

P E R S U I T TM



Session 8: PERSUIT's Best Practices

PERSUITTM

Today's Agenda

- How to manage Scope Creep
- How to gather D&I data on PERSUIT

Tip 1: Use Material Deviation to manage Scope Creep

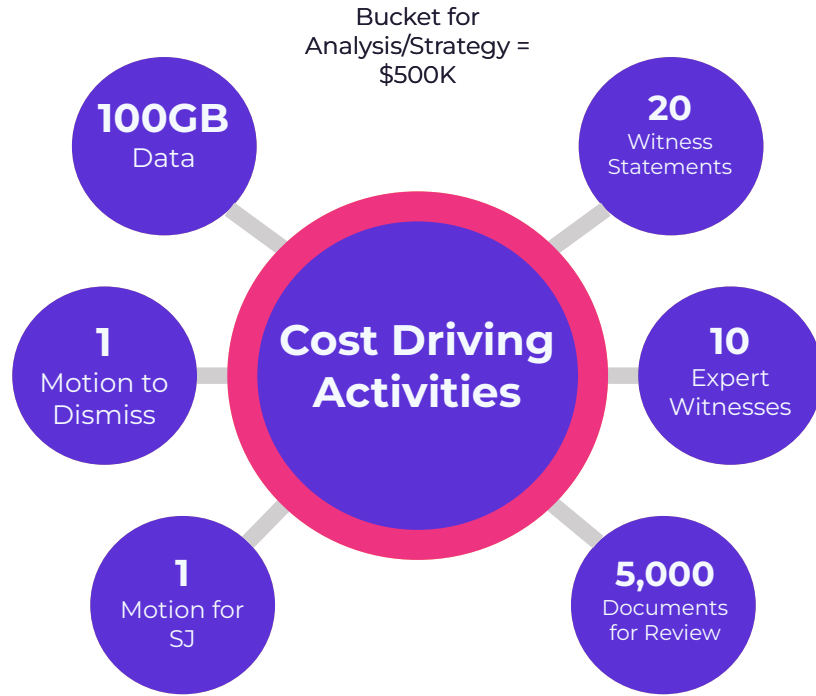
Material Deviation

Definition: – a clause that defines the cost driving activities (triggers or parameters) by which the price may change if the scope of work needs to be adjusted from that originally anticipated.

This also typically provides that in the case of an alternative fee arrangement like a fixed or capped fee, the total price cannot be adjusted based on the number of hours performed – only a material change in the required tasks (e.g. 30% change in the number of major cost drivers such as number of depositions, dispositive motions, documents for review).



Cost Driving Activities



30% increase or decrease in assumed quantity of the these activities shall change the total price.

Example:

Total price: USD 100,000

Expert Witnesses: assumed 10

Price per Expert Witness: USD 2,000

Total for Expert Witnesses: USD 20,000

Final number of Expert Witnesses: 15

Material Deviation: 50% (>30%)

Final Total for Expert Witnesses: USD 30,000

(price is increased by USD 10,000)

Final Total price: USD 110,000

Material Deviation Clauses

Examples of Material Deviation Clauses:

Fee Type	Material Deviation Clause
Capped Fee	<u>Phase Based Caps + Activity Collar</u>
Collared Fee	<u>Billing Collar with Risk Sharing</u>
Fixed Fee per Matter	<u>Activity Collar</u>
Portfolio Fixed Fee	<u>Matter Quantity Collar</u>
Fixed Fee by Phase	<u>Phase Level Activity Collar</u>
Value Based AFA	<u>Tiered Based Value Bonus</u>

PERSUIT Recommends

Please make sure you have a [defined process for allowing firms to request changes](#) to the agreement in the event of a material deviation:

Price / Activity (Applied only if there is a Material Deviation)		Original Assumed Quantity	Actual Performed Quantity	Material Deviation Triggered? (30%)	Adjustment Amount
\$20K	Fact Witness Dep	10	15	Yes	(5*20K) = +\$100,000
\$50K	Expert Dep	10	11	No	
\$100K	Motion to Dismiss	1	1	No	
\$300K	Motion for SJ	1	1	No	
\$5.00K	Document Review	5000	5500	No	
\$100K	Daubert Motion	1	1	No	
				TOTAL	+\$110,000

Tip 2: Collect Diversity Data

PERSUIT D&I Module



Diversity and Inclusion Module on PERSUIT is a form with pre-built questions focusing on diversity topics.

Purpose: the Module can assist with downstream D&I reporting and make it easier for client users to add D&I questions to their requests. Firms can also now store D&I certification information.

How to use: Clients can simply check the box to turn on the Diversity Module.

PERSUIT Diversity Questions



1. Is the lead lawyer (or in the context of litigation, the first or second chair) proposed for this matter Diverse?
2. What percentage of the scope of services will be completed by Diverse lawyers?
3. What percentage of business generation credit (for example origination credit) will be awarded to Diverse lawyers?
4. Diversity Certification / Membership

Diversity

Diversity details required ⓘ

Diversity criteria: Women, Members of LGBTQIA+ Community, Racial and Ethnic Minorities, Persons with Disabilities, Veterans.
Firms will be asked to fill out the following pre-defined questions (if these questions don't suit your diversity requirements, please ask them in the Questionnaire section):

D1: Is the lead lawyer (or in the context of litigation, the first or second chair) proposed for this matter Diverse?

Yes or No response type.

D2: What percentage of the scope of services will be completed by Diverse lawyers?

Percentage response type.

D3: What percentage of business generation credit (for example origination credit) will be awarded to Diverse lawyers?

Percentage response type.


D4: Diversity Certification / Membership

Firm's list of certifications / memberships will be shown.

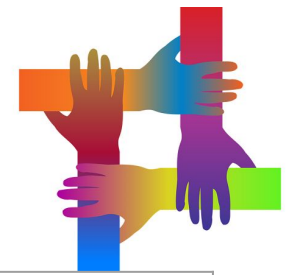
PERSUIT Diversity Criteria



- Women
- Members of LGBTQIA+ Community
- Racial and Ethnic Minorities
- Persons with Disabilities
- Veterans* ([new criterion](#))

 To include Veteran Status within your definition of diversity, navigate to [Settings>Company Profile and Options>Diversity](#). Within this section, select Veterans and then Save.

Diversity Certificates



Certification	Definition
Mansfield Rule	to achieve Mansfield Rule Certification, law firms are required to demonstrate year-long progress in increasing diversity in senior recruitment and leadership decisions, and consider a minimum of 30% diverse candidates for these roles
Minority or Women Owned Business Enterprise (MWBE) certified	at least 51 percent owned, controlled, operated, and managed by a woman or women, by citizens or permanent resident aliens who are meeting the ethnic definitions (Black, Hispanic, Asian-Pacific, Asian-Indian, Native American or Alaskan Native)
NAMWOLF Member	properly certified as a minority, women or LGBT owned, operated, managed and controlled (51% or more) firms