. We considered these and other options, but believe the following guidance best reflects the goals of LFDP and provides a reasonable answer to the question of when a participant firm is "diverse enough" for the LFDP.

Adjustment 1: Firms achieving attorney workforce diversity or a percentage of hours worked by diverse attorneys on our matters **equal to or exceeding the diverse representation of our own attorney workforce (as measured at the start of the fiscal year)** can qualify for their bonus without meeting YOY growth requirements. At the start of FY10 the diversity of our U.S. attorney workforce (White women,

minority women and minority men) is **52.8%**. We realize for most firms reaching this benchmark will be a stretch beyond the existing .5% or 2% YOY growth targets. At the end of the day, we were not convinced that the regional averages reflected the type of progress we are committed to for the legal profession. By no means do we feel that our diversity representation represents the gold standard in the industry. We will continue to work on our organizational efforts to become better and better. However, we were persuaded that for the limited purpose of the LFDP, by holding ourselves as the benchmark we provide a clear answer to the question of what qualifies as “diverse enough” for firms under this Microsoft program.

Adjustment 2: This year your firm can qualify for the bonus by achieving **any** of the three options, even if it is not the option you picked at the start of the FY. Accordingly, we request that all firms track and report quarterly data for both hours worked on Microsoft matters and firm diversity. We hope this will provide additional flexibility to respond to changes in your environment as needed. If you intend at the outset of the year to achieve the bonus using the 2% increase in hours worked method, we ask that you advise us of that in the beginning of the year so that we may adjust our resources to ensure we are partnering with you on your efforts.

Adjustment 3: As proposed in the feedback survey we are making two adjustments to the reporting categories calculated in your performance. First, we are adding Openly Lesbian, Gay, Bisexual, and Transgender to gender and race as a **mandatory** reporting category, unless prohibited by law in your area. Some firms raised the point that LGBT members of their firm may not want to be identified. By adding LGBT to the categories of mandatory reporting we do not ask that firms unilaterally identify these employees, as you would not unilaterally identify an employee’s race. We ask that Openly LGBT attorneys are provided the opportunity to self-identify unless prohibited by law. Second, we are adding attorneys with disabilities as an **optional** reporting category this year.

Adjustments to the reporting cycle

We will be reporting final year end numbers for the LFDP as soon as we get each firm’s last reports. Based upon current estimates, we expect that while 12 of the 16 firms were paid some amount of bonus money under the LFDP, we will fall just short of our 75% goal for the LFDP. We are incredibly proud of the accomplishments of all the firms who participated in the first year of this program. Under any objective measure, this was a very successful launch of an extremely ambitious program. Everyone put in their best effort to succeed, but we as a leadership team are committed to holding ourselves accountable for our goals. Accordingly, our senior leaders will be foregoing 5% of their bonuses this year. We are committed to meeting our objectives with the FY10 LFDP.

A key learning from the pilot year of LFDP was the need for more frequent, consistent and actionable reporting from all participants to enable thoughtful course corrections before the quarter slips away. We reviewed your feedback to the survey questions addressing this issue and considered our reporting needs to inform the final guidance below.

Adjustment 4: Starting Q1 FY10 we are requesting detailed quarterly numbers broken out by diversity reporting category from all firms within **25 days** of our quarter end, regardless of the option your firm

selected to achieve your bonus. We recognize this is an adjustment from the 45 day deadline requested in the pilot year. However, this past year's experience made clear that 45 days is simply too far into the following quarter to allow our team to work with your firm on any changes in strategy.

Adjustment 5: For firms choosing up front to reach their bonus by increasing the hours worked on our matters by diverse attorneys, we are requesting a rough "red, yellow, green" status update within **7 days of each month's** end. To emphasize, we are not looking for the detailed data you provide in the quarterly reporting and realize that it will not be possible to have final numbers locked in this interval. We do expect you to be able to look at your time tracking at the end of each month and give us your best estimate if you are at **green** (at or above your YOY 2% growth goal), **yellow** (2 points or less below your YOY goal) or **red** (more than 2 points below your YOY goal). These rough monthly reports will be a critical tool to facilitate rapid response on our part and partnership with each of you in between the quarterly reporting periods.

Adjustment 6: The issue of reporting and weighting attorney seniority in your firms towards performance drew the widest range of opinions on the feedback survey. There were compelling arguments for and against the proposal. We decided that this FY firms should track the breakdown of hours worked on our matters and firm demographics by diverse associates and partners, to be reported once at the end of FY10. We will review the data and make a decision whether to weight seniority in performance for FY11, but will not weight seniority in performance this year.

Thank you again for your participation in the Law Firm Diversity Program. If you have questions or concerns with these adjustments I have designated **Chris Anderson** as the point person for managing the logistics of this year's program. Contact lfdfpy10@microsoft.com and he will connect you with the right team member. Chris will be reaching out soon to confirm the option your firm will choose to meet its FY10 bonus goal and establish a reporting schedule for the coming fiscal year.

Best regards,



Bradford L. Smith
Senior Vice President, Secretary and General Counsel
Microsoft