The Diversity Scorecard Challenge: Secrets for Success

How do corporations determine and maintain diversity requirements for hiring outside counsel? What can outside counsel and companies do to improve diversity? Our expert panel of in-house counsel and attorneys will discuss diversity requirements and strategies for equipping outside counsel to respond effectively to clients seeking diversity.

Tiffany A. Johnson (Moderator)
Klemchuk LLP
Dallas, TX

Eileen Letts
Zuber Lawler & Del Duca LLP
Chicago, IL

Sanjana Mangalagiri
Allstate
Northbrook, IL

Melanie Maynar
Walmart Stores Inc.
Fayetteville, AR

Cisselon Nichols
Shell Oil Company
Houston, TX
American Bar Association Resources

Resolution 113
https://www.americanbar.org/content/dam/aba/images/abanews/2016%20Annual%20Resolutions/113.pdf

Section of Litigation Interim Diversity Plan
https://www.americanbar.org/content/dam/aba/administrative/litigation/leadership-portal/2017-2018/diversity-plan.authcheckdam.pdf

The Grit Project
https://www.americanbar.org/groups/women/initiatives_awards/grit.html

Additional Resources

Corporate Legal Operations Consortium
https://cloc.org/
https://cloc.org/achieve/cloc-metrics/

Diversity Lab
http://www.diversitylab.com/

Legal Council on Legal Diversity
https://www.lcldnet.org/

National Association of Minority and Women Owned Law Firms
https://namwolf.org/
According to the Washington Post, “[w]omen constitute more than a third of the [legal] profession, but only about a fifth of law firm partners, general counsels of Fortune 500 corporations and law school deans. The situation is bleakest at the highest levels. Women account for only 17 percent of equity partners, and only seven of the nation’s 100 largest firms have a woman as chairman or managing partner.”\(^1\) Unfortunately, statistics are even less impressive for attorneys of color. Attorneys of color “make up fewer than 7 percent of law firm partners and 9 percent of general counsels of large corporations. In major law firms, only 3 percent of associates and less than 2 percent of partners are African Americans.”\(^2\) As such, achieving diversity in the legal profession, as well as selecting diverse service providers, has become an ongoing initiative among law firms and companies.

The late Dr. Maya Angelou once stated “[...] in diversity there is beauty and there is strength.” As evidenced by companies’ supplier inclusion programs, creating more appealing and stronger teams requires diversity of thought and representation. Several non-profit organizations have even been created to assist diverse service providers in earning opportunities to work with some of the largest and most profitable companies in the country. However, not all service providers and their talented employees, particularly, in the legal profession, have learned the secrets to success or mastered the diversity scorecard challenge.

What requirements must outside counsel meet to be considered for work by in-house counsel?


\(^2\) Id.
Most companies require outside counsel and other suppliers to hold a certification that recognizes the supplier’s demonstrated commitment to diversity. For example, Allstate, Shell Oil, and Wal-Mart all provide requirements for suppliers to confirm their commitment to diversity.

Allstate provides that “[t]o be eligible for our supplier diversity program, a company must provide certification by one of the following methods:

- National Gay and Lesbian Chamber of Commerce (NGLCC)
- U.S. Pan Asian American Chamber of Commerce Education Foundation (USPAACC)
- Women’s Business Enterprise National Council (WBENC)
- U.S. Department of Veterans Affairs, Center for Verification and Enterprise Vendor Information Pages (VIP)
- National Minority Supplier Development Council (NMSDC)
- National Veteran Owned Business Association (NaVOBA)
- Allstate accepts certification from local, state or federal government agencies.
- Allstate accepts self-certification through our supplier registration portal.”

Shell Oil provides that “[b]usinesses can establish diversity status by receiving one of the following certifications:

- Minority-owned as certified by an affiliate of The National Minority Supplier Development Council
- Women-owned as certified by an affiliate of The Women’s Business Enterprise National Council
- Small Business as self-certified according to the specifications of the Small Business Administration
- Veteran or Disabled Veteran-Owned by the National Veteran-Owned Business Association
- LGBT-owned as certified by National Gay & Lesbian Chamber of Commerce.”

Walmart provides a list of certification agencies that are recognized for confirming a diverse supplier certification including the following:

• National Minority Suppliers Development Council (NMSDC)
  1359 Broadway
  New York, NY 10018
  www.nmsdc.org

• Women's Business Enterprise National Council (WBENC)
  1710 H St., NW - 7th Floor
  Washington, DC, 20006
  www.wbenc.org

• U.S. Business Leadership Network (USBLN)
  Disability Supplier Diversity Program
  1501 M Street, NW - 7th Floor
  Washington, DC 20005
  www.usbln.org

• U.S. Pan Asian American Chamber of Commerce (USPAACC)
  1329 18th Street, NW
  Washington, DC 20036
  www.uspaacc.com

• National Gay & Lesbian Chamber of Commerce (NGLCC)
  729 15th street, N.W. 9th floor
  Washington, DC 20005
  www.nglcc.org

• National Veteran Business Development Council (NVBDC)
  325 E. Crescent Lane
  Detroit, MI 48207
  www.nvbdc.org

• Federal Government
• Local Government
• DD Form 214
• WEConnect International
  http://www.wecomnectinternational.org
• Department of Veterans Affairs Center for Veterans Enterprise
  www.vetbiz.gov.\textsuperscript{5}

What steps can in-house counsel and outside counsel take to improve diversity in the legal profession?

Companies or in-house counsel can consider strictly enforcing that outside counsel and service providers maintain diversity certifications. Additionally, companies can require that diverse team members remained actively involved and assigned to matters. Outside counsel can ensure that relationship managers and responsible partners include talented and diverse representation. By making a commitment to seek qualified women and ethnically/racially diverse attorneys to actively serve clients, outside counsel can compete to meet the demands of in-house counsel. For example, according to the Diversity Lab, MetLife provides outside counsel with “[...] six months to improve or lose their spot on the outside counsel list. (At least one person on each of the company’s outside legal teams will have to be a minority or female lawyer.).”

What is a preferred provider program?

Most law departments have a preferred provider program from which a majority of law firms may be selected to complete work. According to the Corporate Legal Operations Consortium, survey respondents revealed that the primary motivation for creating preferred provider programs was to secure better rates. Saving money and securing better spend predictability were the second and third most popular reasons for creating preferred provider programs. If a firm is not on a preferred provider program list, all is not lost. Some companies

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8 Id.
continuously review their preferred provider list and consider how adding outside counsel can achieve savings in time and money. Additional considerations may include providing alternative fee arrangements, attractive billing guidelines, and an ability to quickly provide quality service.