

How Lawyers Get Clients

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So, how do lawyers get business? For some legal practices, direct-to-client marketing is effective whether it is advertising through billboards, TV and radio, yellow pages, websites, or Internet social media pages. This advertising approach is most often an effective strategy when the clients are consumers rather than corporate clients. Even for lawyers who do effectively get clients from consumer advertising, the personal referral remains a very effective and powerful tool. My research and work with a wide range of lawyers and legal specialties has shown time and again that the *best* clients come from referrals regardless of the legal specialty. Referrals that come from referral sources that the referrals know and trust are, indeed, the ideal way to get new clients.

For a very large percentage of lawyers, clients are acquired, nearly exclusively, as the result of personal interactions and referrals. Even the emergence of liberalized legal advertising regulations and online media hasn't changed this process. People do not buy legal services from law firms. *People* buy legal services from *people*. This is true even if the client is a major corporation. It is people in the corporation placing trust in people—people who happen to be lawyers in law firms.

People who get to know us, trust us, and think highly of us and our work become clients just as people who get to know us, trust us, and think highly of us refer clients to us. Thus, the process by which lawyers directly cultivate prospective clients and the process by which lawyers cultivate referral sources are very similar. In both instances, it is about people trusting a lawyer, having faith in the lawyer's competence, and being comfortable with the idea of working together. On one level, it is really that simple, but like everything else that is important and valuable, the devil is in the details.

If you have a JD or MBA, or if you have had a lot of exposure to sales as a business process, please bear with me. In these next two chapters, I will discuss the basic, if somewhat arbitrary, vocabulary and underpinning philosophy of business development.

Acquiring clients is what the idea of business development is all about. Business development is the *process* of getting clients. Receiving referrals, on the other hand, is a method of feeding *prospective* clients into the business development process. The process of getting both clients and referrals is one of building solid, trusting business relationships.

Let's first look, in greater detail, at the concept of business development. For those readers more interested in the practice of business development, please be patient. These more general and theoretical underpinnings will be helpful to you in conducting business development.

Business Development Conceptual Overview

The term *business development* refers to the business process, or a system, of finding qualified prospects and turning them into clients. It is a term in common use across all industries to encompass both sales activities and other revenue-producing activities, such as forming revenue-producing strategic partnerships and building revenue-producing partner and dealer networks. In the legal profession, business development encompasses and is analogous to the phrase *client development*.

The key nomenclature of business development focuses on the *flow* of *buying units* (people or businesses, depending on which client type is targeted) from the universe of possible clients to those who actually become clients. We characterize buying units as *leads*, *prospects*, *qualified prospects*, or *clients*. So:

- There is the universe of potential buying units or clients;
- Within that universe there are potential clients who are leads;
- Within leads there are prospects;
- Within prospects there are qualified prospects;
- Within qualified prospects there are clients who actually buy something.

This business development process is often depicted graphically as concentric circles representing the unit population of each group (see Figure 1.1). The diagram shows that clients are a subset of qualified prospects, and qualified prospects are a subset of prospects. Leads populate the outer ring since there are many more leads than clients. Business development's bull's-eye is clients, the smallest population in the process.

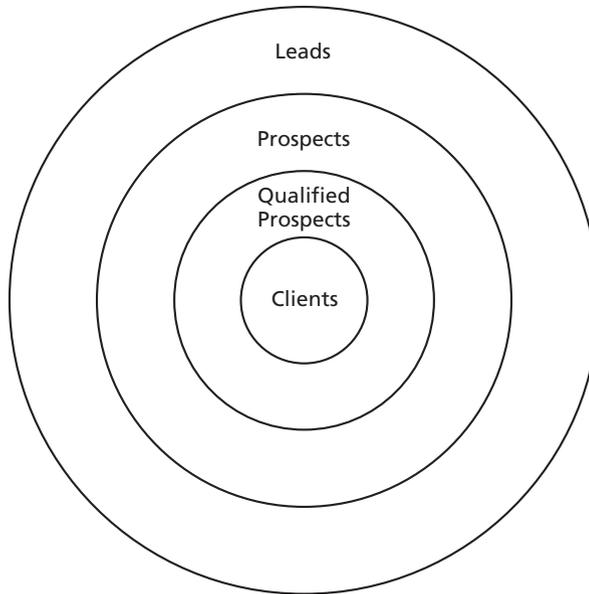


FIGURE 1.1 Our Universe of Potential Clients

So, what do these terms mean? A *lead* is just a buying unit (a person or a company) we have a way of reaching through marketing or direct sales efforts. If a lawyer has corporate, rather than consumer, clients, then every corporation he could possibly serve is a lead if the lawyer has at least the company's name, address, website, or e-mail address.

A *prospect* is defined as a lead who has the demonstrated *potential* to become a client. For the legal profession, a prospect is a buying unit who *might be* in the market for legal services in the present or in the future and can be contacted. For example, if a lawyer specializes in entertainment law, then a manufacturing company is unlikely to be considered a prospect. On the other hand, a record label or a performer might need these services at some point in time, so every record label and performer the lawyer could serve would be considered a prospect. For some specialties, such as intellectual property and criminal law, nearly every lead is a prospect since every company or individual might need intellectual property work whether it is patent, trademark, or copyright related, and any individual *might* need criminal representation since anyone can be arrested (whether having committed a crime or having been wrongly accused) and need representation.

A *qualified prospect*, by comparison, is a prospect who has both a demonstrated need a lawyer can meet and has the authority, the motivation, and the ability to pay. Of course, there are pro bono exceptions to this, but I imagine you aren't reading this book because you are looking to acquire more pro bono clients. A company that needs legal services

but can't pay its fees isn't a qualified prospect, since the company can't become a client under this strict definition.

There is a continuum of qualification levels for prospects that range from highly qualified to minimally qualified. This continuum reflects the idea that there are varying degrees of demonstrated needs, ranging from the level of a client's motivation to the level of a client's authority as well as the range of a client's ability to pay. A prospect may have a burning need for services, yet there may be no apparent motivation or definite time frame. A prospect may be able to pay a legal fee but be reluctant to do so. They may be looking for a less expensive solution, or the otherwise qualified prospective client may be stuck in inaction and just letting events run their course. This situation of a client letting events run their course without taking timely action is a situation lawyers see all too often. A qualified prospect may have a demonstrated need that cannot be met by a *particular* lawyer because of a conflict or because the matter is outside the area of the particular lawyer's specialty. This situation would make them qualified for someone else with the right specialty and without a conflict. These are some of the subtle factors that come into play when assessing the qualifications of a prospective client.

In review:

- A **lead** is a **buying unit** that can be contacted in some way.
- A **prospect** is a **lead** who has the demonstrated potential to become a **client**.
- A **qualified prospect** is a **prospect** who has a demonstrated *need* and *motivation*, as well as the *authority* and *ability* to pay.
- A **client** is a **qualified prospect** who has chosen to work with us and we have reciprocated.

For example, say that you are a corporate lawyer and you go to a benefit event supporting a local hospital where you meet the owner/CEO of a well-known, successful, local midsize business. That person is a buying unit, and he is probably more than a lead. He is probably a prospect because we know it is inevitable for a midsize company to need corporate law services either now or in the near future. He is also probably a qualified prospect because as the owner and chief executive of a successful midsize company, he could probably come up with and authorize the spending of funds to pay a corporate lawyer for a typical engagement.

Maybe it goes without saying that a qualified prospect can become a client only when the lawyer also accepts the prospect as a client. There has to be a mutual agreement to work *together*. It is very common in certain areas of law for lawyers to be selective about the clients they take on because of potential conflict of interest issues or simply because the lawyers are particular.

The business development process in the legal world is most often thought of as a process of wading through leads, determining whether they are prospects, qualified prospects, or prospects that are not qualified now but have the potential to be. If they are qualified prospects with the potential to become clients, we try to impress them sufficiently so that they wish to become our clients. If the prospects are unqualified but have the potential to become qualified, we cultivate them over time and try to keep them in our network so that if and when they become qualified, we can then be in a position to turn them into clients. That's it!

The business development process is often represented graphically as a funnel, with the widest part being leads (see Figure 1.2), followed by prospects, qualified prospects, and the narrowest part of the funnel representing our fee-paying clients. The funnel also graphically represents the time (on the X axis) necessary to determine whether a lead is a prospect, and whether the prospect is qualified, and to convert the qualified prospect to a client. It depicts the time necessary to move the buying unit through our process. Notice that the variable width of the funnel represents that there are fewer prospects than leads and fewer clients than qualified prospects.

Leads are filtered for those that are prospects, and prospects are filtered for those that are qualified prospects, and qualified prospects are filtered for those that become clients. Leads are passed into the funnel at the widest part and some fraction of these leads comes out the other end as clients. The lead also must permit the application of the business process; in other words, the lead must participate in this process since they are “filtering” their own funnel of potential lawyers at the same time. Just as we have a business development (sales) process, the buyer or client has a *buying process* used in selecting an attorney. Buyers have their own funnel of lawyers they are considering being filtered to lawyers they hire.

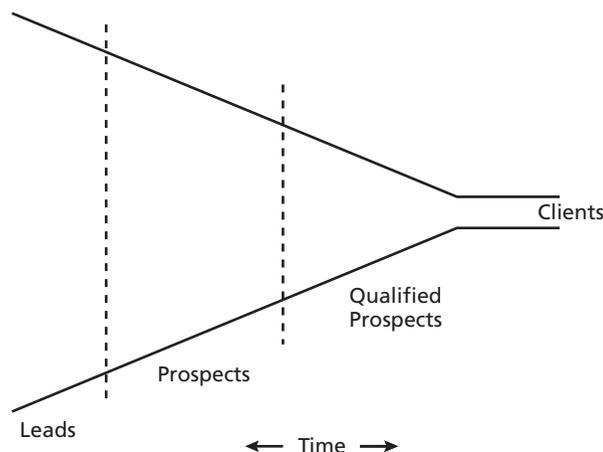


FIGURE 1.2 Business Development Process

The efficiency of our business development process reflects how straight or flared and how long or short the funnel appears. The key variables of the business development process are represented in the funnel shape. These variables reflect how long it takes to turn a lead or prospect into a client, and they also measure the efficiency of the process. A long funnel (long being left to right in this diagram) implies a business development process that takes a great deal of time, while a wide funnel (wide at the mouth of the funnel on the left of this diagram) relative to the width of the neck on the right implies an inefficient process that takes many leads and prospects to be vetted and many qualified prospects to be developed to get each client. A lawyer who is a master of business development focuses his efforts into creating processes that are most efficient in saving time and effort in order to get clients quickly and efficiently. To do this, the successful lawyer creates a process that finds and focuses on the highest-probability leads (leads who have a high likelihood to be qualified and to become clients) and puts them into a funnel (the business development process) that is narrow and short—the ideal shape for developing business.

Referrals are particularly valuable because referrals shorten the business development process: prospects provided by their referral sources enter the business development process deep in the funnel (qualified or partially qualified), thereby shortening the time and effort necessary for business development. Referral sources who really understand what we do and what we are looking for have the ability to provide highly qualified prospects like this. These prospects provide a tremendous efficiency because much of the work and elapsed time in the business development process has been completed for us by the referral source; now business development efforts can be spent making clients of qualified prospects rather than introducing leads to the business development process and qualifying them.

For example, say you are a corporate lawyer and the phone rings one day and the caller says, “Hi, Bob, this is Steve Jones. Lisa Smith gave me your name because I need a corporate lawyer to handle the sale of my company. Can you meet with me to discuss my situation?” In this example, Lisa Smith is the referral source, and she referred a client that is likely to be a qualified prospect.

While all steps in the business development process (see Figure 1.3) are crucial because poor execution at any step will negatively impact a lawyer’s ability to get clients, it is the *filtering* of leads into qualified prospects that is usually not considered to be the most crucial step because it is a relatively passive process of inquiry and discovery. We inquire as to whether the leads have the necessary characteristics to be potential clients. The lawyer is largely in control of this process as the lawyer analyzes the prospect’s characteristics and decides whether the process should continue and, generally, makes the go/no-go decision with the prospect. We aren’t

selling ourselves as much as we are inquiring and filtering. Despite the more straightforward and passive nature of this step in the process, if this step falters, there will be no qualified prospects and, ultimately, no clients.

The most challenging step in obtaining clients is taking qualified prospects and converting them into clients. Control of this step of the process transfers to the qualified prospect—we sell ourselves, and the prospect controls the situation by analyzing *our* characteristics, and then deciding. The qualified prospect controls the go/no-go decision.

The question then remains: why do qualified prospects choose one lawyer over another? Simply stated, qualified prospects *believe* specific lawyers represent the best solution for their needs. This client's choice may be a matter of a lawyer's technical legal qualifications and experience, a matter of personal comfort and confidence, or a matter of a particular lawyer being the socially optimal choice. It is more than likely that the choice reflects a combination of these factors with comparative cost factored in. The choice of a particular lawyer is seldom made on just the basis of a lawyer's technical qualifications and experience, or even cost. This point is true whether the prospective client is a corporation or an individual; choosing a lawyer tends to be a very personal decision for all clients.

Clients hire a lawyer for both logical reasons—their *logical* qualifications, such as the lawyer's expertise, certifications, and experience—as well as for what can be considered emotional reasons. Emotional reasons translate to how trustworthy, likeable, and accessible the lawyer is perceived to be. Furthermore, most clients don't have the knowledge or experience to determine whether a lawyer is truly the most technically competent for their matter. Those who are not experienced or wise enough to understand and recognize legal competency will often look to others who are more knowledgeable for a recommendation, thus the necessity of a referral for a prospective client. In lieu of asking a trusted associate for a referral, there are some prospective clients who make a leap of faith when retaining a lawyer they may trust but may not know much about as far as the lawyer's competence.

Here are the key points to remember:

- All clients select lawyers based on both logical and emotional factors.
- Few clients can truly assess technical capabilities; those who cannot assess them will either rely on a leap of faith based solely on emotional factors, or will use trusted and more knowledgeable third parties (referral sources) to help them choose.

We should never underestimate the importance of the emotional factors. They play a significant role in most, if not all, lawyer-selection decisions. Furthermore, we can never underestimate the importance of referrals and their role in influencing what potential clients think of us.

What Are Referrals?

A referral is an introduction to what the *referral source* believes is a qualified prospect. Referral sources are telling prospects, “I know a lawyer who can help,” and they are giving them your name or forwarding to you the prospect’s contact info. Referrals are “warm” introductions. When a lawyer gets a referral, the prospect already knows something about the lawyer because something has been said by the referral source. The referral source has had a dialogue with the prospect and has also done some vetting of the prospect for us as part of that dialogue. Thus, in most cases, a referral comes to us as a qualified prospect and is likely to have a legitimate legal matter to discuss and to be actively considering retaining counsel. This prospective client, in all likelihood, will already have a sense of the fee structures from talking with the referral source; a random prospect, on the other hand, may know little about fee structure and how to work with a lawyer.

A referral allows a lawyer to have a meaningful qualifying conversation with a somewhat prequalified prospect. This type of conversation creates an opportunity for the lawyer to acquire a client in a very efficient way and, likewise, creates an opportunity for the client to acquire a lawyer in a very efficient way. Referrals are not always successful; some prospects referred may not be truly qualified, and some qualified prospects may not end up becoming clients. When a lawyer is given a referral, the strength of the relationship between the referral source and the prospect can significantly influence the qualified prospect’s decision making. This is because there is a transfer of the trust that already exists between the prospective client and the referral source to a referred lawyer. Additionally, the referral source has already conveyed a positive impression to the prospective client regarding the referred lawyer’s abilities. The prospective client starts the relationship with the referred lawyer with a certain amount of trust and an impression of competence already in place.

Referrals are not magical. Referrals occur because the referral source believes that a particular lawyer can help one of his or her associates; thus, it is in the best interest of all involved that the introduction occurs. Later in this book I will explore in detail the process of getting referrals from referral sources.

For referral sources to provide prospects who are qualified, these referral sources need to know what kind of clients a lawyer is seeking. In other words, referral sources need to know which client characteristics and types of matters are preferred by the lawyer. Of course, the referral source may not be able to qualify the prospect with perfect accu-

racy, but in all likelihood, the referral will be a prospect who is at least somewhat qualified and possibly fully qualified. In most referral cases, there will be an efficient determination of whether the potential client is in fact the *highly* qualified prospect we seek. A good referral shortens the business development funnel while remaining a part of the business development process (see Figure 1.3). It is another way—a much more efficient way—that prospects are brought into the business development process. From our business development process perspective, these referred prospective clients come with the added advantage of already having an impression of our capabilities and character imparted to them from the referral source.

I answered the questions of why clients choose one lawyer over another and why referrals are such an important source of new clients. Now it's time to answer another key question: *from whom* do lawyers obtain referrals? Lawyers get referrals from their relationships—their relationships with referral sources. These are not just any relationships; lawyers receive referrals from those who are comfortable with them, believe in the quality of their work and experience, have confidence in their character, and trust them to do more than an adequate job. Referral sources also trust the lawyer to whom they are giving the referral to treat any referrals well, with exceptional professionalism and service. These referral sources are people who are more than friends or acquaintances; these are advocacy relationships. People who give us referrals do so because they have taken an interest in our success.

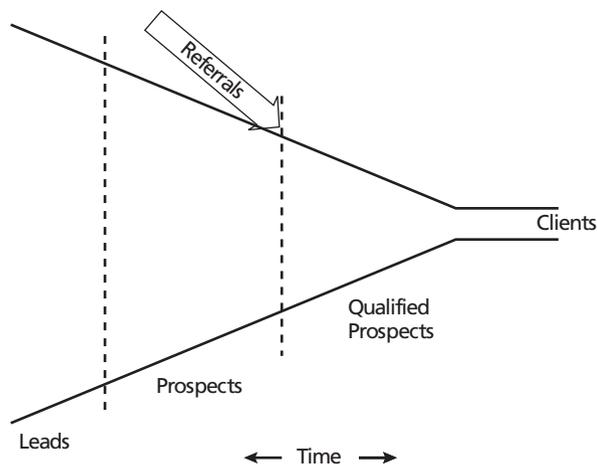


FIGURE 1.3 Referrals Introduced to the Business Development Process

Who can refer clients? What type of a referral can they give you? Here is a list:

■ **Existing Clients Who Refer You to Other Internal Opportunities**

Existing clients have other matters in the same specialty as the matters that you have been working on, or they have matters that might be outside of your personal expertise. First, there may be more than one prospective client within an existing client's organization. For example, if a lawyer does patent work for the engineering department, there may also be work in human resources for an employment lawyer. Not all work is fully coordinated by the general counsel's office, and even in clients with a strong general counsel's office there are possibly many opportunities to be unearthed. Second, there may be other geographically dispersed clients within the company who are accessible by such an internal referral.

■ **Existing Clients Who Refer You to External Opportunities**

Your clients frequently know other potential clients due to the "birds of a feather flock together" effect. This effect is such that in many cases, clients and potential clients are likely to be in the same social circles, such as country clubs and professional organizations, or current clients may attract others with similar demographics or interests. To illustrate, consider a patent attorney's inventor clients. These clients are likely to converse and attract relationships with other inventors. Another example might occur when people who have recently gone through a divorce come in contact with or actually attract other people who are about to go through a divorce. It is easy to see how this would happen since people about to go through a divorce seek out people who have just gone through it for counsel. Likewise, if a small company owner is being sued for wrongful dismissal or another employment matter, he will inevitably seek out another small company owner in his social or business relationships circle who may have gone through a similar issue or has insight into the issue. In addition, do not forget in-house counsel; they are likely to know other in-house counsel through attending the same legal conferences.

■ **Former Clients as Referral Sources**

Former clients become *former* clients for several reasons. Perhaps your matters with them have concluded and they simply have no more work for you *at the moment*, or perhaps something may have concluded badly between the lawyer and the client; maybe the client changed jobs or responsibilities within the firm and for internal reasons is not in the position to work with you at this time. In some

instances, a former client may no longer be eligible to be a client for a political reason, either within the client's firm or because a conflict of interest has existed in a lawyer's own firm. For any of these reasons, other than things ending badly, nothing is stopping you from either reengaging with these former clients or cultivating them as referral sources rather than just clients. Just because they can't use your legal services at this point in time, it doesn't mean they can't recommend you to someone else or become a client at a future date. If it is a former client who for the moment has no work, the client should be treated as a prospect to keep you in position for when another matter comes around, at which time the client would become a qualified prospect.

■ **Colleagues in Your Firm**

Whether you work in a small law firm, or within a group of lawyers who do little more than share offices and overhead, or in a large international law firm, the opportunity to get intrafirm referrals is always present and can be very effective. In fact, this type of synergistic referral is considered to be the very reason that large firms exist. Firms are always trying to encourage the referring of existing clients of one practice group to the capabilities of other practice groups and other geographic offices. While one would think that lawyers within a firm should be in a great position to know the quality of other lawyers' work and character within the firm, these lawyers still need to be cultivated as referral sources like any other referral source.

■ **Other Lawyers Outside Your Firm**

Lawyers need to refer their clients to other lawyers for a number of reasons: they may not have the expertise of a specific area; they may not wish to provide services; they may not be able to provide service because of geographical distance or a conflict of interest. I remember once meeting a lawyer from Charleston, South Carolina, at a conference, who built his commercial litigation practice based on referrals from lawyers in big cities around the country. These big-city lawyers needed litigation representation in South Carolina and referred cases to him. Likewise, a trust and estates lawyer may have received any number of clients from lawyer referrals because of that specific, narrowly focused specialization that the referring lawyers don't have. A base of referrals from other lawyers can be built based on geography or specialization.

■ **Other Personal and Business Relationships**

You meet people every day and, regardless of their profession, you never know who is a potential client or who can refer you to

potential clients. These can be businesspeople in the local community, parents of your children's friends, friends, neighbors, or people you know from your house of worship, a club, or anyplace else. The point is to be aware of the infinite possibilities for referrals.

Effectively getting referrals from any of these particular constituencies represents the same basic business development processes and referral source relationship building activities. I will discuss strategies for referral source relationship building in greater detail later in this book. Just remember, potential sources of referrals are everywhere. There are obvious referral sources within the legal community, but never forget that there is an enormous universe of *others* out there. Every day we have opportunities to meet people. Whether these people are from within our current social and business spheres or are from random meetings that can take place on airplanes, at Starbucks, or at a backyard barbeque at a friend's house, opportunities to meet people are always presenting themselves.

A referral definitely won't happen if the referral source believes the referral may end up reflecting badly upon them. For example, if I refer my friend Bob to a particular lawyer for legal services and Bob is ultimately unhappy with some aspect of the referral or is otherwise unsatisfied, there may well be damage to my reputation and/or my relationship with Bob. This damage creates reluctance for people making referrals. Haven't we all made referrals and received little in exchange or gratitude or even had to deal with the fallout of a problem? The process of getting referrals will focus on both the mitigation of risk and on how to create an increase in confidence for the person making the referral.

Can everyone we meet be turned into a referral source? As a practical matter it is doubtful that *everyone* we associate with can be made into a referral source. There are four reasons for this. First, a referral source needs to be educated enough to truly understand what a lawyer does and what kinds of referrals she would find helpful. Some people will never quite be able to understand what a particular lawyer does and the nature of their specialization. Second, the risks associated with making the referral need to be sufficiently mitigated for the prospective referral source. Third, a referral source needs to believe that making a referral is in both the best interest of themselves and the best interest of the person requesting the referral. Finally, a referral source may not have the opportunity to give us a referral because they may not come across qualified prospects for us.

Some people will never put their relationships or reputation at risk for any reason or for any person. Some people will never see the benefit of

making referrals regardless of the situation. They would simply rather that their friends and associates fend for themselves in finding everything from professional service providers to restaurants and even gardeners. The fact is that some people simply don't have a desire to assume any risks to help someone, regardless of the relationships or benefits involved.

Why are referrals important? As mentioned above, referrals are important because referrals are prospects introduced into the business development process deep in the business development funnel, where *qualifying them* into qualified prospects can be done very efficiently and quickly. Additionally, since the prospect comes with an impression of competence and credibility already established in his mind by the referral source, our ability to convert the qualified prospect to a client is enhanced. A referral generates a much higher probability and much more efficient prospect than is likely to be found through other means, and, as such, referrals are worth seeking out.

The central challenge in having a successful practice of law is getting clients efficiently and serving them effectively. I will leave the teaching of how to effectively serve clients to law schools and professional legal mentors. The challenge here is to learn to efficiently get clients through referrals.

Chapter Summary

- The universe is divided into leads, prospects, qualified prospects, and clients.
- Qualified prospects are those prospects who have a demonstrated need, purchasing authority, and the ability to pay for our services.
- It is an implicit goal of any business development process to acquire clients as efficiently as possible; efficiency can be applied at any point in the business development funnel.
- Referrals are just another way in which we get prospects into our business development process.
- Referrals are an efficient way of getting qualified prospects and of speeding up the traditional business development process.
- Referring parties can be reluctant to give referrals because they are reluctant to risk their reputation on the abilities of a third party.
- There are a wide range of people who can give referrals; be aware of the potential of all the people you meet.