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To: Kirwan, Michael B. [/O=FOLEYLAW/OU=FLMAIN/CN=RECIPIENTS/CN=09833]
Date: Thur 10/17/2019 5:34:19 PM (UTC-04:00)
Subject: RE: JEA Pup Question

One alternative would be to grant the PUPs to everyone as a form of "profit sharing" so there is no investment decision. It could be considered a bonus. If you go down this path, Pillsbury will need to figure out whether the grant is in the money now and would be taxable to the recipients (same question that exists that I raised earlier with you).

I think #2 is not a good idea. Political opponents will have a field day with that despite the intention behind it.

Another option is to disclose current status of negotiations at the time of the offering.

Option # 1 is not bad but probably needs to be an irrevocable election.

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From: Hyde, Kevin E. <KH@foley.com>
Sent: Thursday, October 17, 2019 4:55 PM
To: Kirwan, Michael B. <MKirwan@foley.com>
Subject: JEA Pup Question

Michael:

JEA continues to work on the PuP (Performance Unit Program). You edited a section last week dealing with the idea of some having confidential information while others would not.

JEA has decided now to delay the offering of the PUPs to individual participants from November to December of this year. Some members of the senior executive team will be on the actual negotiating team. The GC now questions whether they will now be in a position of greater information than other participants like rank and file employees and whether this alters any of our analysis. (I can resend the memo if you would like). She had two thoughts:

(1) Requiring those who will be on the negotiation team or designated as a subject matter expert to enroll (or decline to enroll) earlier than when the PUPs are offered to anyone else. The idea is that they would not yet be in possession of confidential information from the negotiations.

(2) Requiring that those who will be on the negotiation team – most of whom are senior executives – to participate in the PUP program on a mandatory basis, i.e. they could not use any confidential information to their advantage because they otherwise have to participate.

Do you think either of these ideas make sense to help alleviate risk? Any other ideas?

-Kevin E. Hyde



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